

S. HRG. 112-72, Pt. 8

CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

HEARINGS BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED TWELFTH CONGRESS SECOND SESSION

—
JUNE 6, JUNE 27, AND JULY 11, 2012
—

Serial No. J-112-4
—

PART 8
—

Printed for the use of the Committee on the Judiciary



CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

HEARINGS BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

JUNE 6, JUNE 27, AND JULY 11, 2012

Serial No. J-112-4

PART 8

Printed for the use of the Committee on the Judiciary



U.S. GOVERNMENT PRINTING OFFICE

77-421

WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON THE JUDICIARY

PATRICK J. LEAHY, Vermont, *Chairman*

HERB KOHL, Wisconsin	CHUCK GRASSLEY, Iowa
DIANNE FEINSTEIN, California	ORRIN G. HATCH, Utah
CHUCK SCHUMER, New York	JON KYL, Arizona
DICK DURBIN, Illinois	JEFF SESSIONS, Alabama
SHELDON WHITEHOUSE, Rhode Island	LINDSEY GRAHAM, South Carolina
AMY KLOBUCHAR, Minnesota	JOHN CORNYN, Texas
AL FRANKEN, Minnesota	MICHAEL S. LEE, Utah
CHRISTOPHER A. COONS, Delaware	TOM COBURN, Oklahoma
RICHARD BLUMENTHAL, Connecticut	

BRUCE A. COHEN, *Chief Counsel and Staff Director*

KOLAN DAVIS, *Republican Chief Counsel and Staff Director*

American Bar Association (ABA), Allan J. Joseph, Chair, Washington, DC—Continued	
Fernando M. Olguin, May 15, 2012, letter	611
Baca, Leroy D., Sheriff, County of Los Angeles, Monterey Park, California, June 20, 2012, letter	612
Beck, Charlie, Chief of Police, Los Angeles Police Department, Los Angeles, California, June 11, 2012, letter	613
Boxer, Hon. Barbara, a U.S. Senator from the State of California, statement ..	614
Los Angeles Police Protective League, Tyler Izen, President, Los Angeles, California, June 6, 2012, letter	625
Olguin, Fernando M., Los Angeles, California, statement	626

WEDNESDAY, JULY 11, 2012

STATEMENTS OF COMMITTEE MEMBERS

Coons, Hon. Christopher A., a U.S. Senator from the State of Delaware	627
Durbin, Hon. Dick, a U.S. Senator from the State of Illinois, prepared statement	863
Grassley, Hon. Chuck, a U.S. Senator from the State of Iowa	628
prepared statement	864

PRESENTERS

Boxer, Hon. Barbara, a U.S. Senator from the State of California presenting Jon S. Tigar, Nominee to be U.S. District Judge for the Northern District of California and William H. Orrick III, Nominee to be U.S. District Judge for the Northern District of California	628
Feinstein, Hon. Dianne, a U.S. Senator from the State of California presenting Jon S. Tigar, Nominee to be U.S. District Judge for the Northern District of California and William H. Orrick III, Nominee to be U.S. District Judge for the Northern District of California	630

STATEMENTS OF THE NOMINEES

Durkin, Thomas M., Nominee to be U.S. District Judge for the Northern District of Illinois	633
Questionnaire	634
Orrick, William H. III, Nominee to be U.S. District Judge for the Northern District of California	741
Questionnaire	742
Tigar, Jon S., Nominee to be U.S. District Judge for the Northern District of California	682
Questionnaire	683

QUESTIONS AND ANSWERS

Responses of Thomas M. Durkin to questions submitted by Senators Grassley, Klobuchar, Lee and Sessions	800
Responses of William H. Orrick III to questions submitted by Senators Grassley, Klobuchar, Lee and Sessions	807
Responses of Jon S. Tigar to questions submitted by Senators Grassley, Klobuchar, and Lee	846

SUBMISSION FOR THE RECORD

Ahern, Gregory J., Sheriff-Coroner, Oakland, California, June 15, 2011, letter ..	855
American Bar Association (ABA), Allan J. Joseph, Chair, Washington, DC:	
Thomas M. Durkin, May 21, 2012, letter	856
William H. Orrick, III, June 12, 2012, letter	857
Jon S. Tigar, June 17, 2012, letter	858
Boxer, Hon. Barbara, a U.S. Senator from the State of California, statement ..	859
Kirk, Hon. Mark, a U.S. Senator from the State of Illinois, statement	870
Meehan, Michael K., Chief of Police, Berkeley, California, February 23, 2011, letter	872

VI

ALPHABETICAL LIST OF NOMINEES

	Page
Berg, Terrence G., Nominee to be U.S. District Judge for the Eastern District of Michigan	7
Bernal, Jesus G., Nominee to be U.S. District Judge for the Central District of California	91
Brann, Matthew W., Nominee to be U.S. District Judge for the Middle District of Pennsylvania	486
Breyer, Charles R., Nominee to be a Member of the U.S. Sentencing Commission	528
Durkin, Thomas M., Nominee to be U.S. District Judge for the Northern District of Illinois	633
Geraci, Frank Paul, Jr., Nominee to be U.S. District Judge for the Western District of New York	292
Lum, Grande, Nominee to be Director, Community Relations Service, Department of Justice	177
Mannion, Malachy Edward, Nominee to be U.S. District Judge for the Middle District of Pennsylvania	411
Olguin, Fernando M., Nominee to be U.S. District Judge for the Central District of California	361
Orrick, William H. III, Nominee to be U.S. District Judge for the Northern District of California	741
Schofield, Lorna G., Nominee to be U.S. District Judge for the Southern District of New York	118
Tigar, Jon S., Nominee to be U.S. District Judge for the Northern District of California	682

NOMINATION OF THOMAS M. DURKIN, OF ILLINOIS, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS; HON. JON S. TIGAR, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA; AND WILLIAM H. ORRICK III, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

WEDNESDAY, JULY 11, 2012

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 2:06 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Christopher Coons, presiding.

Present: Senators Coons, Feinstein, and Grassley.

OPENING STATEMENT OF HON. CHRISTOPHER COONS, A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator COONS. Good afternoon. I am pleased to call this nominations hearing of the Senate Judiciary Committee to order.

I would like to welcome each of the nominees, their families, their friends, to the U.S. Senate and congratulate them on their nomination to serve in the Federal judiciary.

I would also like to welcome Senator Boxer of California, who is here to introduce the district court nominees for the Northern District.

Today there are 76 vacancies in our Federal judiciary, which is nearly 3 times the number of vacancies at a comparable period in the previous administration. Most of these vacancies are in district courts, which are the courts Americans most need to be fully staffed so they can receive their day in court. Nearly half these vacancies are considered by the nonpartisan Judicial Conference to be judicial emergencies, where vacancies are doing the most harm to the regular and reliable administration of justice.

Today's nominees are all district court nominees to judicial emergency districts, and so I am eager to hear from the nominees and look forward to the Senate's swift action on the President's nominations.

Before we turn to introductions and witness statements and questions, I would like to first invite Senator Grassley to make an opening statement. Senator Grassley.

**STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR
FROM THE STATE OF IOWA**

Senator GRASSLEY. Well, of course, just like the Chairman, I welcome all the nominees and congratulate them. I want to talk about the timetable that we have had in the past and our record.

I would note that the nominations of Mr. Orrick and Mr. Tigar were delivered to the Senate just 1 month ago, on June 11, 2012, with their nomination materials coming in after that date, so that we have had about 13 legislative days to review the nominations. We have had a little more time to review Mr. Durkin's file.

By contrast, President Bush's district nominees waited an average of about 120 days from nomination to having a hearing like we are having right now, so I think that this is a good example of the fair treatment that we are giving President Obama's nominees.

Having said that, I do not want anyone to think that these nominees are on some sort of fast-track process. We will give close scrutiny to the record of the nominees. This hearing is an important part of that record formation. This Committee continues to make good and steady progress in confirming judicial nominees. After today, we will have had a hearing on 42 nominees this year alone. Yesterday we confirmed the 152nd district or circuit nominee during President Obama's term so far. Good progress.

Again, I welcome the nominees and look forward to the hearing, and I will place the balance of my statement in the record.

[The prepared statement of Senator Grassley appears as a submission for the record.]

Senator COONS. Thank you, Senator Grassley.

Now we turn to the introduction of our needs, beginning with Senator Boxer, who will introduce Mr. Orrick and Judge Tigar from her home State of California.

Senator Boxer, I know your schedule is pressing, so please feel free to excuse yourself after giving these introductions. Senator Boxer.

**PRESENTATION OF HON. JON S. TIGAR, NOMINEE TO BE U.S.
DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALI-
FORNIA, AND WILLIAM H. ORRICK III, NOMINEE TO BE U.S.
DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALI-
FORNIA, BY HON. BARBARA BOXER, A U.S. SENATOR FROM
THE STATE OF CALIFORNIA**

Senator BOXER. Well, I want to thank both Senators Coons and Grassley, and I think you are going to be very pleased with these nominees as I introduce them to you.

Bill Orrick is here with his wife, Caroline, and two of their daughters: Sarah, a second-year law student at UC-Berkeley—I hope Sarah would stand—and Libby—and I hope that Caroline, his wife, will stand. And Libby is a senior at the University of Puget Sound. A third daughter, Catherine, is in South Africa doing conservation biology studies.

Judge Tigar is joined by his wife, Carrie, who I hope will stand, Carrie Avery, and he is joined by his father, Michael. I hope he will stand. And he is also joined by Judge Jeb Boasberg, of the District of Columbia, and William King, who clerked with Jon in the 11th Circuit.

So I will start with Mr. Orrick. Mr. Orrick brings a depth of legal experience in both the private and public sectors which will make him a tremendous asset to the Northern District Court. He received his bachelor's from Yale. He earned his law degree from Boston College Law School, graduating cum laude from both schools.

After law school, he spent 5 years providing pro bono legal services for low-income clients in Georgia. Then Mr. Orrick returned home to the San Francisco Bay Area, and he joined the firm of Coblenz, Patch, Duffy & Bass, where he spent 25 years as an associate, a partner, and then head of the firm's employment litigation practice. He rose to the top of the firm.

Since 2009, Mr. Orrick has worked at the Justice Department where he currently is Deputy Assistant Attorney General in the Civil Division. Bill considers service to the community to be a hallmark of his legal career. He spent 11 years as chancellor and legal adviser to the Episcopal Diocese of California and 13 years working with the Good Samaritan Family Resource Center, a low-income housing nonprofit in San Francisco.

At his law firm, he supervised much of the firm's pro bono work for which he received the San Francisco Bar Association's Outstanding Lawyer in Public Service Award.

If confirmed, Bill would not be the first of his family—and, Senators, this is really wonderful. He will not be the first of his family to serve in the Northern District. His father, William Orrick II, sat for more than 25 years in the same seat his son is nominated to today. What an honor it would be for him and his family to follow his father to the very same Federal bench.

Now I want to introduce Judge Jon Tigar. He has had a diverse legal career, including more than 9 years as an exemplary superior court judge and will be an excellent addition to the bench. He received his bachelor's degree from Williams College, and he earned his law degree from the University of California-Berkeley Boalt Hall School of Law.

Following law school, Judge Tigar clerked for Judge Robert Vance of the 11th Circuit Court of Appeals in Birmingham, Alabama. In 1989, Judge Vance was killed by a mail bomb that was sent to his home. Judge Tigar assisted FBI agents with their investigation at the field office that very evening. This nightmare experience has had a lasting effect on Judge Tigar's commitment to justice. He remembers Judge Vance for his fealty to the rule of law, for his work ethic, for his judicial temperament, his humanity, and his common sense—qualities he will bring to the Federal district court. After his clerkship, Judge Tigar spent a number of years as a civil and criminal litigator in private practice and 2 years as a trial attorney in the public defender's office.

Since 2002, Judge Tigar has served on the Alameda County Superior Court with great distinction, presiding over civil, criminal, and family law cases. In his current assignment, he manages 570 cases. Before he joined the State court bench, Judge Tigar received

an award from the State Bar of California for his pro bono services. He is a member of the California Judicial Council Advisory Committee on Civil Jury Instructions. He is an adviser to the American Law Institute's forthcoming restatement of torts. He has lectured at UC-Berkeley Law School, and he sits on the Board of Directors of the Alameda County Bar Association's Volunteer Legal Services Corporation.

His nomination has the very strong support of law enforcement officials. The Berkeley chief of police writes that Judge Tigar "meets with our officers in his home or wherever he happens to be when he receives a phone call for a meeting. He has even reviewed facts warrants while on vacation."

The Alameda County sheriff writes that Judge Tigar "is a man of integrity who will bring wisdom and experience to this position."

I would like to submit for the record letters of recommendation I have received in his support, if that is all right with you, Mr. Chairman.

Senator COONS. I ask unanimous consent they be entered for the record.

[The letters appears as a submission for the record.]

Senator BOXER. So, in closing, I am so proud to be here with these two amazing nominees, Mr. Orrick and Judge Tigar, who both received a well qualified rating from the American Bar Association. I am honored that they would continue their life in public service, and I know that Senator Feinstein will have comments to add to these. But I could not be happier or more proud to introduce these two Californians to you, and I thank you both for convening this, and I thank Senator Feinstein for coming here just at the right moment.

Senator COONS. Thank you, Senator Boxer.

I yield to Senator Feinstein for the introductions of Mr. Orrick and Judge Tigar.

PRESENTATION OF HON. JON S. TIGAR, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, AND WILLIAM H. ORRICK III, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA, BY HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator FEINSTEIN. Thank you very much, Mr. Chairman and Senator Grassley and my colleague Senator Boxer.

I do not want to repeat everything Senator Boxer said, but I am just here to indicate my support for these two nominees to what are essential judicial emergency vacancies on the District Court of Northern California. We have Alameda County Judge Jon Tigar and Deputy Assistant Attorney General William Orrick. As you know, both nominees were recommended by Senator Boxer's judicial screening committee and both have my strong support. Let me just say a few words about each.

You probably know this. Judge Tigar earned his bachelor's degree from Williams in 1984 and his law degree from the University of California at Berkeley in 1989. He began a clerkship with Judge Robert Vance in the United States Court of Appeals for the 11th Circuit.

Four months later, in December, Judge Vance opened a package in his kitchen in Birmingham, Alabama. The package contained pipe bombs and nails, and it exploded, and Judge Vance was killed. His wife, Helen, was injured. The murderer, a convicted felon, was upset that the 11th Circuit had previously denied his appeal. Judge Tigar was the first to receive a call from the FBI after the murder, and he had to close up Judge Vance's chambers. And it is my understanding that to this day he keeps a photograph of Judge Vance in his own chambers.

So after that, he spent 2 years at Morrison & Foerster, a year and a half in the office of the public defender in San Francisco, 8 years at Kecker & Van Nest, and there he focused on complex commercial litigation.

In 2002, he was appointed to the Alameda County Superior Court, and he has presided over 175 trials and written over 1,000 decisions. He has been rated well qualified, as you know, by the Bar and was named Judge of the Year by the Alameda Contra Costa Trial Lawyers Association. And it kind of goes on and on with all good things, needless to say.

Now let me turn to Mr. Orrick, whose name is familiar to anyone in the San Francisco legal community. And in the interest of full disclosure, his family was a neighbor of my family. His father was an extraordinary bond counsel for the city and county of San Francisco, so I obviously knew him in my days as supervisor and mayor.

His grandfather founded the international law firm of Orrick, Harrington & Sutcliffe, and his father was a district court judge on the court to which Mr. Orrick has been nominated. He earned his bachelor's at Yale, law degree from Boston School of Law, and both degrees with honors.

He worked for Georgia Legal Services, returned to San Francisco, joined the distinguished firm of Coblenz, Patch, Duffy & Bass that I also know well. And for the next 25 years, he maintained a successful commercial litigation practice, became partner, and led the firm's employment litigation practice.

It goes on and on and on, all with good things, and I know time is a-wasting, but you have before you, Mr. Chairman and my friend and colleague Senator Grassley, two very well qualified nominees, and I am very proud to support them both, and I thank you.

Senator COONS. Thank you very much, Senator Feinstein.

As I invite the nominees to come forward, it is my honor to also join in the introduction of Thomas Durkin. If all three nominees would come forward.

To Thomas Durkin, I just wanted to note at the outset, if I could, Senator Durbin called me personally before we began here today to ask me to express his personal regret at not being able to chair this hearing today. But for having been called to a meeting at the White House now, he would be here, and he wanted me to convey his best wishes to you, to your entire extended family, and his gratitude to Senator Grassley and to the Committee for the opportunity to have this hearing here today.

I would like to ask unanimous consent that the record include both the written statements of Senator Durbin in introduction of Mr. Durkin and a comparable letter of introduction from Senator Kirk. I note the continued absence of Senator Kirk, a friend and

colleague who continues to recover at home in Illinois from a stroke that he suffered earlier this year. Senator Kirk is as strong, if not more, a supporter of Mr. Durkin as is Senator Durbin. You have the benefit of both of your home State Senators having expressed strong support, and I look forward to the day when Senator Kirk, in the very near future, I hope, is able to resume his work here in Washington, as he has already resumed from Chicago.

[The prepared statement of Senator Durbin appears as a submission for the record.]

[The prepared statement of Senator Kirk appears as a submission for the record.]

Senator COONS. Tom Durkin has been nominated to the Chicago-based seat that was formerly occupied by Judge Wayne Andersen. Mr. Durkin is a partner at the law firm of Mayer Brown LLP where his practice concentrates on complex commercial litigation and criminal defense. He received his bachelor's with honors from the University of Illinois at Urbana-Champaign—I thought it was Champaign-Urbana. What do I know?—and received his J.D. with honors from DePaul University College of Law. After graduating from law school, he served for 2 years as a law clerk to the Honorable Stanley Roszkowski of the District Court of the Northern District.

Following his clerkship, Mr. Durkin joined the United States Attorney's Office for the Northern District and worked there for 13 years and served in many leadership positions, including Chief of Special Prosecutions, Chief of Criminal Receiving and Appellate Division, and First Assistant U.S. Attorney. He received the U.S. Attorney General's John Marshall Award for Participation in Litigation. He then joined Mayer Brown as a partner in 1993 and has worked there until the present day. His practice ranges from patent litigation to internal investigations to securities litigation to white-collar criminal defense.

Mr. Durkin also has a broad record of community service, has served for 9 years on the Board of the Legal Assistance Foundation of Chicago, and taught as an adjunct professor of law at DePaul and at the John Marshall Law School. For nearly a decade, he was also the Chair of Mayer Brown's pro bono committee. Welcome, Mr. Durkin.

At this point I would ask that all three of the nominees stand and raise your right hand as I administer the oath. Do you affirm that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. DURKIN. I do.

Judge TIGAR. I do.

Mr. ORRICK. I do.

Senator COONS. Thank you. Please be seated, each of the witnesses having been sworn.

I would now like to invite the nominees to give an opening statement and to recognize your loved ones, family, and supporters who might be present. Thank you, and I would like to invite Mr. Durkin to begin.

Senator COONS. Judge Tigar.

STATEMENT OF HON. JON S. TIGAR, NOMINEE TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

Judge TIGAR. Thank you, Senator. I would like to start by thanking you and Ranking Member Grassley for conducting this hearing today, also Senator Feinstein. I would like to thank Senator Leahy and the Ranking Member for scheduling this hearing and thank each of the Senators on the Committee for their participation in this process. I feel privileged to be here today, and I am looking forward to answering any questions that you have about my application.

I would like to thank President Obama for the honor of this nomination and Senator Boxer for her confidence in recommending me to the White House and both Senators Boxer and Feinstein for their very generous remarks of introduction.

I am fortunate to be joined here today by a few family and friends. With me today is my wife of 20 years, Carrie Avery. Since we met 25 years ago in law school, Carrie has been my constant friend, companion, and adviser in all of my life's endeavors, and I am very privileged to have her here today.

My two sons were not able to be here today, but they are watching these proceedings on the Webcast. Will is a history major at Williamette University in Salem, Oregon, and Adam is a high school junior.

Also joining me here today are my father, Professor Michael Tigar; my friend William King from Birmingham, Alabama, whom I first met 23 years ago when we were both clerking for Judge Vance; and my friend Judge Jeb Boasberg of the Federal District Court for the District of Columbia, whom some of the Committee members may remember from prior proceedings. I have known Jeb ever since we practiced law together in San Francisco.

I would also like to acknowledge the many family and friends who could not be here in person but who are watching on the Webcast, including my mother and stepfather, Pam and George Wagner; my grandmother, Elizabeth Tigar, who turned 95 years old last May; and too many others—excuse me, and many others too numerous to mention.

Senators, I thank you for allowing me to make these introductions and for the opportunity to address you this afternoon. I have no opening statement, and I look forward to your questions.

[The biographical information of Judge Tigar follows:]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

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

United States District Judge for the Northern District of California
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.

Alameda County Superior Court
1221 Oak Street, Department 15
Oakland, California 94612

Residence: Berkeley, California
4. **Birthplace:** State year and place of birth.

1962, London, England
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.

1986 – 1989, Berkeley Law School (formerly Boalt Hall School of Law); J.D., 1989

1980 – 1984, Williams College; B.A., 1984
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.

2002 – present
Alameda County Superior Court
1225 Fallon Street, Room 209

August 1999: I gave a presentation entitled "Internal Investigations" to the Economic Damages Section of the California Society of Certified Public Accountants. I have no notes, transcript, or recording. The address of the California Society of Certified Public Accountants is 1800 Gateway Drive, Suite 200, San Mateo, California 94404.

February 1999: I was a speaker at a program entitled, "Courtroom Conduct: Tactics, Contempt, and Common Sense," sponsored by the Continuing Education of the Bar, San Francisco, California. I have no notes, transcript, or recording. The address of Continuing Education of the Bar is 2100 Franklin Street, Suite 500, Oakland, California 94612.

Since I became a judge in 2002, I have judged various moot court and mock trial competitions including the "Masters In Trial" sponsored by the American Board of Trial Advocates; "Champions of the Courtroom" mock trial program sponsored by the Litigation Section of the California State Bar; Alameda County Moot Court; Santa Clara School Moot Court Competition; American Constitution Society Constance Baker Motley Moot Court Competition; and the Center for Youth Development through Law Mock Trial. I have no notes, transcripts, or recordings from these events, but press coverage from a few of these events is supplied.

- 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.

Teresa Wall-Cyba, *Jon Tigar*, *The Recorder*, Aug. 9, 2011. Copy supplied.

Tim Hallahan, *In Conversation With Hon. Jon Tigar: Credibility Counts. Part 2*, *ACBA Bulletin*, Volume 39, Number 2, Spring 2008, at 24. Copy supplied.

Tim Hallahan, *In Conversation With Hon. Jon Tigar: Credibility Counts, Part 1*, *ACBA Bulletin*, Volume X [sic], Number 1, Winter 2008, at 16. Copy supplied.

Nancy McCarthy, *A Renaissance Man Takes On The Bar Presidency*, *California Bar Journal*, Oct. 2007, at 1. Copy supplied.

Mike McKee, *Reaching Over Party Lines*, *The Recorder*, Sept. 28, 2007, at 1. Copy supplied.

Matthew Hirsch, *Alameda Taps Judges for New Civil System*, *The Recorder*, Mar. 27, 2007. Copy supplied.

Warren Lutz, *Judge Serves Justice With Side of Wry Humor*, *The Recorder*, Nov. 8, 2005, at 4. Copy supplied.

FINANCIAL DISCLOSURE REPORT

Page 8 of 9

Name of Person Reporting	Date of Report
Tigar, Jon S.	06/11/2012

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

Page 9 of 9

Name of Person Reporting	Date of Report
Tigar, Jon S.	06/11/2012

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: *s/ Jon S. Tigar*

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

Senator COONS. Thank you, Mr. Orrick.

The Committee will now proceed with 5-minute rounds of questioning, and if I might just to open our questions, I would like to ask each of you in order, if you would, to just briefly for the Committee describe your judicial philosophy and your approach to the use of precedent in making decisions, were you to be confirmed to the Federal bench. Mr. Durkin.

Mr. DURKIN. Thank you, Senator. I believe my judicial philosophy would be one of being as fair as possible, treating litigants the way they should be treated, following precedent because I think it is the obligation of district court judges to follow precedent, in my case of the Seventh Circuit and of the Supreme Court, and ultimately treating litigants fairly and being patient with attorneys who appear in front of me.

Senator COONS. Thank you, Mr. Durkin.

Judge TIGAR.

Judge TIGAR. Thank you, Senator. My judicial philosophy over the last decade has been and would continue to be to listen carefully and respectfully to the parties who appear in the court and to treat them with respect; to apply the law conscientiously to the facts in the dispute before me; and to decide every case promptly so that the litigants can have the dispute behind them and move on with their lives.

In terms of the role of precedent, we live in a common law system, and precedent and stare decisis is the foundation of our system of justice, and I apply controlling precedent in every case, and I would like to think that my record over the last 10 years demonstrates that.

Thank you.

Senator COONS. Thank you, Your Honor.

Mr. Orrick.

Mr. ORRICK. Senator, I am not sure that I have a judicial philosophy. I revere the rule of law, and I believe it is my role to understand the facts and then apply the law to them. I would follow precedent directly. I think it is important to provide just and speedy administration of justice, as Rule 1 of the Federal Rules requires, and be respectful to the people who come into my court.

Senator COONS. Thank you.

I would appreciate it if, again, all three of you would just answer two more questions. As a district judge, how would you see your role in ensuring fair access to our legal system? And what are your views on the role of the court in interpreting laws written and passed by legislative bodies? If you would, Mr. Durkin.

Mr. DURKIN. Thank you, Senator. As to the first question, ensuring access to the courts, obviously for criminal defendants there are Sixth Amendment guarantees of the right to counsel, and there is a very strong Federal defender program in the Northern District of Illinois consisting of many panel attorneys and staff attorneys. I am one of those panel attorneys. And we are often appointed to represent people who have both the right to counsel and a need for counsel.

In the civil context, the Northern District of Illinois also has a program where judges appoint members of the Northern District

Bar to represent individuals who are in need of counsel in civil matters.

As to the question of interpreting laws of the United States, I believe that our obligation as district court judges, if I am lucky enough and fortunate enough to be confirmed, our obligation is to read the statute and interpret it according to the plain language of the statute itself and to follow controlling precedent, whether it be circuit court, the Seventh Circuit, or the Supreme Court.

Senator COONS. Thank you, Mr. Durkin.

Judge TIGAR.

Judge TIGAR. Thank you, Senator. I think your question with respect to ensuring fair access to the courts for me really has two parts.

One is making sure that the litigants can get into court. And when I was in private practice, I was the Chair of my firm's pro bono committee. I did a lot of pro bono work myself. And as you heard earlier, I currently am on the Board of Directors of our county bar association's Volunteer Legal Services Corporation, which facilitates pro bono and connects lawyers in private practice who are willing to provide those services to needy clients in our county.

I think the second part—and this really is unique to the role of the judge—is to make sure that litigants in each proceeding understand what is happening in the proceeding and are treated respectfully and fairly so that they can know that the courtroom belongs to them just as much as it belongs to everybody else.

I like to tell litigants, whether they are self-represented or not, who appear in my courtroom, "You know, this room belongs to you, and I work for you. So you really need to feel comfortable. And one side is going to win and one side is going to lose, and there is nothing I can do about that." But everybody who appears in court should feel that they have a place there.

With respect to interpreting rules passed by a legislative body, I really think my fellow nominee hit the nail on the head. I really think the plain language of the statute is the place that the analysis starts, and usually that is where it ends. And if that is insufficient, then I would look to controlling precedent, as Mr. Durkin described.

Thank you.

Senator COONS. Thank you, Judge Tigar, for that refreshing and insightful restatement of what equal access to justice can and should mean.

Mr. Orrick.

Mr. ORRICK. Well, I do not have much to add to what my colleagues have said. I do believe that access to justice has two roles for a judge, and one is to exhort the bar to increase its efforts to do pro bono work. I did a substantial amount. I think it is a very important obligation of a lawyer.

Second, when people are in my courtroom, they do need to understand what is going on, and I think I have a duty to ensure that they do.

And then, finally, with respect to interpretation, you start with the statute, you apply controlling precedent.

Senator COONS. Thank you, Mr. Orrick, Judge Tigar, Mr. Durkin. Senator Grassley.

Senator GRASSLEY. Thank you. I will start with Mr. Durkin.

You have been involved with the ABA's Death Penalty Representation Project. I have a couple questions in regard to that. If before you answer my questions you would like to describe your role there, I would be glad to listen. But my two questions involve: Is there any doubt in your mind that the death penalty is constitutional? And, second, if confirmed, would you be able to impose the death penalty where appropriate?

Mr. DURKIN. Thank you, Senator. I do believe the death penalty statute is constitutional. The Supreme Court has so held, and I certainly would be willing to impose it if the crime that I presided over made it an appropriate sentence.

My involvement with the ABA death penalty policy was—death penalty group was very limited. I simply went over to a meeting 1 day as Chair of the Mayer Brown pro bono committee and encouraged lawyers to participate and help assist unrepresented defendants.

Senator GRASSLEY. OK. On another issue dealing with school choice, you ran for a position on the school board in 1993. You indicated that you were opposed to the use of school vouchers. What are your opinions on the constitutionality of school choice considering the 2006 Supreme Court decision in the *Zelman* case?

Mr. DURKIN. I am not familiar with that, although I have a general knowledge that certainly vouchers are permissible. My comment at the time when I ran for school board back in 1993 related more to an issue of funding where I believe that the funding being supplied to our public school district was inadequate, and I was fearful that the use of vouchers would further diminish that funding. But I have no quarrel with the idea of vouchers being used, especially in light of the fact, I believe, that the Supreme Court has allowed it.

Senator GRASSLEY. Mr. Tigar, your questionnaire indicates that you were a member of the American Constitution Society for Law and Policy. Now, there is nothing wrong with membership in groups like that, but I have a question about goals of the organization, how they might affect your judgment.

Peter Edelman, as Chair of the American Constitution Society Board of Directors, indicated a goal of the organization was "countering right-wing distortions of the Constitution." He also has stated, "What we want to do is promote a conversation, the idea of what a progressive perspective of the Constitution is and what it means to the country."

So please identify what right-wing distortions of the Constitution you are concerned about or feel need to be countered?

Judge TIGAR. Senator, the short answer is I do not have any. I was not familiar with Mr. Edelman's comment, and I simply am not aware of anything that would be an answer to that question.

Senator GRASSLEY. OK. In your view on another question, if you have an opinion on this, what is the progressive perspective of the Constitution?

Judge TIGAR. I am afraid I do not know the answer to that question. I do not know.

Senator GRASSLEY. Well, then—

Judge TIGAR. Perhaps I could expand a little, Senator. My role with the American Constitution Society has been occasionally to speak at events where I have been invited by them to speak. I take very seriously the obligation of a judge to be involved in his community, and I have spoken at many, many, many events. My American Constitution Society appearances have been only a small fraction of those, and if I had addressed either of the topics that you have mentioned in any of my speeches, then, of course, I would be happy to discuss those further now. But those just have not been part of my participation, and that is why I am not able to provide further information.

Senator GRASSLEY. And that is OK. Let me move on.

In regard to the lectures you have given, you have been critical of Supreme Court cases limiting punitive damage awards based on due process concerns. Could you name three Supreme Court decisions in which you disagree with the holding of the majority?

Judge TIGAR. I cannot think—first of all, I think in my speeches what I have tried to indicate is that since the Supreme Court has started to issue opinions that place numerical limits on punitive damages, it is important for State legislatures to clarify those limits further, as some legislatures in the country have done. Off the top of my head, I am not a student of the Supreme Court, and I cannot think of three Supreme Court opinions where I disagree with the majority.

Senator GRASSLEY. Let me move on then, and I will end with this question, because my time is up. Specific cases you have mentioned previously include *BMW v. Gore*, *State Farm v. Campbell*, *Philip Morris v. Williams*, and *Exxon Shipping v. Baker* as among Supreme Court cases with which you disagree. Given your statements on these cases, what might we expect should you be confirmed and assigned a case dealing with punitive damages? And would you feel any obligation to recuse yourself?

Judge TIGAR. Senator, I believe that my remarks indicate that I am not opposed to the idea of limitation on the award of punitive damages, and I hope that whatever materials have been reviewed by the Senate do not indicate that, because it is not the case.

Second, I can assure this Committee that in this matter, as with any matter that would come before me, that I would apply controlling precedent without exception and without resort at any time to my personal opinion on the issue.

Senator GRASSLEY. Thank you.

Go ahead, Mr. Chairman.

Senator COONS. Thank you very much, Senator Grassley.

Senator FEINSTEIN.

Senator FEINSTEIN. One of the reasons that I think the question on *stare decisis* or precedent is always asked is because we see so much of it being broken, and particularly for me, in the area of women's rights and women's reproductive systems. I would just like to ask this question of each of you. How do you view the precedent controlling *Roe v. Wade*?

Mr. DURKIN. Thank you, Senator. I believe the precedent controlling *Roe v. Wade* is—basically I think the *Casey* case is the controlling case at this point that Justice O'Connor authored, and that is the law of the land. And I would, of course, follow the law of the

land because it is Supreme Court precedent, and as a district court judge, I am obligated to follow that precedent.

Judge TIGAR. Senator, I think Mr. Durkin did a very good job of stating my own view, and that is that *Casey* is controlling law on this issue, and I would apply that law.

Thank you.

Mr. ORRICK. I have nothing more to add than that. It is absolutely the case that *Casey* is controlling.

Senator FEINSTEIN. Let me ask one other question. Particularly in California, the caseloads are very high. Let me ask the two judges, how do you view your talents vis-a-vis settlement of cases, the organization of your docket, how you would proceed in a very high caseload manner?

Judge TIGAR. Thank you, Senator. I live in a high-caseload environment now. As you heard earlier, my current docket is about 570 cases, and at various times I had very high caseloads. At one point I was the only family law judge in northern Alameda County, and I think my understanding is that the role in settlement is more restricted in Federal court than in State court. Obviously, I will not know that for sure unless I am fortunate enough to be confirmed.

In my current job, though, I do have a role to play in settlement. Although I do not settle my own cases, I think judges participating in settlement conferences can help reduce their colleagues' caseloads.

I also think that good case management plays a huge role in keeping the cases moving and in managing the size of the document, and that means usually in a civil department being available to the parties whenever they need you to resolve discovery disputes, to discuss case management issues, and to make sure that you are knowledgeable about every case that comes before you whenever that case is on your calendar. And I have tried to do those things, and hopefully I have had some success.

Senator FEINSTEIN. Thank you.

Mr. Orrick.

Mr. ORRICK. You referenced my father earlier, Senator Feinstein.

Senator FEINSTEIN. Yes.

Mr. ORRICK. I would hope to manage my docket the way that he did, with dispatch, with firm deadlines, to encourage people to move their cases along and exhort people to settle using the different alternative dispute resolution mechanisms the court has available to them at the earliest time.

Senator FEINSTEIN. Thank you.

Mr. Durkin, would you like to comment on that?

Mr. DURKIN. Thank you, Senator. I have been fortunate in my career to be an attorney for both plaintiffs and defendants. I have been a prosecutor and a criminal defense attorney, so I think I have a good appreciation for the motivations behind a lot of litigation, and I think that would serve me well in attempting to settle cases, which I think is a very, very important part of any judge's role.

Senator FEINSTEIN. Thank you. Thank you, gentlemen.

Thank you, Mr. Chairman.

Senator COONS. Thank you, Senator Feinstein.

If I could, each of you has made reference in some of your answers and in the introductions to your previous service, either as criminal prosecutor or defense attorney, as a public interest attorney, as a State court judge. I would be interested in hearing each of you in turn just describe for the panel for a moment, if you would, what are the most important lessons that you have learned in your various legal positions to date? And how would you then apply them as a Federal district court judge in what is a somewhat different role than any of you have previously held? Mr. Durkin.

Mr. DURKIN. Thank you, Senator. I think what I have learned, especially in my role as a Federal prosecutor, there is a fair amount of power that is part of that job, being an Assistant U.S. Attorney and in the end being First Assistant U.S. Attorney. And I think it is a necessary part of any power you have to recognize that it can be abused if you do not exercise it carefully. And that goes for prosecutors and it especially goes for lifetime-appointed judges. And I think I have learned that lesson by being a prosecutor, by being a defense attorney and observing other prosecutors, and appearing in front of many, many judges who have exercised, I believe, a fair amount of discretion and humility even though they have a position where they could abuse it if they wanted to. I have learned from appearing in front of all people, all judges like that.

Senator COONS. Thank you, Mr. Durkin.

Judge TIGAR.

Judge TIGAR. Thank you for the question. I would say in the last 10 years the two lessons I have learned best in terms of good judicial practice are the need to have a good judicial temperament and the need to be decisive. Probably in my experience, the most important thing to litigants is not only being heard but feeling heard. We know at least half the people who come into court are not going to win. They are going to go away empty-handed, or they are going to go away with a loss. It is very important to everybody to know that the court heard what they had to say and considered it carefully before making a decision. And so that means never coming to a case with any prejudgment or bias, making sure that you have heard all the facts and heard all the arguments before you begin as a judge to make up your mind, treating everybody with respect, never using the power of your office to talk down to anybody or to use your authority in a way that would make anybody uncomfortable, so that when people leave the courtroom, they can know that the court carefully considered whatever it is they had to say in making this important decision in their lives.

I think decisiveness also, though, is very important because every lawyer I have talked to, plaintiff's lawyer or defense lawyer, will say, "For my clients, the most important thing about the litigation is not being in litigation, and being able to have this dispute behind him and just kind of move on with their lives." So I think it is important for judges to be fair, but it is also important to be prompt.

Thank you.

Senator COONS. Thank you, Judge.

Mr. Orrick.

Mr. ORRICK. Senator, I have represented low-income people in Georgia for 25 years. I represented corporations and people with more power in society in my private practice and in the last 3 years have represented the United States. I think the thing that I have learned from all of that is that nobody has got a monopoly on the truth or on justice, and that is why I believe so strongly in the rule of law. It is important for a judge to understand the facts and then follow the law that is in front of them because that is the best way to create and maintain a good system of justice.

Senator COONS. Thank you.

Senator Grassley.

Senator GRASSLEY. Yes, I have one question for all three of you, and then I have some questions I want to ask Mr. Orrick. I and other members of this Committee have previously emphasized the importance of a nominee being able to follow precedent, so my first question is very general, but I will follow it with a more specific question. Are each of you committed to following precedent of the circuit and Supreme Court even though you may disagree with it? And I want to bring up specifically whether you are committed to following precedent in the gun cases like *Heller* and *McDonald* that have been before the Supreme Court affording the individual right to possess arms. Mr. Durkin.

Mr. DURKIN. Thank you, Senator. I am committed to following precedent generally and regarding the *Heller* case.

Senator GRASSLEY. OK.

Judge TIGAR. Senator, yes, I am. Thank you.

Senator GRASSLEY. Thank you.

Mr. ORRICK. Senator, absolutely.

Senator GRASSLEY. OK. Mr. Orrick, you have told the Committee that you were involved in the Justice Department's preemption law concerning immigration of Arizona, Alabama, South Carolina, Utah. Two weeks ago, you know about the Arizona case addressing Senate bill 1070. And the Justice Department sued Arizona and sought to preempt.

Section B, a central provision in the statute, requires officers conducting a stop, detention, or arrest to make reasonable efforts to verify the person's immigration status with the Federal Government. The Court unanimously rejected the Justice Department's preemption argument on Section 2(B). In his concurring dissenting opinion, Justice Alito analyzed the meritless and extreme nature of the argument of this administration. Alito explained, "The United States' argument that Section 2(B) is pre-empted, not by any Federal statute or regulation, but simply by the Executive's current enforcement policy is"—and it emphasizes—"an astounding assertion of Federal executive power that the Court rightly rejects."

Alito also recognized the damage that could be done to our system of Government if the Obama administration argument were adopted by the Court. He thusly explained, "If accepted, the United States' preemption argument would give the Executive unprecedented power to invalidate State laws that do not meet with its approval even if the State laws are otherwise consistent with Federal statute and duly promulgated regulations. This argument, to say the least, is fundamentally at odds with our Federal system."

Responses of Jon S. Tigar
Nominee to be United States District Judge for the Northern District of California
to the Written Questions of Senator Chuck Grassley

- 1. At your hearing, I asked you a series of questions related to your membership in the American Constitution Society. In responding to those questions, you indicated that your role in the organization was that you occasionally spoke at events. Of course, many prominent lawyers and judges speak at events hosted by the American Constitution Society without feeling the need to become members.**

- a. What about the American Constitution Society led you to join the organization?**

Response: I joined the American Constitution Society because I hoped it would provide the opportunity to hear discussions concerning some of the important legal questions of the day.

- b. At your hearing, I specifically asked you about statements made by ACS Chair, Peter Edelman expressing his views in support of a "progressive" constitution. You generally declined to answer asserting you were unfamiliar with Peter Edelman's statements. However, as a member of the organization you should be familiar with the goals of the organization. One of the goals, according to the chair of the ACS Board of Directors is "countering right-wing distortions of our Constitution." Do you agree with this goal, and if so can you please identify what "right-wing distortions of the Constitution" you are concerned about or feel need to be countered? If you disagree with this goal of the organization, what have you done to distance yourself from this goal?**

Response: I do not know Mr. Edelman. I was unaware of Mr. Edelman's statements and do not know to what alleged "right-wing distortions" his statements refer. Mr. Edelman's statements do not accurately reflect any goal of my membership in the American Constitution Society.

- c. On the ACS website, it states that the organization seeks to shape the debate in America by bringing together "the country's best legal minds to articulate a progressive vision of our Constitution and our laws." In your view, what does it mean to have a progressive vision of the Constitution and our laws?**

Response: I do not know what ACS means by its use of the phrase "progressive vision of the Constitution and our laws." I have never held any leadership position in ACS and have not participated in the formulation of ACS policy or goals. As a state court judge for the last ten years, I have faithfully applied the Constitution, statutes, and decisional authority as written. If confirmed to the federal bench, I would continue to do the same.

- d. If confirmed, will your interpretation of the Constitution and our laws be guided by a "progressive vision"? Please explain.**

Responses of Jon S. Tigar
Nominee to be United States District Judge for the Northern District of California
to the Written Questions of Senator Amy Klobuchar

- 1. If you had to describe it, how would you characterize your judicial philosophy?
How do you see the role of the judge in our constitutional system?**

Response: My judicial philosophy is to treat all litigants with respect; to consider the litigants' arguments carefully and with an open mind; to apply the law to the facts before me, without prejudice or bias; to rule only on the issues properly before the court; and to resolve all matters promptly. A judge's role is to interpret and apply the laws passed by Congress.

- 2. What assurances can you give that litigants coming into your courtroom will be treated fairly regardless of their political beliefs or whether they are rich or poor, defendant or plaintiff?**

Response: I have served as a state court judge since January 2002. During that time, I have earned a reputation for fairness and integrity. If confirmed to the federal court, I will continue to treat all litigants fairly and respectfully regardless of their political beliefs, their economic status, or whether they are a defendant or a plaintiff.

- 3. In your opinion, how strongly should judges bind themselves to the doctrine of stare decisis? How does the commitment to stare decisis vary depending on the court?**

Response: Stare decisis is a bedrock principle of our common law justice system. All judges are required to apply binding precedent to the cases before them. Although the United States Supreme Court and United States Courts of Appeals sitting en banc may reconsider their own precedents in limited circumstances, a district court judge must always follow controlling precedent.

Responses of Jon S. Tigar
Nominee to be United States District Judge for the Northern District of California
to the Written Questions of Senator Mike Lee

1. How would you describe your judicial philosophy?

Response: My judicial philosophy is to treat all litigants with respect; to consider the litigants' arguments carefully and with an open mind; to apply the law to the facts before me, without prejudice or bias; to rule only on the issues properly before the court; and to resolve all matters promptly.

a. To what sources would you look in deciding a case that turned on interpretation of a federal statute?

Response: When faced with a case of first impression involving the interpretation of a statute, I would start with the plain language of the provision in question. If that text was unambiguous, I would apply it as written. If it was ambiguous, I would apply precedent from the Supreme Court, the Ninth Circuit, and other Circuit and District Courts (in that order) concerning that provision or related provisions.

b. To what sources would you look in deciding a case that turned on interpretation of a constitutional provision?

Response: I would apply precedent from the Supreme Court, the Ninth Circuit, and other Circuit and District Courts (in that order). I would also consider the plain language of the provision, the history of the drafting of the provision, and the relationship between the provision in question and the other provisions of the constitution.

2. In your view, what are the constitutional requirements for standing and how robustly should those requirements be applied to novel assertions of standing?

Response: As a state court trial judge for the last ten years, I have not been called upon to consider or study the federal law of standing. My general understanding is that all plaintiffs in federal court must show that (1) they have suffered an injury in fact; (2) the injury is due to the defendant's conduct; and (3) the injury would be redressed by the relief sought in the complaint. These requirements apply in all cases, and the court has a *sua sponte* obligation to ensure that all plaintiffs have standing, whether the claims before the court are novel or the subject of prior judicial decisions.

3. What role do the text and original meaning of a constitutional provision play in interpreting the Constitution?

Response: The text of a constitutional provision and the intent of the framers in drafting that provision are of paramount importance in interpreting the Constitution.

SUBMISSIONS FOR THE RECORD

LAKEVIEW PLAZA, 1401 LAKEVIEW DRIVE, 12TH FLOOR, OAKLAND, CA 94612-1308

Gregory J. Ahern, Sheriff
Coroner - Public Administrator - Marshal
Director of Emergency Services



(510) 272-6866

June 15, 2011

Senator Barbara Boxer
United States Senate
1700 Montgomery Street, Suite 240
San Francisco, CA 94111

Dear Senator Boxer:

SUBJECT: Jon Tigar, Alameda County Superior Court Judge, Application for the Position of Judge of the United States District Court for the Northern District

I am writing on behalf of Jon Tigar, Alameda County Superior Court Judge. Judge Tigar is seeking appointment to the position of Judge of the United States District Court for the Northern District. Jon Tigar possesses an impressive formal education, a superior background as a lawyer, and has earned an excellent reputation as a superior court judge.

Jon Tigar has been a judge in Alameda County for the last six years and has earned the deep respect of many professionals in the criminal justice system who have worked with him or who have appeared before him. As a superior court judge, he has sat in both general criminal and felony trial departments. He has also presided over the Domestic Violence Restraining Order calendar and handled numerous domestic violence cases. My staff speaks highly of Judge Tigar and his trial work; I share their opinions.

Jon Tigar is committed to the Alameda County community, has volunteered much of his time and legal skills, serves as a mentor to two organizations, and continues to do even more. Former Alameda County Sheriff Charles C. Plummer endorsed Jon Tigar when he applied to Governor Gray Davis for the Superior Court. Sheriff Emeritus Plummer is held in high regard throughout the law enforcement community; he would only endorse a candidate who is a quality individual, above reproach, and well suited to the sought after position.

The Berkeley Police Department and Berkeley Police Association have endorsed Jon Tigar in connection with his application to the position of Judge of the United States District Court for the Northern District. Jon Tigar is a man of integrity who will bring wisdom and expertise to this position. I support Mr. Tigar and have every confidence that he will be an asset in this most important role. It is my honor to recommend that serious consideration be given to the elevation of Superior Court Judge Jon Tigar to the position of Judge of the United States District Court for the Northern District.

Sincerely,

Gregory J. Ahern
Sheriff-Coroner

GJA/daw



CHAIR
Allan J. Joseph
10th Floor
211 California Street
San Francisco, CA 94104

ACTING CHAIR
Benjamin H. Weil, III
Suite 3700
101 E. Kennedy Blvd.
Tampa, FL 33602-5156

FIRST CIRCUIT
Lino G. Amato
Suite 1180 North
10 Post Office Square
Boston, MA 02109

SECOND CIRCUIT
Beth L. Kaufman
40 East 62nd Street
New York, NY 10023-49023

THIRD CIRCUIT
Robert C. Heen
Cox Center
2929 Arch Street
Philadelphia, PA 19104-2808

FOURTH CIRCUIT
E. Fitzgerald Hensell, III
Suite 2500
301 South College Street
Charlotte, NC 28202-4003

FIFTH CIRCUIT
Vernon L. Lee
546 Canal Street
New Orleans, LA 70130

SIXTH CIRCUIT
W. Anthony Jenkins
Suite 4050
500 Woodward Avenue
Detroit, MI 48226

SEVENTH CIRCUIT
Stephen Lindemann
25 East Jackson Boulevard
Chicago, IL 60604

EIGHTH CIRCUIT
David L. Brown
28th Floor
U.S. Bank Building
1201 Walnut Street
Des Moines, IA 50309-4139

NINTH CIRCUIT
Edith B. Munshi
Suite 1500
200 South Grand Avenue
Los Angeles, CA 90071

TENTH CIRCUIT
Sheryl J. Wallen
Suite 4100
401 Union Street
Seattle, WA 98101

ELEVENTH CIRCUIT
James R. Lee
Suite 1500
201 South Main Street
Salt Lake City, Utah 84111

THIRTEENTH CIRCUIT
Kamron A. Alvarado
Suite 1208
9155 South Dadeland Boulevard
Miami, FL 33156-2759

D.C. CIRCUIT
Ronald A. Cass
10540 Fox Avenue Drive
Great Falls, VA 22066

FEDERAL CIRCUIT
Sharon J. Flannery
1211 Pennsylvania Avenue, NW
Washington, DC 20004-2401

STAFF COUNSEL
Denise A. Cardman
202-662-1761
denise.cardman@americanbar.org

AMERICAN BAR ASSOCIATION

**Standing Committee on
the Federal Judiciary**
Attn: Denise A. Cardman
740 Fifteenth Street, NW
Washington, DC 20005-1022

Please respond to:

Allan J. Joseph, Esq.
Rogers Joseph O'Donnell
311 California St., 10th Floor
San Francisco, CA 94104
Tel: (415) 365-5333
Fax: (415) 956-6457
Email: ajoseph@rio.com

VIA EMAIL AND FIRST CLASS MAIL

June 12, 2012

The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

**Re: *Nomination of Hon. Jon S. Tigar
To the United States District Court for the Northern District of
California***

Dear Chairman Leahy:

The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of the Hon. Jon S. Tigar who has been nominated for a position on the United States District Court for the Northern District of California. As a result of our investigation, the Committee is of the unanimous opinion that Judge Tigar is "Well Qualified" for this position.

A copy of this letter has been provided to Judge Tigar.

Sincerely,

Allan J. Joseph
Chair

cc: Hon. Jon S. Tigar
The Honorable Kathy Ruemmler
Michael Zubrensky, Esq. (via email)
ABA Standing Committee on the Federal Judiciary (via email)
Denise A. Cardman, Esq. (via email)

318866.1

Senator Barbara Boxer Statement on Nominations of William Orrick and Jon Tigar to be United
States District Judges for the Northern District of California
July 11, 2012

Senator Durbin, Ranking Member Grassley, I am honored to be here today to introduce William H. Orrick III, and Judge Jon S. Tigar, who have been nominated to the Northern District Court of California.

Bill Orrick is here with his wife Caroline and two of their daughters—Sarah, a second year law student at UC Berkeley, and Libby, a senior at the University of Puget Sound. A third daughter, Katherine, is in South Africa doing conservation biology research.

Judge Tigar is joined today by his wife, Carrie Avery, his father Michael, Judge Jeb Boseberg of the District Court of DC, and William King, who clerked with Jon in the 11th Circuit.

William H. Orrick III

Mr. Orrick brings a depth of legal experience in both the public and private sectors, which will make him a tremendous asset to the Northern District court.

He received his bachelor's degree from Yale University and earned his law degree from the Boston College Law School, graduating cum laude from both schools.

After law school, he spent 5 years providing pro bono legal services for low-income clients in Georgia.

Then Mr. Orrick returned home to the Bay Area and joined the San Francisco firm of Coblenz, Patch, Duffy, and Bass where he spent 25 years as an associate, a partner, and then the head of the firm's employment litigation practice.

Since 2009, Mr. Orrick has worked at the Department of Justice where he currently is Deputy Assistant Attorney General in the Civil Division.

Bill considers service to the community to be a hallmark of his legal career.

He spent 11 years as Chancellor and legal advisor to the Episcopal Diocese of California, and 13 years working with the Good Samaritan Family Resource Center, a low-income housing non-profit in San Francisco.

At his law firm he supervised much of the firm's pro bono work, for which he received the San Francisco Bar Association's "Outstanding Lawyer in Public Service" Award.

If confirmed, Bill would not be the first of his family to serve the Northern District. His father, William Orrick II, sat for more than 25 years in the very same seat his son is nominated to today - what an honor it would for him to follow his father to the same Federal bench.

Judge Jon S. Tigar

Judge Tigar has had a diverse legal career, including more than nine years as an exemplary Superior Court Judge, and will be an excellent addition to the bench.

He received his bachelor's degree from Williams College and earned his law degree from the University of California-Berkeley Boalt Hall School of Law.

Following law school, Judge Tigar clerked for Judge Robert Vance of the 11th Circuit Court of Appeals in Birmingham, Alabama. In 1989, Judge Vance was killed by a mail bomb that was sent to his home.

Judge Tigar assisted FBI agents with their investigation at the field office that very evening.

This nightmare experience has had a lasting effect on Judge Tigar's commitment to justice.

He remembers Judge Vance for his fealty to the rule of law, his work ethic, his judicial temperament, his humanity, and his common sense - qualities he will bring to the federal district court.

After his clerkship, Judge Tigar spent a number of years as a civil and criminal litigator in private practice, and two years as a trial attorney in the San Francisco Public Defender's office

Since 2002, Judge Tigar has served on the Alameda County Superior Court with great distinction, presiding over civil, criminal, and family law cases. In his current assignment, he manages approximately 570 cases.

Before he joined the state court bench, Judge Tigar received an award from the State Bar of California for his pro bono services.

He is a member of the California Judicial Council Advisory Committee on Civil Jury Instructions.

He is an Adviser to the American Law Institute's forthcoming Restatement of Torts, he has lectured at UC Berkeley Law School, and he sits on the board of directors of the Alameda County Bar Association's Volunteer Legal Services Corporation.

His nomination has the strong support of law enforcement officials. The Berkeley Chief of Police writes that Judge Tigar "meets our officers in his home, or wherever he happens to be when he receives a phone call. He has even reviewed faxed warrants while on vacation."

The Alameda County Sheriff writes that Judge Tigar "is a man of integrity who will bring wisdom and expertise to this position."

I would like to submit for the record letters of recommendation I have received in support of Judge Tigar.

In closing, I am proud to be here today with Mr. Orrick and Judge Tigar, who both received a "well qualified" rating from the American Bar Association.

**Statement of Senator Chuck Grassley
Before the Committee on the Judiciary
On the Nominations of:**

Thomas M. Durkin, to be United States District Judge for the Northern District of Illinois

Jon S. Tigar, to be United States District Judge for the Northern District of California

William H. Orrick, III, to be United States District Judge for the Northern District of California

July 11, 2012

I join you in welcoming the nominees, their friends and families. We have three District Court nominees before us today.

I would note that the nominations of Mr. Orrick and Mr. Tigar were delivered to the Senate just one month ago, on June 11, 2012 with their nomination materials coming in after that date. So we have had about 13 legislative days to review these nominations. We have had a little more time to review Mr. Durkin's file with his nomination on May 21.

By contrast, President Bush's District nominees, waited, on average nearly 120 days from nomination to a hearing.

In June 2010, Mr. Orrick was appointed Deputy Assistant Attorney General in the Civil Division, Department of Justice. In this role, he oversees the Office of Immigration Litigation, which is comprised of over 300 lawyers. This office handles all federal appellate litigation arising from petitions for review from the immigration courts and roughly fifty percent of the civil United States District Court immigration matters, primarily class actions, and habeas and mandamus petitions. He also participates on several coordinating task forces that oversee immigration and national security related issues.

Upon graduation from Berkeley Law School in 1989, Judge Tigar clerked for the Honorable Robert S. Vance on the United States Court of Appeals for the Eleventh Circuit. Judge Tigar then worked as an associate at the law firm of Morrison & Forester LLP, worked as a public defender in the San Francisco Public Defenders office, then joined the firm of Keker & Van Nest LLP in 1994, making partner in 1997.

The majority of Judge Tigar's private practice has focused on complex commercial litigation representing commercial entities. The matters included breach of contract, unfair competition, intellectual property, fraud, antitrust, RICO, the California False Claims Act, and partnership and shareholder disputes.

Governor Gray Davis appointed Judge Tigar as a Superior Court Judge for the Superior Court of the State of California, County of Alameda in December of 2001. He was reelected to this position in 2004 and 2010. During 2002, he was assigned to a General Criminal department, and was responsible for the pre-trial management of misdemeanor cases. From January 2003 through June 2005, he was assigned to a Family Law Department. He was assigned to a Civil Trial department from June 2005 through December 2009 and again reassigned to a Civil Trial department in September 2010.



Police Department

February 23, 2011

Office of U.S. Senator Barbara Boxer
1700 Montgomery Street, Suite 240
San Francisco, CA 94111
Fax (202) 224-0454

Dear Senator Boxer:

I write to you in support of the Honorable Judge Jon Tigar's application for appointment to the United States District Court for the Northern District of California. Judge Tigar is well-regarded by the members of our department and his dedication to the communities of Berkeley demonstrates he is a judge committed to public safety, livability and fairness.

As you know, police officers must obtain judicial approval for search or arrest warrants. In addition, judges also consider applications to deny bail for dangerous defendants. In Alameda County the Superior Court has a rotating "duty judge" who respond in the event of after-hours police officer requests at night and on the weekends. Typically, each judge serves approximately one-and-a-half weeks in this capacity.

As the duty judge, Judge Tigar provided our officers with his personal cell phone number so that he could be reached anytime they were not able to reach the regularly assigned duty judge. He also made it clear that in the event of serious crimes officers are free to call upon him at any time whether or not a duty judge was also available.

The assistance and responsiveness that Judge Tigar provides saves valuable time and has led to the timely arrest of suspect(s) and the recovery of evidence. His immediate responses to our requests for a warrant signature have assisted in moving investigations forward. In homicide investigations, where the initial hours in the investigation are critical, this assistance has been invaluable.

Judge Tigar has reviewed numerous Berkeley Police Department applications in cases involving homicide, narcotics, home invasion robberies, and other serious violent crimes. He meets our officers in his home, at our department headquarters, or wherever he happens to be when he receives a phone call. He has even reviewed faxed warrants while on vacation. Judge Jon Tigar has effectively become a full-time back-up duty judge for the citizens of Berkeley.

I believe that Judge Jon Tigar is well-qualified for the federal bench and I hope you will give his application serious consideration.

Sincerely,

Michael K. Meehan
Chief of Police