

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).
Jeffrey Bossert Clark (Sr.)

2. **Position**: State the position for which you have been nominated.

Assistant Attorney General for the Environment and Natural Resources Division of the
U.S. Department of Justice

3. **Address**: List current office address. If city and state of residence differs from your place
of employment, please list the city and state where you currently reside.

Office Address: Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C.
20005

Home Address: Lorton, VA

4. **Birthplace**: State date and place of birth.

1967 — Philadelphia, PA

5. **Education**: List in reverse chronological order each college, law school, or any other
institution of higher education attended and indicate for each the dates of attendance,
whether a degree was received, and the date each degree was received.

Georgetown University Law Center, attended Aug. 1992 to June 1995, J.D. 1995 (est.)

University of Delaware, attended September 1990 to May 1992, M.A. 1993 (est.)

Harvard University, attended September 1985 to June 1989, A.B. June 1989 (est.)

6. **Employment Record**: List in reverse chronological order all governmental agencies,
business or professional corporations, companies, firms, or other enterprises, partnerships,
institutions or organizations, non-profit or otherwise, with which you have been affiliated
as an officer, director, partner, proprietor, or employee since graduation from college,
whether or not you received payment for your services. Include the name and address of
the employer and job title or description.

September 2005 to Present
Partner
Kirkland & Ellis, LLP
655 Fifteenth Street N.W.
Washington, D.C. 20005-5793

August 2001 to September 2005
Deputy Assistant Attorney General
Environment & Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue N.W.
Washington, D.C. 20530-0001

August 2001 to May 2009 (est.)
Adjunct Professor
George Mason University School of Law
3301 Fairfax Drive
Arlington, VA 22201

August 1996 to August 2001 (est.)
Associate
Kirkland & Ellis, LLP
655 Fifteenth Street N.W.
Washington, D.C. 20005-5793

August 1995 to August 1996 (est.)
Law Clerk
Judge Danny J. Boggs
United States Court of Appeals for the Sixth Circuit
601 West Broadway, 230 U.S. Courthouse
Louisville, KY 40202

July & August 1995 (est.)
Summer Associate
Shea & Garner — splitting my Summer with Kirkland & Ellis
Law Firm No Longer Exists, So Address Unavailable

May & June 1995 (est.)
Summer Associate
Kirkland & Ellis, LLP
655 Fifteenth Street N.W.
Washington, D.C. 20005-5793

May/June 1994 to August 1994 (est.)
Summer Associate &
August 1994 to May 1995 (est.)
Law Clerk
Arnold, Porter, Kaye, Scholer (then called Arnold & Porter)
601 Massachusetts, N.W.
Washington, D.C. 20001

August 1993 to May 1994 (est.)
Law Clerk
Ropes & Gray
2099 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

May/June 1993 to August 1993 (est.)
Summer Associate
Morris, Nichols, Arsht & Tunnell
1201 N. Market Street
Wilmington, DE 19801

November 1992 to May 1993 (est.)
Research Assistant
Professor William Eskridge
Yale Law School (currently)
127 Wall Street
New Haven, CT 06511

1991 to 1993 (est.)
LSAT Instructor
Kaplan Test Prep
At Wilmington, DE (Concord Pike) and Washington, D.C. (Connecticut Avenue) locations
Now Defunct, So Addresses Unavailable
(Kaplan has outsourced employment verification to The Work Company
Address unknown, only available contact information is www.theworkcompany.com & 1-800-660-3399. Kaplan's employer code with The Work Company is 13876.)

1990 until as long as 1991 (est.)
Adjunct Instructor in Economics
Delaware Technical and Community College
333 N. Shipley Street
Wilmington, DE 19801

September 1989 to August 1992 (est.)
Tax Policy Analyst
Delaware Division of Revenue
820 N. French Street
Wilmington, DE 19801

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. Military. I have registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Martindale Hubbell — A.V. Preeminent (5.0 of 5.0) Rated (“the highest degree of legal excellence”)

Member, The National Association of Distinguished Counsel — Nation’s One Percent

Named to Super Lawyers for 2014, 2015, and 2016

Named to the Legal Who’s Who: Environmental Law List in Corporate Responsibility Magazine’s January/February 2014 edition

Highlighted as part of Kirkland’s “Tier 1” Product Liability, Mass Tort and Class Action: Toxic Tort — Defense in the Legal 500 in 2017.

Highlighted as part of Kirkland’s “Tier 1” environmental litigation practice in the Legal 500 in 2011, 2012, and 2015

Recipient of the Kirkland & Ellis 2010 Washington Pro Bono Service award

Recipient of the Kirkland & Ellis 2017 Pro Bono Achiever award

Recipient of two commendations in 2005 for assisting in defending military readiness in the courts, from the Department of Defense’s General Counsel and Undersecretary of Defense for Personnel and Readiness, respectively

Recipient of the National Oceanic and Atmospheric Administration’s General Counsel’s Award for excellence in 2003

Commendation from Interior Secretary Gale Norton for my work on the *Norton v. SUWA* Supreme Court and Tenth Circuit litigation

Order of the Coif at Georgetown Law

Olin Law and Economics Fellow at Georgetown Law

#1 Georgetown Law student in (1) Administrative Law (Judge Silberman as professor); (2) Takeovers, Mergers, & Acquisitions (LLM level class); (3) Government Processes, and (4) English Legal History

Tuition Scholarship at University of Delaware (Master's Degree program)

John Harvard Scholarship (undergraduate)

Joseph, John, and Robert Kennedy Scholarship (undergraduate)

Teamsters Union Scholarship (undergraduate)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Federalist Society, Member (1992-present) and Chair of Environmental Law and Property Rights Practice Group for the past 7 years (est.); and between 1992 and 2010, student member or member of the Federalist Society

American Bar Association, General Member for the past 10 years (est.) consecutively (from 1996 to 2007 was also a member for some of those years) and from August 2012 to August 2015 in ABA leadership as a Member of the Governing Council of the Administrative Law Section (the Section's leadership)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

July 7, 1997 admitted to the D.C. Bar

I am not a member of any other state bar and I have never had a lapse in my D.C. Bar membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Supreme Court — November 7, 2000

D.C. Circuit — November 9, 1998

Federal Circuit — May 31, 2002

First Circuit — August 13, 2001

Second Circuit — March 26, 2008

Fourth Circuit — September 27, 2002

Fifth Circuit — May 7, 2010

Sixth Circuit — October 19, 2015

Seventh Circuit — May 30, 2014

Ninth Circuit — November 21, 2001

Tenth Circuit — November 20, 2002

Eleventh Circuit — June 19, 2000

U.S. District Court for the District of Columbia — February 2, 1998

U.S. District Court for the District of Nebraska — May 27, 2003

U.S. District Court for the Eastern District of Texas — September 3, 2013

U.S. Court of Federal Claims — January 30, 2017

I do not believe there has ever been a lapse in any of these memberships.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Between 1996 and 2005, I attended approximately three annual meetings of the Philadelphia Society, to which Judge Boggs (for whom I clerked) invited me.

Republican Party (since 1995)

Honorable Order of Kentucky Colonels, 1996 to present

Colonial Williamsburg, Supporter, 2006 to present

Immanuel Bible Church in Springfield, VA (10 years+)

Mitt Romney, Energy Policy Advisor (2012 campaign)

Hillsdale College Supporter, 2015 to present

Lawyers for Trump (2016)

Heritage Foundation Supporter, 2016 to present

Virginia Sheriff's Institute, 2016 to present

I have made financial contributions to the organizations above.

I have been involved in two working groups of the Federalist Society:

(A) The New Federal Initiatives Project ("NFIB") during calendar year 2010. For that project, I wrote an article entitled "EPA's Endangerment Rule," which is listed as part of the answers to Question 14, Section b. The NFIP analyzed certain significant proposals of the new Congress and Administration at that time.

(B) The Regulatory Transparency Project ("RTP") is designed to examine potential overregulation of the national economy. I have been involved with the RTP from 2016 to present. I have not written anything for the RTP.

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations currently discriminate or formerly discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have made a good-faith effort to identify all published material that has been asked for, including through a review of my personal files. Nonetheless, there might be other materials that I have been unable to identify, locate, or remember. Hereinafter is the list of responsive items that I believe to be complete subject to those caveats. *See generally* Attachment A regarding all subparts of Question 12.

“Chevron Doctrine Is Opposed to Administrative Procedure Act’s Text and Legislative History,” Published by the Washington Legal Foundation, August 26, 2016

“EPA’s Continued Regulatory Barrage on Fossil Fuel-Fired Electric Generation,” co-authors are Granta Nakayaka & Ilana Saltzbar, Published by Kirkland & Ellis LLP, June 10, 2014

“Remaking Man by Choice and Decree,” Published by Liberty Law Blog, March 16, 2012

“EPA Announces Final Rule to Replace the Clean Air Interstate Rule,” coauthors are Granta Nakayaka & Ilana Saltzbar, Published by Kirkland & Ellis LLP, July 12, 2011

“EPA’s Proposed Transport Rule Under the Clean Air Act — The First in a Series of Expensive Rules,” coauthors are Granta Nakayaka & Elaine Walsh, Published by Kirkland & Ellis LLP, July 20, 2010

“Can the EPA Rely on UN Science?,” Published by Pajamas Media, April 28, 2010

“EPA Announces Study on Hydraulic Fracturing Practices Used in Gas and Oil Production,” coauthor is Granta Nakayama,” Published by Kirkland & Ellis LLP, March 26, 2010

“Environmental Appeals Board Remands Air Permit, Suggesting Nationwide Action, But Leaving CO2 Requirements Unresolved,” coauthors are Andrew Clubok, Stuart Drake, Brian Land, Walter Lohmann, and Elaine Walsh, Published by Kirkland & Ellis LLP, December 8, 2008

“Access to the Courts After *Massachusetts v. EPA*: Who Has Been Left Standing?,” Published in 37 E.L.R. 10692, September 2007 (note that article was poorly transcribed)

“Standing on the Shoulders of *SCRAP: Friends of the Earth, Inc. v. Laidlaw Environmental Servs., Inc.*,” Published by Federalist Society, Environmental Law & Property Rights Practice Group Newsletter, Vol. 3, Issue #3, March 1, 2000

“Review of CHEMICALS, CANCER, AND CHOICES by Peter Van Doren,” Published by Federalist Society, Environmental Law & Property Rights Practice Group

Newsletter, Vol. 3, Issue #2, October 1, 1999

“The Recent Controversy Over the Nondelegation Doctrine,” Published by Federalist Society, Environmental Law & Property Rights Practice Group Newsletter, Vol. 3, Issue #2, October 1, 1999

“Case Note on Three Supreme Court Cases,” Published by Federalist Society, Environmental Law & Property Rights Practice Group Newsletter, Vol. 3, Issue #1, May 1, 1999

“Response to Professor Lynton K. Caldwell,” Published in 10 COLO. J. OF INT’L ENV’T L LAW AND POLICY 245 (1999)

“Response to Professor Ved P. Nanda,” Published in 10 COLO. J. OF INT’L ENV’T L LAW AND POLICY 335 (1999)

“Colloquium: Junk Science, the Courts, and the Regulatory State Part II,” Published by Federalist Society, Environmental Law & Property Rights Practice Group Newsletter, Vol. 2, Issue #1, May 1, 1998

1998 Update to Chapter on Restraint of Trade for the ABA’s ANTITRUST LAW DEVELOPMENTS 4TH, coauthor is Tefft Smith, Published by the ABA 1998

“Colloquium: Junk Science, the Courts, and the Regulatory State Part I,” Published by Federalist Society, Environmental Law & Property Rights Practice Group Newsletter, Vol. 2, Issue #1, December 1, 1997

1997 Update to Chapter on Restraint of Trade for the ABA’s ANTITRUST LAW DEVELOPMENTS 4TH, coauthor is Tefft Smith, Published by the ABA 1997

“Procedural Means of Enforcement Under 42 U.S.C. § 1983,” Published in 82 GEO. L.J. 1402 (1994)

“Dissenting Opinion,” Published by HARVARD CRIMSON, November 26, 1986

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have made a good-faith effort to identify all published material prepared on behalf of an organization, including through a review of my personal files. Nonetheless, there might be other materials that I have been unable to identify, locate, or remember. Hereinafter is the list of responsive items that I believe to be complete

subject to those caveats.

“EPA’s Endangerment Rule,” prepared for the Federalist Society, April 26, 2010, on the subject EPA’s Endangerment Finding under the Clean Air Act concerning greenhouse gas emissions

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

I have made a good-faith effort to identify all testimony or official statements, including through a review of my personal files. Nonetheless, there might be other materials that I have been unable to identify, locate, or remember. Hereinafter is the list of responsive items that I believe to be complete subject to those caveats.

Testified in hearing on H.R. 4768, “The Separation of Powers Restoration Act of 2016,” May 17, 2016, for the House Judiciary Committee’s Subcommittee on Regulatory Reform, Commercial, and Antitrust Law

Testified in hearing on H.R. 3438, “The Require Evaluation Before Implementing Executive Wishlists Act of 2015;” and H.R. 2631, “The Regulatory Predictability for Business Growth Act of 2015,” November 3, 2015, for the House Judiciary Committee’s Subcommittee on Regulatory Reform, Commercial, and Antitrust Law

Legal presentation to the California Air Resources Board, March 22, 2007 (note that the transcript is poor)

Testified to a Joint Hearing Before the Pennsylvania Legislature’s Senate Committees on Transportation and Environmental Resources & Energy, December 13, 2005 (no transcript known to be available but letter summarizing testimony dated January 12, 2006 included as part of Attachment A)

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have made a good-faith effort to identify all speeches or talks, including through a review of my personal files. Nonetheless, there might be other materials that I

have been unable to identify, locate, or remember. Hereinafter is the list of responsive items that I believe to be complete subject to those caveats.

Commenter on law review articles presented at a Joint Symposium of the Georgetown Center for the Constitution and the Institute for Justice on Administrative Law, on April 7, 2017, at Georgetown University Law Center in Washington, D.C. 20005. My commentary was on the subject of Administrative law and there is no text of the commentary available.

Group Names & Addresses:

Georgetown Center for the Constitution, 600 New Jersey Avenue, N.W., Washington, D.C. 20001 & Institute for Justice, 901 N. Glebe Road, #900, Arlington, VA 22203

Commenter on article “Ghost Rules, Agency Action, and Regulatory Shadow Boxing,” September 16, 2016 at the Antonin Scalia Law School in Arlington, VA. The commentary was on the subject of Administrative Law and there is no text of the commentary available.

Group Name & Address:

Antonin Scalia Law School, Arlington, VA 22201

Brown Bag Lunch Commenter on the topic of D.C. Circuit’s litigation on the Clean Power Plan as stayed by the U.S. Supreme Court, February 25, 2016, at the Edison Electric Institute, Washington, D.C. The commentary was on the subject of Environmental Law and there is no text of the commentary available.

Group Name & Address:

Edison Electric Institute, 701 Pennsylvania Avenue, N.W., Washington, D.C. 20004

Panelist on D.C. Circuit litigation concerning President Obama’s Climate Action Plan, September 10, 2015, in Oakbrook, IL (I do not have a record of the precise venue). The panel was on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

Air & Waste Management Association, One Gateway Center, 3rd Floor, 420 Fort Duquesne Road, Pittsburgh, PA 15222

Speaker on Recent Supreme Court Clean Air Act Litigation, June 25, 2015, at the Raleigh, NC Convention Center. The remarks were delivered on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

Air & Waste Management Association, One Gateway Center, 3rd Floor, 420 Fort Duquesne Road, Pittsburgh, PA 15222

Panel Moderator for Program on “The Oklahoma Attorney General’s Plan: The Clean Air Act Section 111(d) Framework That Preserves States’ Rights,” May 20, 2014, at the National Press Club, Washington, D.C. The remarks were delivered

on the subject of Environmental Law and they are attached as part of Attachment A.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panel Member on GHG Regulation and Litigation Under the Clean Air Act, at the 10th Annual Administrative Law and Regulatory Practice Institute, April 3, 2014, at the Omni Shoreham Hotel, Washington, D.C. The remarks were delivered on the subject of Administrative Law and there is no text of the remarks available.

Group Name & Address:

American Bar Association's Administrative Law Section, 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036

Podcast on Greenhouse Gases: Massachusetts v. EPA Revisited, April 8, 2013, broadcast on the Internet. The podcast was on the subject of Environmental Law and there is no text of the podcast available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist for 12th Annual Environmental & Energy Issues Symposium of Law Firm McGuireWoods LLP, March 29, 2012, at the Renaissance Mayflower Hotel, Washington, D.C. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

McGuire Woods, 2001 K Street, N.W. Suite 400, Washington, D.C. 20006

Panelist on Seminar entitled "Governing by Regulation: What's Next at the EPA, With Keynote Address by Senator Barrasso," May 5, 2011, at U.S. Capitol, Washington, D.C. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

American Action Forum, 1747 Pennsylvania Avenue, N.W. Washington, D.C. 20006

Panelist for 2011 LANDS Roundtable & Workshop entitled "Clean Water Act Wetlands Regulation and EPA's Greenhouse Gas Regulations — Two Regulatory Overreaches," April 10, 2011, at the National Housing Center, Washington, D.C. The remarks were on the subject of Environmental Law and notes are attached as part of Attachment A.

Group Name & Address:

National Association of Homebuilders, 1201 Fifteenth Street, N.W., Washington, D.C. 20005

Panelist for Seminar or "Science & Regulation: Examining the Role of Evidence in the Regulatory Process," April 6, 2011, at American University, Washington College of Law, Washington, D.C. The remarks were on the subject of

Administrative Law and are attached in full as part of Attachment A.

Group Name & Address:

American Bar Association's Administrative Law Section, 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036

Panelist for Program on 2011 Energy Conference, Gas Drilling, Sustainability & Energy Policy: Searching for Common Ground on the Subject of the Regulation of Hydrofracking in New York State, April 1, 2011, at Cornell Law School, Myron Taylor Hall, Ithaca, NY 14853. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

Cornell Environmental Law Society, Cornell Law School, Myron Taylor Hall, Ithaca, NY 14853

Panelist on "EPA: An Agency Gone Wild or Just Doing Its Job?" at the 2010 Federalist Society National Lawyer's Convention, November 20, 2010, at the Renaissance Mayflower Hotel, Washington, D.C. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist at Environmental Law and Property Rights Practice Group Panel on "Regulatory Authority in the EPA," June 15, 2010, at the National Press Club, Washington, D.C. The remarks were on the subjects of Administrative Law and Environmental Law and there is no text of the remarks available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist for "Climate Change and Public Nuisance Claims" at the 2010 LANDS Roundtable & Workshop, April 24, 2010, at the Marriott Wardman Park Hotel, Washington, D.C. The remarks were on the subjects of Environmental Law and Common Law and there is no text of the remarks available.

Group Name & Address:

National Association of Homebuilders, 1201 Fifteenth Street, N.W., Washington, D.C. 20005

Exchange on "Climate Change Cap and Trade Legislation: Preserve, Conserve, and Steward, or Tax, Spend, and Control?," March 18, 2010, at the Boston University Law School, Boston, MA. The remarks were on the subject of Environmental Policy and notes are attached as part of Attachment A.

Group Name & Address:

Boston University Law School, 765 Commonwealth Avenue, Boston, MA 02215

Panelist at "Obama Administration and the Rule of Law," November 11, 2009, at the National Press Club, Washington, D.C. The remarks were on the subjects of Environmental Law and Administrative Law and there is no text of the remarks

available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist for Advocate Panel Entitled “Washington Briefing: Advancing the Global Debate Over Climate Change Policy,” November 4, 2009, at the Willard Hotel, Washington, D.C. The remarks were on the subject of Environmental Law and notes are attached as part of Attachment A.

Groups Names & Addresses:

Washington Times, 3600 New York Avenue, NE, Washington, D.C. 20002 & East West Center, 1601 East-West Center in Washington, 1819 L Street, N.W. Suite 600, Washington, D.C. 20036

Moderator on Panel Discussing Endangered Species Act and Property Rights, at the Rebuilding the Ark: New Perspectives on ESA Reform, September 15, 2009, at the American Enterprise Institute, Washington, D.C. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

American Enterprise Institute, Washington, D.C., 1789 Massachusetts Avenue, N.W., Washington, D.C. 20036

Panelist for Webcast on “Physically Taking the Intangible, The Federal Circuit’s Decision in Casitas Municipal Water District,” March 31, 2009, broadcast on Internet. The remarks were on the subject of Constitutional Law and are attached in full as part of Attachment A.

Group Name & Address:

Federal Circuit Bar Association, 1620 I Street, N.W. #801, Washington, D.C. 20006

Podcast on Summers v. Earth Island Institute, November 25, 2008, broadcast on Internet. The remarks were on the subject of Constitutional Law and there is no text of the remarks available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Presentation on “Climate Change Policy Devices & Issues, Regulatory Scenarios, and Litigation to NAIMA Climate Change Meeting,” February 27, 2008, at Kirkland & Ellis LLP, Washington, D.C. The remarks were on the subjects of Environmental Law, Environmental Policy, and Economics and are attached in full as part of Attachment A.

Group Name & Address:

Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005

Panel Presentation at Seminar, “Has the Supreme Court Seen Green? The Ramifications of Massachusetts v. EPA,” May 7, 2007, at the American Enterprise Institute, Washington, D.C. The remarks were on the subject of Environmental

Law and notes are attached in full as part of Attachment A.

Group Name & Address:

American Enterprise Institute, Washington, D.C., 1789 Massachusetts Avenue, N.W., Washington, D.C. 20036

Panel Presentation, "Access to the Courts After Massachusetts v. EPA: Who Has Been Left Standing?," May 3, 2007, at the Environmental Law Institute, Washington, D.C. The remarks were on the subject of Constitutional Law and a transcript of the event was published as noted in Question 12, Section a above.

Group Name & Address:

Environmental Law Institute, 1730 M St N.W., Washington D.C. 20036

Panel Presentation, Experts Discuss Ramifications of Massachusetts v. EPA, April 2, 2007, at the American Enterprise Institute, Washington, D.C. The remarks were on the subject of Environmental Law and there is no text of the remarks available.

Group Name & Address:

American Enterprise Institute, Washington, D.C., 1789 Massachusetts Avenue, N.W., Washington, D.C. 20036

Panel presentation on potential for alternative fuels and approaches on Panel Entitled, "Toxicity of Diesel Particulate Emissions as a Growing Area of Concern," to the Law Seminars International Conference on Air Quality Regulation in California, January 12, 2007, Beverly Hilton, Beverly Hills, CA 20007. The remarks were on the subject of Environmental Law and are attached in full as part of Attachment A.

Group Name & Address:

Law Seminars International, 800 Fifth Avenue, Suite 101, Seattle, WA 98104

Panel presentation "Citizen Standing in Environmental Cases, With Consideration of the Ramifications for Civil Rights and Access-to-Justice Plaintiffs," December 13, 2006, at the Environmental Law Institute, Washington, D.C. The remarks were on the subject of Constitutional Law and notes are attached as part of Attachment A.

Group Name & Address:

Environmental Law Institute, 1730 M St N.W., Washington D.C. 20036

Panelist for "The United States Government's Position in the Greenhouse Gas Case Before the Supreme Court, Massachusetts v. EPA," November 21, 2006, at the New York University Law School in New York City, NY. The remarks were on the topics of Constitutional Law and Environmental Law and there is no text available, however there was a blog entry about the event, which is included below in Question 12, Section e, and that blog entry is attached as part of Attachment A.

Group Name & Address:

New York University Law School, 40 Washington Square S., New York City, New York 10012

Panelist at Federalist Society National Convention on Panel Entitled "Climate Change Goes to Court," November 16, 2006, Renaissance Mayflower Hotel, Washington, D.C. The remarks were on the subject of Environmental Law and are attached in full as part of Attachment A.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Media about speaking event listed above at the NYU Law School, "The Federalism-Environmentalism Schism," November 11, 2006 (updated May 25, 2011), Article on Huffpost Blog. The topic of the speaking event was Constitutional Law and Environmental Law and the blog entry is attached in full as part of Attachment A.

Group Name & Address:

New York University Law School, 40 Washington Square S. New York City, New York 10012

Panel Presentation, "The Standing of Citizens and Public Interest Organizations to Challenge Federal Regulatory Actions: Recent Trends and Analysis." November 9, 2006, at the District of Columbia Bar, Washington, D.C. The remarks were on the subject of Constitutional Law and notes are attached as part of Attachment A.

Group Name & Address:

District of Columbia Bar, Joint Program of the Administrative Law and Agency Practice, Environment, Energy, and Natural Resources Sections, 1101 K Street, N.W. Suite 2000, Washington, D.C. 20005

Panelist on Panel Entitled, "'Addition,' 'Pollutant,' 'Point Source,': Recent Developments Affecting the Scope of Activities Covered by the Clean Water Act," to the ALI-ABA 5th Annual Advanced Course of Study in the Clean Water Act: Law and Regulation, October 20, 2006, at the Hilton Embassy Row, Washington, D.C. The remarks were on the subject of Environmental Law and are attached in full as part of Attachment A.

Group Name & Address:

American Law Institute-American Bar Association, Continuing Professional Education, 4025 Chestnut Street, Philadelphia, PA 19104

Moderator of Roundtable, "Wetlands Regulation: What Are the Limitations of the Commerce Clause?," February 16, 2006, at the Federalist Society, Washington, D.C. The remarks were on the subjects of Constitutional Law and Environmental Law and are attached in full as part of Attachment A.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panel Member, "The Myth That EPA Has Recently Been Authorizing Clean Water Act Self-Permitting," to American Bar Association Section of Environment, Energy, and Resources, Panel on Clean Water Act Appellate Case Law Developments, September 21-25, 2005, at the Renaissance Hotel, Nashville, TN. The remarks were on the subject of Environmental Law and are attached in full as

part of Attachment A.

Group Name & Address:

American Bar Association, Chicago, IL 60654

Remarks on Property Rights, March 2005, Chicago, IL (no record of precise venue). The remarks were on the subject of Constitutional Law and Common Law and notes are attached as part of Attachment A.

Group Name & Address:

Federalist Society, Lawyers Chapter Chicago c/o Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist on "Environmental Law: Turning Private Property Into Public Trusts," November 11, 2004, at the Renaissance Mayflower Hotel, Washington, D.C. The remarks were on the subjects of Environmental Law, Constitutional Law, and Common Law and are attached in full as part of Attachment A.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Panelist, "From the Miasma of Miccosukee to the Majesty of Chevron," October 28, 2004, in Washington, D.C. (no record of precise venue). The remarks were on the subjects of Environmental Law and Administrative Law and there is no text of the remarks available.

Group Name & Address:

American Law Institute-American Bar Association, Continuing Professional Education, 4025 Chestnut Street, Philadelphia, PA 19104

Panel Presentation, Entitled "Update on the Division's Defense of Takings Cases and the Overlap Between the Breach of Contract and Takings Suits Against the United States in Environmental Cases," at the Court of Federal Claims' Sixteenth Annual Judicial Conference, October 14, 2003, Shepherdstown, WV (no record of precise venue). The remarks were on the subjects of Constitutional Law and Common Law and there is no text of the remarks available.

Group Name & Address:

U.S. Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005

Panel Presentation, Entitled "Interactions Between the Federal Endangered Species Act and State Law Water Rights" at the Federalist Society's Conference on Water Rights and Federalism, October 9, 2003, Denver, CO (no record of precise venue). The remarks were on the subjects of Environmental Law and Water Law and there is no text of the remarks available.

Group Name & Address:

Federalist Society, 1776 I Street, N.W. Suite 300, Washington, D.C. 20006

Speech on the "The Interior Department's Land-into-Trust Process," at the Twelfth Annual American Indian Land Consolidation Symposium, November 5, 2002, in Albuquerque, New Mexico (no record of precise venue). The remarks were on the

subject of Federal Indian Law and there is no text of the remarks available.

Group Name & Address:

Indian Land Working Group, 2018 W San Xavier Road, Tucson, AZ 85746

Speech to Environment & Natural Resources Division Honor Graduate Hires, November 29, 2001, at the RFK Main Justice Building. The remarks were on the Practice of Law and are attached in full as part of Attachment A.

Group Name & Address:

U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have made a good-faith effort to identify all published interviews, including through a review of my personal files. Nonetheless, there might be other materials that I have been unable to identify, locate, or remember. Hereinafter is the list of responsive items that I believe to be complete subject to those caveats.

“EPA Carbon Rule Points Toward Cap-and-Trade,” June 2, 2014, Published by LAW360, the article in which I am quoted is attached in full as part of Attachment A

“Oklahoma Aims to Block Limits on US States’ Emissions,” May 20, 2014, Published by FINANCIAL TIMES, the article in which I am quoted is attached in full as part of Attachment A

“Compact? Yes. Casino. Not Yet,” May 20, 2003, Published by SULLIVAN COUNTY DEMOCRAT, attached in full as part of Attachment A

“DOJ Disapproves of Mohawk Land and Gaming Deal,” May 15, 2003, Published by Indianz.com, attached in full as part of Attachment A

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

From August 2001 until September 2005, I was the Deputy Assistant Attorney General of the U.S. Justice Department’s Environment & Natural Resources

Division, an appointed position by former Attorney General John Ashcroft.

I have held no other public offices and have not run for any elected offices.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I am a member of the Republican party.

For the duration of the 2012 presidential election campaign, I was an energy policy advisor to Governor Mitt Romney.

For the 2016 presidential election campaign, I worked at Republican Party headquarters in Richmond, VA on election day, November 8, 2016.

14. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk for Judge Danny J. Boggs on the United States Court of Appeals for the Sixth Circuit in Louisville, Kentucky from August 1995 until August 1996 (est.)

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

Upon graduation, during the Summer of 1995 I worked as a summer associate for the first half of the Summer at Kirkland & Ellis. Then I spent the second half of the Summer at Shea & Gardner. Both are Washington, D.C. firms, and I wrote a variety of legal memos for clients of both law firms while I was there.

When my clerkship was finished in August 1996, I joined Kirkland & Ellis as an associate from 1996 until 2001. I worked on a variety of matters for

clients, many of them in the federal courts of appeals. I was also active in *pro bono* matters.

From 2001 until 2005, I was the Deputy Assistant Attorney General of the U.S. Department of Justice's Environment and Natural Resources Division. I supervised the Appellate Section and the Indian Resources Section. I argued a variety of cases in various courts, wrote briefs, and interacted with career officials and other political appointees, among other functions.

From 2005 until present, I have worked as a partner at Kirkland & Ellis. Most of my work has been appellate in nature, defined to include not just the representations of clients in appeals *per se* but also the presentation of significant legal issues by dispositive motions in the trial courts. I was also involved in regulatory work before federal and state agencies. And I continued to represent *pro bono* clients of my law firm.

The addresses of the places where I have held legal employment since graduating from law school (with the exception of Shea & Gardner, which is no more) are as follows:

Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005

United States Department of Justice
Environment & Natural Resources Division
Robert Kennedy Building
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

- iv. Whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as an arbitrator or a mediator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

My career has basically had two phases — private practice at Kirkland & Ellis (1996 to 2001 and 2005 to present) and practice inside the government at the U.S. Department of Justice (2001 to 2005). Private practice for me at Kirkland & Ellis both before and after government service has had a very similar character; however, my practice and level of responsibility has

deepened with each passing year. I now also supervise more attorneys, whereas when I started my career as a law firm associate I supervised only legal assistants and secretaries.

In private practice, my focus is on appellate litigation and on the advocacy concerning legal disputes, often in preparation for appeals, to trial courts. Most of my practice is in federal court and before federal agencies, though sometimes in state courts or agencies as well. I write briefs, I supervise and structure the writing of briefs, I argue cases and dispositive motions, I draft rulemaking comments, and I advise clients on issues of law, usually in highly complex regulatory areas.

At the Justice Department from 2001-2005, there was much similarity to the work I did while in private practice, although my responsibility level increased substantially as I was then supervising about 75 lawyers and staff through subordinate career section chiefs and assistant section chiefs. I continued to write some briefs, I supervised the drafting of many briefs, and I also argued cases. I also met frequently to represent the Department of Justice at the Council on Environmental Quality or EPA meetings or other agency meetings. I consulted with numerous agencies about the defensibility in court of their actions or to answer other questions of a legal nature that they posed to me. For instance, I worked closely with agency general counsels on matters falling within the Environment Division's purview.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

The following is a list of representative clients in private practice: Air-Conditioning, Heating & Refrigeration Institute, Alliance of Automobile Manufacturers, American Innovators Alliance, Archdiocesan Legal Network, Arizona House of Representatives and State Senate, Axiall Corporation, Bear Stearns & Co., Blackstone Group, Blue Cross & Blue Shield, BP Exploration & Production Inc., Briggs & Stratton Corp., Chrysler, Circle Line Cruise, Coca-Cola Bottlers' Association, Constellation Energy, Consumers Research, DBSD North America, Inc., Dow Chemical Company, DuPont, Family Winemakers of California, FannieMae, Forest Laboratories, General Motors Corporation, Glaxo Smith Kline, Home Depot, IBM Corporation, International Peace Operations Association, International Snowmobile Manufacturers Association, Invensys Systems, James Hardie Building Products, Lazard Freres Real Estate Investors, Masonite Corporation, Miami Family Members of Elian Gonzalez on behalf of Elian Gonzalez, National Association of Homebuilders, National Association of Waterfront Employers, National Automobile Dealers Association, National Retail Federation, OchZiff Capital, Office Depot, Orange County, California, Oracle Corp., Raytheon

Co., Sherwin Alumina Co. LLC, Sun Capital Partners, Teva Pharmaceuticals North America, United Airlines, and the United States Chamber of Commerce.

Early in my career, from 2001-2005, a significant portion of my work was in the antitrust area. *See, e.g.*, Answer to Question 12, Section a, listing my work on the annual books — the 1997 and 1998 editions of the American Bar Association Antitrust Law Developments 4th. For instance, I worked on the first Staples-Office Depot merger during that time period for Kirkland client Office Depot. I also worked in the labor law area on NLRB matters, including for the Chamber of Commerce and for Raytheon. In both phases of my private practice career (i.e., before and after government service), I worked in the telecommunications area, for instance for firm client DBSD (a satellite start-up company). At all times I have performed significant work in appellate litigation, administrative law, agency proceedings, regulatory counseling, and complex civil litigation.

In the second phase of my work at Kirkland & Ellis post-government, I added expertise in some types of intellectual property cases, for instance for Forest Laboratories and GSK. I have also worked in the bankruptcy area, most notably on a Ninth Circuit appeal arising out of the United Airlines restructuring. Additionally, I have become expert in class action issues as a result of working on the two class actions BP entered into to settle Gulf oil spill matters.

While in government service, I represented numerous client agencies including EPA, the Interior Department, the Commerce Department, the Energy Department, the Department of Defense, the Nuclear Regulatory Commission, Department of Agriculture, Department of Homeland Security, Department of Transportation, FERC, and numerous of the component agencies of the foregoing, such as the Forest Service, NOAA, the Fish & Wildlife Service, and the Surface Transportation Board.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 75% |
| 2. state courts of record: | 10% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 15% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

I appear in court frequently, most often the federal courts of appeals.

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 0% |
| 2. non-jury: | 100% |

I have been an associate counsel in approximately eight non-jury trials of all types.

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have practiced before the Supreme Court via briefing in numerous cases:

Eagle 2 U.S. LLC v. Abraham, 136 S. Ct. 2021 (2016)

State of Veracruz, Republic of Mexico v. BP, p.l.c., 136 S. Ct. 536 (2015)

BP Exploration & Production Inc. v. United States, 135 S. Ct. 2893 (2015)

Louisiana ex rel. Ballay v. BP Exploration & Production, Inc., 135 S. Ct. 401 (2014)

Utility Air Regulatory Group v. EPA, 134 S. Ct. 2247 (2014)

American Trucking Associations v. City of Los Angeles, CA, 133 S. Ct. 2096 (2013)

Decker v. Northwest Environmental Defense Center, 133 S. Ct. 1326 (2013)

Maloney v. Rice, 561 U.S. 1040 (2010)

Ruelas v. Wolfenbarger, 560 U.S. 924 (2010)

Williamson v. Mazda Motor of America, Inc., 560 U.S. 923 (2010)

Forest Laboratories Inc. v. Caraco Pharmaceutical Laboratories Ltd., 555 U.S. 1170 (2009)

United Retired Pilots Benefit Protection Association v. United Air Lines Inc., 549 U.S. 881 (2006)

eBay Inc. v. MercExchange, LLC, 547 U.S. 388 (2006)

Bates v. Dow Agrosciences LLC, 544 U.S. 431 (2005)

City of Sherrill, N.Y. v. Oneida Indian Nation of N.Y., 544 U.S. 197 (2005)

Cooper Industries Inc. v. Aviall Services, Inc., 543 U.S. 157 (2004)

Norton v. Southern Utah Wilderness Alliance, 542 U.S. 55 (2004)

Department of Transportation v. Public Citizen, 541 U.S. 752 (2004)

Engine Manufacturers Association v. South Coast Air Quality Management District, 541 U.S. 246 (2004)

South Florida Water Management District v. Miccosukee Tribe of Indians, 541 U.S. 95 (2004)

Inyo County, California v. Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, 538 U.S. 701 (2003)

United States v. Navajo Nation, 537 U.S. 488 (2003)

Atlantic Richfield Co. v. Union Oil Co. of California, 531 U.S. 1183 (2001)

Whitman v. American Trucking Associations, Inc., 531 U.S. 457 (2001)

Solid Waste Agency of N. Cook County v. Army Corps of Engineers, 531 U.S. 159 (2001)

Gonzales v. Reno, 530 U.S. 1270 (2000)

Free v. Abbott Laboratories, Inc., 529 U.S. 333 (2000)

Vista Paint Corporation v. United States, 525 U.S. 816 (1998)

Allentown Mack Sales & Service Inc. v. NLRB, 522 U.S. 359 (1998)

I have appended the briefs I worked on in these cases in Attachment B.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the

case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

I have done my best to identify all information requested, including a review of my files and searches of public electronic databases. Despite my best efforts, there may be certain information, such as the names of additional counsel, that I have been unable to identify, locate, or remember.

- (1) *Elían Gonzalez* matter: I worked on both the en banc petition and cert petition for the Miami relatives of Elían Gonzales who were seeking to establish his right to an asylum hearing before leaving the country, as it was his mother's dying wish to have him become an American citizen. *See Gonzales ex rel. Gonzalez v. Reno*, 215 F.3d 1243 (2000) (per curiam) (denying en banc review), *cert. denied sub nom. Gonzales v. Reno*, 530 U.S. 1270 (2000).

The case involved issues of due process, statutory construction, and *Chevron* deference as to then-Attorney General Janet Reno's decision as to Elían Gonzalez's asylum rights.

(a) This representation occurred over several months in 2000.

(b) The relevant courts this litigation occurred in were the Eleventh Circuit and U.S. Supreme Court. In the Eleventh Circuit Judges Edmondson, Dubina, and Wilson, J.J., were on the panel.

(c) Co-Counsel were

(i) Kendall B. Coffey (former U.S. Attorney), Coffey, Burlington, 2699 South Bayshore Drive, Miami, FL 33133, (305) 858-2900; (ii) Manuel A. Diaz — contact information unknown (he was formerly Kendall Coffey's law partner); (iii) Barbara Lagoa, now Judge on the Florida District Court of Appeal, Third District, 2001 S.W. 117th Avenue, Miami, FL 33175, (305) 229-3200; (iv) Judd J. Goldberg, now Assistant Vice President and Associate General Counsel of the University of Miami, 1320 South Dixie Highway, Coral Gables, FL 33146, (305) 284-2700; (v) Linda Osberg-Braun, Bernstein Osberg-Braun P.L., 10800 Biscayne Boulevard #925, Miami, FL 33161, (305) 350-0707. Principal counsel for then-Attorney General Janet Reno was Edwin Kneedler, U.S. Department of Justice, Office of the Solicitor General, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2203.

(2) *Deepwater Horizon* Oil Spill Litigation in MDL 2179 and numerous Fifth Circuit appeals arising out of this litigation: I have worked on a wide variety of matters for BP arising out of MDL 2179 in the Eastern District of Louisiana and on appeal to the Fifth Circuit from 2010 to present. For example, I have handled about 35 appeals for BP. Two examples are: (I) *In re Deepwater Horizon*, 745 F.3d 157 (5th Cir. 2014), *cert. denied sub nom. Louisiana ex rel. Ballay v. BP Exploration & Production, Inc.*, 135 S. Ct. 401 (2014), where I successfully established that removal jurisdiction as to cases filed in state court pursuant to the Outer Continental Shelf Lands Act (“OCSLA”) and that state law causes of action were preempted by the Clean Water Act and OCSLA; and (II) *Center for Biological Diversity, Inc. v. BP America Production Co.*, 704 F.3d 413 (5th Cir. 2013), *reh’g denied*, where I successfully defended dismissal of all but one type of citizen suit (and on remand later established in the district court below that the remanded form of citizen suit was also legally invalid).

(a) My representations in MDL 2179 and related appeals began in 2010 and has continued to the present time.

(b) The relevant courts involved in this litigation were the Eastern District of Louisiana, the Fifth Circuit, and the Supreme Court. Judge Barbier presides over MDL 2179 in the District Court. The panel in case (I) in the prior paragraph consisted of Judges Jones, Barksdale, and Southwick. The panel in case (II) in the prior paragraph consisted of Chief Judge Stewart and Judges King and Owen.

(c-1) Co-Counsel in case (I) in the prior paragraph were (i) Richard Godfrey and J. Andrew Langan, Kirkland & Ellis, 300 N. LaSalle, Chicago, IL 60654, (312) 862-2000; (ii) David Salmons, Morgan Lewis, 1111 Pennsylvania Avenue, N.W., Washington, D.C. 20004, (202) 373-6283; (iii) Don Haycraft, Liskow & Lewis, One Shell Square, 701 Poydras Street, New Orleans, LA 70139, (504) 556-4128; (iv) Kerry Miller, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., 201 St. Charles Avenue, New Orleans, LA 70170 (504) 566-8646; (v) Glenn Goodier, Jones Walker LLP, 201 St. Charles Avenue, New Orleans, LA, 70170, (504) 582-8174; (vi) Donald Godwin, Godwin, Bowman, and Martinez, 1201 Elm Street, Dallas, TX 75270, (214) 939-4412; (vii) Allyson Ho, Morgan Lewis, 1717 Main Street, Dallas, TX 75201, (214) 466-4180; (viii) Russell Post, Beck Redden LLP, 1221 McKinney Street, Houston, TX 77010, (713) 951-6292; (ix) John Elsley, Phelps Dunbar LLP, 500 Dallas Street, Houston, TX 77002, (713) 225-7202; (x) James Dragna, Morgan Lewis, 300 South Grand Avenue, Los Angeles, CA 90071, (213) 680-6436; and (xi) Edward Flanders, Pillsbury, Winthrop, Shaw Pittman LLP, 1540 Broadway, New York, NY 10036, (212) 858-1638. Principal counsel for the opposing party in case (I) above was Stephen B. Murray, Murray Law Firm, 650 Poydras Street, New Orleans, LA 70130, (504) 525-8100.

(c-2) Co-Counsel in case (II) above were (i) Richard Godfrey and J. Andrew Langan, Kirkland & Ellis, 300 N. LaSalle, Chicago, IL 60654, (312) 862-2000; (ii)

Granta Nakayama, King & Spalding LLP, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 626-3733; (iii) Don Haycraft, Liskow & Lewis, One Shell Square, 701 Poydras Street, New Orleans, LA 70139, (504) 556-4128; (iv) Kerry Miller, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C., 201 St. Charles Avenue, New Orleans, LA 70170 (504) 566-8646; (v) Daniel Goforth, Goforth Law Firm, 1900 Pennzoil South Tower, 711 Louisiana Street, Houston, TX 77056, (713) 650-0022; (vi) Daniel Levin, Munger, Tolles & Olson, LLP, 350 South Grand Avenue, Los Angeles, CA 90071, (213) 683-9135. Principal counsel for the opposing party in case (II) above was Charles M. Tebbutt, Law Offices of Charlie Tebbutt, P.C., 941 Lawrence Street, Eugene, OR 97401, (541) 344-3505.

- (3) *Massachusetts v. EPA*: This is early litigation about whether greenhouse cases can be regulated under the Clean Air Act. *See Massachusetts v. EPA*, 415 F.3d 50 (D.C. Cir. 2005), *reh'g denied*, 433 F.3d 66 (D.C. Cir. 2005), *rev'd*, 549 U.S. 497 (2007). I worked on this litigation at the panel stage, briefing and arguing it as Deputy Assistant Attorney General. I prevailed at that stage (the D.C. Circuit litigation was later reversed by the Supreme Court after I left government service and returned to private practice).

(a) I worked on this litigation from 2004 to 2005.

(b) The D.C. Circuit panel consisted of Judges Randolph, Sentelle, and Tatel.

(c) Co-counsel were (i) Thomas Sansonetti, Holland & Hart, 6380 South Fiddlers Green Circle, Greenwood Village CO 80111, (303) 290-1061; (ii) Jon Lipshultz, Environment & Natural Resources Division, U.S. Department of Justice, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2701; (iii) Ann R. Klee, General Electric, 41 Farnsworth Street, Boston, MA 02210 (617) 443-3000; (iv) Neil Gordon, Michigan Attorney General's Office, G. Mennen Williams Building, 525 W. Ottawa Street, P.O. Box 30212, Lansing, MI 48909, (517) 373-7540; (v) Alan Hoffmann, current contact information unknown; (vi) Charles Carvell, Pierce Durick PLLC, 314 East Thayer Avenue, P.O. Box 400, Bismarck, ND 58502, (701) 223-2890; (vii) Roxanne Giedd, South Dakota Attorney General's Office, 1302 E. Highway 14, Suite 1, Pierre, SD 57501, (605) 773-3215; (viii) Steven Mulder, Alaska Attorney General's Office, 1031 W. 4th Avenue, Anchorage, AK 99501, (907) 269-5274; (ix) David Davies, Law Offices of David Davies, 555 S. Kansas Avenue, Topeka, KS 66603, (785) 296-3967; (x) David Cookson, Bruning Law Group, 1201 Lincoln Mall, Lincoln, NE 68608, (402) 261-3475; (xi) Dale Vitale, Ohio Attorney General's Office, 30 E. Broad Street, Columbus, OH 42315, (614) 466-2766; (xii) Thomas Fisher, Solicitor General State of Indiana, 302 W. Washington Street, Indianapolis, IN 46204, (317) 232-6201; (xiii) Norman Fichthorn, Hunton & Williams, 2200 Pennsylvania Avenue, N.W., (202) 955-1673; (xiv) Quentin Riegel, National Association of Manufacturers, 733 10th Street, N.W., Washington, D.C. 20001, (202) 637-3000; (xv) Douglas Greenhaus, National Automobile Dealers Association, 8400 Westpark Drive, Tysons, VA 22102, (703) 82107000; (xvi) Peter Glaser,

Troutman Sanders, 401 9th Street, N.W., Washington, D.C. 20004, (202) 274-2998; and (xviii) Edward Warren, Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., Washington, D.C. 20005, (202) 879-5018. Principal opposing counsel were James R. Milkey, now Justice of the Massachusetts Court of Appeals, John Adams Courthouse, Boston, MA 02108, (617) 725-8106 and Howard Fox, Earthjustice, 1625 Massachusetts Avenue, N.W., (202) 667-4500.

- (4) *Kelo* Litigation: This case is one of the most significant cases litigated under the Public Use Requirement of the Takings Clause in American history. See *Kelo v. City of New London, CT*, 545 U.S. 469 (2005). The issue was whether a city's use of eminent domain power to give it to the Pfizer company in the course of an economic revitalization plan comported with the Public Use Requirement. I worked on coordinating the positions of the "federal family" (i.e., federal departments and agencies) on what position to take, if any, as an amicus in this Supreme Court litigation. I wrote a privileged legal memo to the Solicitor General on what position the United States should take. The Solicitor General decided not to file a brief in the case.

(a) I worked on this litigation in 2005.

(b) The 2005 composition of the Supreme Court ruled on the case. I did not work on the case at any level beneath that of the Supreme Court.

(c) There are no co-counsel of public record. And there are no opposing counsel because the Solicitor General opted not to file an amicus brief in support of either side.

- (5) *Whitman v. American Trucking*: This is landmark administrative law and separation of power litigation involving the nondelegation doctrine. It is also highly significant to the Clean Air Act's National Ambient Air Quality Standards ("NAAQS") Program. See *American Trucking Associations, Inc. v. EPA*, 175 F.3d 1027, modified on reh'g by 195 F.3d 4 (D.C. Cir. 1999), *aff'd in part and rev'd in part sub nom. Whitman v. American Trucking Associations, Inc.*, 531 U.S. 457 (2001). New NAAQS standards were issued for ozone and particulate matter ("PM"). My client the American Trucking Associations ("ATA") prevailed on most issues at the D.C. Circuit stage. Several of those issues were not taken up to the Supreme Court by EPA. At the EPA stage, the Supreme Court reversed the D.C. Circuit's holding that EPA set the ozone and PM standards in such a way as to violate the nondelegation doctrine. It also construed the statute's public health mandate broadly. Finally, the Supreme Court affirmed ATA's and the State of Ohio's win at the D.C. Circuit stage holding that EPA's ozone standard was inconsistent on *Chevron* step two grounds with Subpart II of the Clean Air Act.

(a) I worked on this litigation from 1999 to 2001 at all stages in the D.C. Circuit and the Supreme Court.

(b) The D.C. Circuit panel consisted of Judges Williams, Ginsburg, and Tatel.

(c) Co-Counsel were (i) F. William Brownell, Hunton & Williams, 2200 Pennsylvania Avenue, N.W., (202) 955-1555; (ii) Edward Warren and Robert Gasaway of Kirkland & Ellis, 655 Fifteenth St., N.W., Washington, D.C. 20005, (202) 879-5000; (iii) Gary Marchant, Arizona State University, Sandra Day O'Connor College of Law, MC 9520, 111 E. Taylor Street, Phoenix, AZ 85004, (480) 965-3246; (iv) Stephen A. Bokart, Suburban Hospital, George Washington University Law School, 2000 H St, N.W. Washington, D.C. 20052, (202) 994-6261; (v) Peter Glaser, Troutman Sanders, 401 9th Street, N.W., Washington, D.C. 20004, (202) 274-2998; (vi) Harold Quinn, National Mining Association, 101 Constitution Avenue, N.W., 20001, (202) 463-2600; (vii) Russell Frye, FryeLaw PLLC, 1101 30th Street, N.W., Washington, D.C. 20007, (202) 572-8267; (viii) Alexandra Dapolito Dunn, Environmental Council of the States, 50 F Street, N.W., Washington, D.C. 20001, (202) 266-4920; (ix) Chet Thompson, American Fuel and Petrochemical Manufacturers, 1667 K Street, Washington, D.C. 20006, (202) 457-0480; (x) Douglas Greenhaus, National Automobile Dealers Association, 8400 Westpark Drive, Tysons, VA 22102; (xi) Timothy Bishop, Mayer Brown, 71 South Wacker Dr., Chicago, IL 60606, (312) 782-0600; (xii) Susan Ashbrook, Ohio Attorney General's Office, 90 West Broad Street, Columbus, OH 43215 (614) 645-7385; (xiii) Thomas Casey, Balch & Bingham LLP, 1901 Sixth Avenue, North, Birmingham, AL 35203, (205) 226-3480; (xiv) Mark Rudolph, West Virginia Attorney General's Office, 601 57th Street, S.E., Charleston, WV 25301, (304) 558-2021; (xv) Boyden Gray, Boyden Gray & Associates, 801 17th Street, N.W., Washington, D.C. 20006, (202) 955-0620; and (xvi) David Menotti, Environmental Law Institute, 1730 M Street, N.W., Washington, D.C. 20036, (202) 939-3800. Principal opposing counsel at the D.C. Circuit stage were: (i) David Kaplan — current contact information unavailable; (ii) Robert Dreher, Georgetown University Law Center, O'Neill Institute, 600 New Jersey Avenue, N.W., Washington, D.C. 20001, (202) 662-9203; (iii) Howard Fox, Earthjustice, 1625 Massachusetts Avenue, N.W., (202) 667-4500; (iv) Edward Bohlen — current contact information unavailable; (v) Catherine Tormey, New Jersey Attorney General's Office, DEP Main Building, 401 East State Street, Trenton, NJ 08625, (609) 777-3373; (vi) Kimberly Massicotte, Connecticut Attorney General's Office, 55 Elm Street, Hartford, CT 06106, (860) 808-5318 ; (vii) John Hasen, Vermont Natural Resources Board, National Life Records Building, National Life Drive, Montpelier, VT 06520, (802) 828-5444; (viii) Maureen Smith, Orr & Reno, P.A. 45 South Main Street, P.O. Box 3550, Concord, NH 03301, (603) 223-9166; (ix) John Looney, Connecticut Attorney General's Office, 55 Elm Street, Hartford, CT 06106, (860) 808-5250; (x) Robert Yuhnke, Southwest Energy Efficiency Project, 2334 North Broadway, Boulder, CO, (303) 447-0078; and (xi) Mary Edgar, Environment & Natural Resources Division, U.S. Department of Justice, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-4767. Principal opposing counsel at the Supreme Court stage was then-Solicitor General Seth Waxman, WilmerHale, 1875 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 663-6800.

(6) *Staples v. Office Depot*: I worked on this antitrust litigation which blocked the first attempted merger between these two office supply retailers. *See FTC v. Staples, Inc.*, 970 F. Supp. 1066 (D.D.C. 1997).

(a) I worked on this litigation from 1996 to 1997.

(b) Judge Hogan was the District Judge who heard the case.

(c) Co-Counsel were (i) John Gidley, White & Case LLP, 701 13th Street, N.W., Washington, D.C. 20005, (202) 626-3609; and (ii) Tefft Smith and Mark Kovner of Kirkland & Ellis LLP, 655 15th Street, N.W., Washington, D.C., (202) 879-5000. Principal opposing counsel was George Carey, Cleary Gottlieb Steen & Hamilton, LLP, 2000 Pennsylvania Avenue, N.W., (202) 974-1920.

(7) *UARG v. EPA*: I worked on this litigation at both the Supreme Court and Court of Appeals stages. I also briefed and argued it at the D.C. Circuit. *See Coalition for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, *reh'g denied*, 2012 WL 6621785 (D.C. Cir. 2012), *aff'd in part and rev'd in part sub nom. Utility Air Regulatory Group v. EPA*, 134 S. Ct. 2427 (2014). At issue was whether the Prevention of Significant Deterioration ("PSD") Program of the Clean Air Act could lawfully be applied to greenhouse gas emissions ("GHGs") and, if so, how. The Supreme Court ultimately affirmed in part and reversed in part.

(a) I worked on this litigation from 2009 to 2014.

(b) The panel in the D.C. Circuit assigned to the case consisted of Chief Judge Sentelle and Judges Rogers and Tatel.

(c) Co-counsel included: (i) F. William Brownell, Hunton & Williams, 2200 Pennsylvania Avenue, N.W., (202) 955-1555; (ii) Diane G. DeWolf, Akerman, 106 East College Avenue, Tallahassee, FL 32301; (iii) Robert R. Gasaway, Kirkland & Ellis LLP, 655 Fifteenth Street, N.W., 20005, (202) 879-5175; (iv) Shannon Gossling, Lenox Design, Inc., 2197 Canton Road 201, Marietta, GA 30066, (770) 427-8162; (v) Peter Keisler, Sidley Austin LLP, 1501 K Street, N.W., Washington, D.C. 20005, (202) 736-8000; (vi) John McMackin, Williams & Jensen, PLLC, 701 8th Street, N.W., Suite 500, Washington, D.C. 20001, (202) 973-5912; (vii) Jonathan Mitchell, Stanford University Law School, Crown Quadrangle, 559 Nathan Abbott Way, Stanford, CA 94305, (650) 723-2465; (viii) Eric Groten, Vinson & Elkins LLP, 2801 Via Fortuna, Suite 100, Austin, TX 78746, (512) 542-8709; (ix) Douglas Henderson, Troutman Sanders, LLP, 600 Peachtree Street, NE, Suite 5200, Atlanta, GA 30308, (404)-885-3479; (x) Scott Abeles, Gerard Fox Law, 3050 K Street, N.W. Washington, D.C. 20007, (202) 779-9953; (xi) Charles Cooper, Cooper & Kirk, PLLC, 1523 New Hampshire Avenue, N.W., Washington, D.C. 20036, (202) 220-9600; (xii) John Eastman, Center for Constitutional Jurisprudence c/o Chapman University School of Law, One University Drive,

Orange, CA 92866, (714) 628-2587; (xiii) Richard Faulk, Davis, Wright Tremaine, 1919 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 973-4286; (xiv) Peter Glaser, Peter Glaser, Troutman Sanders, 401 9th Street, N.W., Washington, D.C. 20004, (202) 274-2998; (xv) Theodore Hadzi-Antich (current contact information unknown); (xvi) Erik Jaffe, Erik S. Jaffe, P.C., 5101 34th Street, N.W., Washington, D.C. 20008, (202) 237-8165; (xvii) Paul Kamenar (current contact information unknown — may be retired); (xviii) Charles Knauss, Hunton & Williams, 2200 Pennsylvania Avenue, N.W., (202) 419-2003; (xix) Steven Lechner, Mountain States Legal Foundation, 2596 South Lewis Way, Lakewood, CO 80227, (303) 292-2012; (xx) Ashley Parrish, King & Spalding LLP 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, (202) 737-0500; (xxi) Victor Schwarz, Shook Hardy & Bacon LLP, 1155 F Street, N.W., Suite 200, Washington, D.C. 20004, (202) 783-8400; and (xxii) Adam White, Hoover Institution, 1399 New York Avenue, N.W., Washington, D.C. 20005, (202) 760-3200. Principal opposing counsel were (i) then-Solicitor General Donald Verrilli, now at Munger, Tolles & Olson, 1155 F Street, N.W., Washington, D.C. 20004, (202) 220-1100; (ii) Sean Donahue, Donahue & Goldberg, LLP, 1130 Connecticut Avenue, N.W., Suite 950, Washington, D.C., 20036, (202) 277-7085; (iii) Barbara Underwood, New York Solicitor General, 120 Broadway, 25th Floor, New York, NY 10271, (212) 416-8016; (iv) Hope Babcock, Institute for Public Representation, Georgetown University Law Center, 600 New Jersey Avenue, N.W., Suite 312, Washington, D.C. 20001, (202) 662-9535; (v) Cara Horowitz, UCLA Law School, 385 Charles E. Young Dr. East, Los Angeles, LA (310)-206-4033; (vi) Wendy Jacobs, Harvard Law School, 1563 Massachusetts Avenue, Cambridge, MA 02138, (617) 495-3109; (vii) Richard Revesz, New York University School of Law, 139 MacDougal Street, 3rd Fl., New York, NY 10012, (212) 998-6185; and (viii) Elizabeth Wydra, Constitutional Accountability Center, 1200 18th Street, N.W., Suite 501, Washington, D.C. 20036, (202) 296-6889.

- (8) *Hodges v. Abraham*: I briefed and argued this appeal that involved an attempt by the State of South Carolina to move weapons-grade plutonium into the State for storage purposes. I prevailed in this NEPA litigation. *See Hodges v. Abraham*, 300 F.3d 432 (4th Cir. 2002).

(a) I worked on this litigation in 2002 (est.).

(b) The Fourth Circuit panel for this litigation consisted of Judges Widener, Niemeyer, and King. (c) Co-counsel were (i) Stephen Bates, 700 Gervais Street, Suite, 300, Columbia, SC 29211, (803) 779-2300; (ii) Thomas Sansonetti, Holland & Hart, 6380 South Fiddlers Green Circle, Greenwood Village CO 80111, (303) 290-1061; (iii) Lisa Jones, Environment & Natural Resources Division, U.S. Department of Justice, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2701; (iv) Strom Thurmond Jr., Solicitor, Circuit Court, 109 Park Avenue, SE, Aiken, SC 29801, (803) 642-1557; (v) Lee Otis, Federalist Society, 1776 I Street, N.W., Washington, D.C. 20006, (202) 822-8138; and (vi) Marc Johnston (current contact information unavailable).

Principal opposing counsel was William LeRoy Want, Charleston School of Law, 81 Mary Street, Charleston, SC 29403, (843) 377-2432.

- (9) *Indian Treaty Litigation in New York*: I worked on numerous cases while I was at the Department of Justice from 2001-2005 that involved attempts by New York successors to the Iroquois Tribes to vindicate their treaty rights and rights under the Nonintercourse Act as against current property owners in or local governments in New York State. One example of this litigation was *City of Sherrill, N.Y. v. Oneida Indian Nation of N.Y.*, 544 U.S. 197 (2005). The Supreme Court held that the doctrines of laches, acquiescence, and impossibility barred the tribe's claim.

(a) I worked on the *City of Sherrill* case in 2004 to 2005.

(b) I worked on it at the Second Circuit and Supreme Court stages. The panel at the Second Circuit stage consisted of Judges Van Graafeiland, Meskill, and B.D. Parker.

(c) Co-Counsel were (i) Paul Clement, Kirkland & Ellis, LLP, 655 Fifteenth St, N.W., Washington, D.C. 20005, (202) 879-5000; (ii) Gus Coldebella, Fish & Richardson, McPherson Building, 901 Fifteenth Street, N.W., Washington, D.C. 20005, (202) 783-5070; (iii) Charles Curtis, Perkins Coie, 700 Thirteenth Street, N.W., Washington, D.C. 20005, (202) 654-6200; (iv) Ian Gershengorn, Jenner & Block (effective September 1, 2017), 1099 New York Avenue, N.W., Washington, D.C. 20001, (202) 639-6000; (v) Caitlin Halligan, Gibson Dunn, 200 Park Avenue, New York, NY 10166, (212) 351-3909; (vi) Malcolm Stewart, U.S. Department of Justice, Office of the Solicitor General, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2203; and (viii) G. Robert Witmer Jr., Nixon Peabody, 1300 Clinton Square, Rochester, NY 14604, (585) 263-1000. Principal opposing counsel were: (i) Ira Sacks, Akerman LLP, 666 Fifth Avenue, 20th Floor, New York, NY 10103, (212) 880-3827; (ii) Michael R. Smith, 1800 M Street, N.W. Washington, D.C. 20036, (202) 778-1800; (iii) Arlinda Locklear, Law Office of Arlinda Locklear, 3809 Jefferson Pike, Jefferson, MD 21755, (301) 473-5160; (iv) Carter Phillips, Sidley Austin LLP, 1501 K Street, N.W., Washington, D.C. 20005, (202) 736-8270; and (v) Harry Sachse, Sonosky Chambers, Sachse, Endreson & Perry, 1425 K Street, N.W., Suite 600, Washington, D.C. 20005, (202) 682-0240.

(10) *Norton v. Southern Utah Wilderness Alliance*: I worked with the SG's Office on the Supreme Court briefing and with ENRD lawyers on the Tenth Circuit litigation. This case is a landmark in administrative law jurisprudence. It involves off-road vehicle use in wilderness study areas. *See Southern Utah Wilderness Alliance v. Norton*, 301 F.3d 1217 (10th Cir. 2002), *rev'd*, 542 U.S. 55 (2004). The case holds that the Bureau of Land Management did not violate its mandate under the Federal Land Policy and Management Act to manage wilderness study areas so as not to impair them for preservation as wilderness. The Court rejected the argument that Administrative Procedure Act claims to compel agency action

unlawfully withheld or unreasonably delayed could be based only on a demonstration that the agency has failed to take discrete action that it is required to take. The positions I advocated prevailed in this litigation.

(a) I worked on this case from 2002 to 2004.

(b) The relevant courts in this appeal were the Tenth Circuit and U.S. Supreme Court. The Judges on the Tenth Circuit panel were Ebel, McKay, and Lucero.

(c) Co-Counsel were (i) Theodore Olson, Gibson Dunn, 1050 Connecticut Avenue, N.W., Washington, D.C. 20036, (202) 955-8668; (ii) Thomas Sansonetti, Holland & Hart, 6380 South Fiddlers Green Circle, Greenwood Village CO 80111, (303) 290-1061; (iii) Edwin Kneedler, U.S. Department of Justice, Office of the Solicitor General, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2203; (iv) Barbara McDowell (deceased); (v) Andrew Mergen, Environment & Natural Resources Division, U.S. Department of Justice, Robert F. Kennedy Building, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530, (202) 514-2701; (vi) Roderick Walton, Best, Best & Krieger, 2001 North Main Street, Walnut Creek, CA 94596, (925) 977-3300; (vii) Paul A. Turcke, Moore, Smith, Buxton, & Turcke, Chartered, 950 West Bannock Street, Boise, Idaho, (208) 331-1800; and (viii) Ralph Finlayson, current contact information unknown. Principal opposing counsel was James S. Angell, Earthjustice Legal Defense Fund, 633 17th Street, Denver, CO 80202, (303) 623-9466 at the Tenth Circuit stage and Paul M. Smith, Jenner & Block, 1099 New York Avenue, N.W., Washington, D.C. 20001, (202) 639-6060, at the Supreme Court stage.

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I am not a registered lobbyist and have never been required to register.

The most significant cases that I participated in settling are: (a) the BP (my client) litigation mentioned above that led to the creation of two ongoing class action settlements — one for economic losses and the other for medical claims; (b) Toyota (my client) litigation involving compliance of its vehicles with the Clean Air Act and applicable California statutes; and (c) litigation involving the energy efficiency of walk-in coolers and freezers for the Air-Conditioning Heating, and Refrigeration Institute in the Fifth Circuit, settled with the U.S. Department of Energy.

As this question recognizes is possible, I have also worked on numerous significant matters

where the resolutions were privileged. And Question 15 above lists my most significant cases.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have taught two classes, both at the George Mason University Law School (prior to it being renamed the Antonin Scalia Law School): (A) Law Science and Technology from 2000 to 2004 (est.); and (B) Environmental Law: Interpreting Statutes and Applying the Constitution from 2005 to 2009 (est.). I taught in the Spring semesters of those years. I do not have all syllabi but examples from each of the two separate classes are included as Attachment C. The syllabi and assignments tended to be fluid and many reading assignments were simply given orally in class to the students.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I do not have any arrangements of this type, with the exception of the fact that if I am fortunate enough to be confirmed, Kirkland & Ellis LLP will pay me an agreed-upon sum as an exit bonus given that I may no longer be associated with Kirkland & Ellis through the end of 2017. It will be paid prior to any separation from Kirkland & Ellis.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

No.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

Please see my SF 278 Form.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

My completed Statement of Net Worth is affixed herein as Attachment D.

22. Potential Conflicts of Interest:

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

During the nomination process, I consulted with the Department of Justice's Ethics Office. I will continue to consult with that Office if I am fortunate enough to be confirmed and will recuse myself from any matter in which it is required.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

I will consult with the Department of Justice's Ethics Office if I am fortunate enough to be confirmed and will recuse from any matter in which it is required.

23. Pro Bono Work: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

I have worked on numerous pro bono cases. In 2010, I won an award from my law firm for the significant number of hours I have devoted to such matters. Additionally, in 2017 I was designated as a "Pro Bono Achiever" by Kirkland & Ellis. In addition to my work on the Elian Gonzalez immigration matter, for instance, I also prevailed in a settlement in an immigration case called *Fekadu* in the Fourth Circuit. Currently, I am working on a pro bono matter in D.C. Probate Court for an indigent man who was driven out of his house as a result of a family squabble. Typically, I devote hundreds of hours to pro bono matters per year. I have done so in the area of constitutional law, immigration law, administrative law, probate law, and False Claims Act law.