

S. HRG. 113–515, Pt. 6

# CONFIRMATION HEARINGS ON FEDERAL APPOINTMENTS

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## HEARINGS BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED THIRTEENTH CONGRESS FIRST SESSION

NOVEMBER 13, NOVEMBER 20, and DECEMBER 19, 2013

**Serial No. J–113–1**

**PART 6**

Printed for the use of the Committee on the Judiciary



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**NOMINATIONS OF HON. CYNTHIA ANN BASHANT, NOMINEE TO BE DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA; HON. JON DAVID LEVY, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MAINE; THEODORE DAVID CHUANG, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND; GEORGE JARROD HAZEL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND; AND DANIEL D. CRABTREE, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF KANSAS**

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**THURSDAY, DECEMBER 19, 2013**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to other business, at 10:25 a.m., in Room SD-226, Dirksen Senate Office Building, Hon. Sheldon Whitehouse, presiding.

Present: Senators Whitehouse, Feinstein, Schumer, Durbin, Blumenthal, Grassley, and Lee.

Senator WHITEHOUSE. Let me call the hearing to order, if I may, and welcome the colleagues who have come to introduce and speak for their nominees. And let me begin, if I may, by recognizing the senior Member of the Judiciary Committee present on our side, Senator Feinstein, the distinguished Chairman of the Intelligence Committee, to make some remarks concerning Judge Bashant.

**PRESENTATION OF HON. CYNTHIA ANN BASHANT, NOMINEE TO BE DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA, BY HON. DIANNE FEINSTEIN, A U.S. SENATOR FROM THE STATE OF CALIFORNIA**

Senator FEINSTEIN. Thank you very much, Mr. Chairman. I really appreciate this, and I thank my colleagues for allowing this as well.

I would like to introduce Judge Cynthia Bashant, who has been nominated to serve on the United States District Court for the Southern District of California. That is the court in San Diego. She

**PRESENTATION OF THEODORE DAVID CHUANG, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, AND GEORGE JARROD HAZEL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, BY HON. BARBARA A. MIKULSKI, A U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator MIKULSKI. Thank you very much, Senator Whitehouse, and I want to thank the Members of the Judiciary Committee for allowing this hearing to go forth today, because my two nominees are really American success stories, and their families have traveled extensively in order to be here, along with their children, to see this process unfold. So we appreciate this.

I have had the opportunity to recommend several judicial nominees over my career in Congress, and I and Senator Cardin take our responsibilities of advise and consent very seriously. Our criteria is that our nominees must have absolute integrity, judicial competence and temperament, a commitment to the core constitutional principles, and a history of civic engagement in Maryland. I believe it is important that candidates have deep connections to both the legal community and the greater community. The people that I am recommending to the Committee today to support President Obama's nomination meet and exceed these standards.

First I would like to talk about Mr. Theodore Chuang, a graduate of Harvard University, both as an undergraduate and the Harvard Law School. He has extensive legal experience, serving first—an extensive background in private practice with firms like the Wilmer, Cutler, Pickering, Hale firm. But he has also been outstanding in the field of public law, clerking for Judge Dorothy Nelson to working at the United States Department of Justice Civil Rights Division in housing and law enforcement, a U.S. Attorney, and even doing a stint in Congress with the House Committees on Oversight and Government Reform and Energy and Commerce. He is now currently serving as the Deputy General Counsel of Homeland Security overseeing many very important Federal legal issues and compliance. So he has an extensive background.

At the same time, he brings quite a compelling life story. His family came to America from Taiwan. They came very modestly, as most of our families do come from abroad. It is the typical and what we hope continues to be the typical American success story. They opened a pizza shop in New Hampshire, hard work, long hours, dedication to this country and that their children get an education. And now when you talk to Mr. Chuang as a second-generation, he wants to give back to the country that gave so much to he and his country. He has done that both as a professional and also pro bono work, working for the Asian Pacific American Legal Community, the nonprofit legal service organization that helps so many Asian Americans and immigrants with limited English proficiency. And he brings again a complete dedication to public service, to the Constitution of this United States, and to maintain and be a proper judge in our third branch of Government.

I think he would make a terrific judge. He comes with a great education, a great legal background, and a real commitment to the community. And I know he and his family that he will introduce, you will be very excited to hear them.

I would also like to bring to the Committee's attention Mr. George Hazel. He, too, has a compelling personal narrative, growing up in not the most easy circumstances. He is a graduate of Morehouse University and comes with, as I said, an extensive legal background.

One of the things that we talk about in his legal background is though he could be at some of the toniest law firms in Maryland, he is currently serving as the Chief Deputy State's Attorney for Baltimore City, in which he oversees really tough felony units. But what he brought there was a spirit of reform. We had a State's Attorney's Office that was old, dated, and needed reform. He has come to this and really has helped modernize and make sure that the bad guys are prosecuted but at the end of the day they felt that they got a fair trial and a fair shake from their own Government.

He also worked as an Assistant U.S. Attorney, and he also worked as a U.S. Attorney. His commitment to justice and personal integrity are outstanding. He is deeply involved with his church. He is deeply involved with his community. And I think when you hear him present his own case to you, you are going to see that, in addition to being a U.S. Attorney in both the district, working again for a very leading law firm like Weil, Gotshal and Manges, that he will be a great judge. He brings legal background, community involvement, and a real commitment to equal justice under the law.

I would like to now have Senator Cardin be able to testify.

Senator WHITEHOUSE. Thank you, Chairman Mikulski, and we know how very busy you are. Now that we have a budget, the role of the Appropriations Committee is vital, and the time pressure on you is immense, so please feel free to take your leave of this Committee as your schedule demands.

I will now recognize Senator Cardin to add whatever he wishes to your thoughtful and thorough remarks.

**PRESENTATION OF THEODORE DAVID CHUANG, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, AND GEORGE JARROD HAZEL, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND, BY HON. BENJAMIN L. CARDIN, A U.S. SENATOR FROM THE STATE OF MARYLAND**

Senator CARDIN. Well, first, Chairman Whitehouse, it is good to be back to the Judiciary Committee. It is good to be here with my colleague——

Senator WHITEHOUSE. It is nice to have you back.

Senator CARDIN. It is good to be here with my colleague Senator Mikulski.

I notice we have five nominees for the district court, and I thank all of them for their willingness to be able to step forward to serve in the public. It is not an easy time, and obviously the process is not easy, and I thank all five of them for their willingness to serve in the public at personal sacrifice, and their families for being willing, because this is a family effort, and we thank the families.

Let me just also comment briefly. I am sure it is true in Maine, I am sure it is true in Kansas and California. The process that Senator Mikulski as the senior judge has put together to screen——

Senator MIKULSKI. I am not the senior judge.

[Laughter.]

Senator CARDIN. Senior Senator. Excuse me—the senior Senator has put together in order to screen candidates for a judgeship is one that I am very proud of. It allows us to put out a way in which we can get the best talented, the most competent people to go through the process to apply for judgeships. And I am just very proud to be part of that, and I want to thank Senator Mikulski for the manner in which she has done that. And the proof is the two people that we present to you today: George Hazel and Theodore Chuang. Both are eminently qualified, both are of unquestioned credibility and integrity, and both will make outstanding members of the District Court of Maryland.

Senator Mikulski has already talked about both these individuals. George Hazel is being appointed to fill the vacancy of Judge Williams, who took senior status in May of this year, so it is important to get these confirmations advanced. He is a graduate from Morehouse College, got his J.D. from Georgetown University Law Center. He became a Government prosecutor as an Assistant U.S. Attorney in the District of Columbia. He also, as Senator Mikulski pointed out, is currently in the State's Attorney's Office of Baltimore City, where he is the Chief Deputy Assistant State's Attorney. That is hard, hard work, dealing with the most difficult parts of our criminal justice system in an urban center. He helps oversee 200 prosecutors and 200 support staff, and he has fought tirelessly to keep our community safe and make them even safer.

Theodore David Chuang also brings very impressive qualifications. He is being appointed to fill the vacancy of Judge Titus, who will take senior status next month. So both of these are very timely. Mr. Chuang got his J.D. in 1994 from Harvard Law School, his B.A. from Harvard University. He began his career as a law clerk for Judge Dorothy Nelson of the United States Court of Appeals for the Ninth Circuit. He has served this country in so many different capacities, at the Department of Justice, U.S. Attorney, but I particularly want to mention that he served as Deputy Chief Investigative Counsel for the U.S. House Committee on Oversight and Government Reform from 2007 to 2009. So he has served in the legislative branch, and he has served also in the executive branch, and he brings a wide range of experience.

Let me just share with you, on all the nominees that come forward, I ask the question about their pro bono and their commitment to access to justice. In Mr. Hazel and in Mr. Chuang, we have two individuals who have demonstrated their understanding of access to justice in what they have done in their own life.

Mr. Hazel has assisted members of his church pro bono in helping them with their legal issues, and Mr. Chuang has also been very impressive in what he has done on the Board of Directors of the Asian Pacific American Legal Resource Center. That group provides legal representation and referral services involving domestic violence, family law, immigration law, employment law, and a variety of other areas. So, Mr. Chairman, Senator Grassley, we strongly recommend these two nominees, that they be favorably recommended to the full Senate and confirmed by the full Senate.

Senator WHITEHOUSE. Let me thank you, Senator Cardin, and also make clear both you and your senior Senator if you wish to go on to the other pressing business that you face. There is no need for you to remain here, and we appreciate your testimony in support of your candidates.

And now I have the pleasure to recognize Senator Collins of Maine to speak on behalf of her candidate.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Chairman, I know this is unusual for a senior Senator of a State to defer to the junior Senator of the State, but Senator King has a long relationship with our nominee, having appointed him to Maine Supreme Judicial Court. So I would respectfully ask that he be recognized first, and then I would give my comments after him.

Senator WHITEHOUSE. Without objection.

Senator King, you are recognized.

**PRESENTATION OF HON. JON DAVID LEVY, NOMINEE TO BE DISTRICT JUDGE FOR THE DISTRICT OF MAINE, BY HON. ANGUS S. KING, JR., A U.S. SENATOR FROM THE STATE OF MAINE**

Senator KING. Thank you. Thank you, Senator Collins.

I must say, this is the first time I have sat on this side of the table. It is more fun sitting up there, I think.

Senator WHITEHOUSE. We have questions for you.

[Laughter.]

Senator KING. That is what I am afraid of.

I am here to present the nomination of Justice Jon Levy, who is now an Associate Justice of our Maine Supreme Court. He was one of my first judicial appointments as Governor of Maine in 1995, and I think it is important to say that I never knew him before he went through our judicial selection process. He was not a contributor, a political supporter, or a friend, but he was found, in effect, by our judicial selection as an outstanding legal practitioner. I appointed him to Maine's District Court, which is one of our trial-level courts, and within just a few years he became chief justice of that court, which indicated his leadership.

Subsequently, in 2002, I was fortunate enough to be able to appoint him to our Maine Supreme Judicial Court, and he is the first person in the history of Maine to go directly from the district court to our Supreme Court without serving as a superior court justice.

Most simply put, he is a judge's judge. He is incredibly smart, analytical, has good judgment, is decisive—which is an important quality in a judge; he is not afraid of making decisions—and also has a wonderful judicial temperament. I observed this in action as I went to our hearing of our Supreme Court about 5 years ago when he was presiding over the admission of new lawyers, and so I sat in the back of the courtroom and watched him work through this process, and was respectful, courteous, not intimidating, but at the same time dignified and analytical. And it was very impressive, as I remember vividly as a young lawyer the unpleasantness of appearing before a judge who would be intimidating or sort of hard to—be undignified, and Justice Levy has avoided that.

He has enormous respect among the bar and the bench in Maine. I am going to submit letters for the record, including one from our



So let me turn to Judge Levy.

**STATEMENT OF HON. JON DAVID LEVY, NOMINEE  
TO BE DISTRICT JUDGE FOR THE DISTRICT OF MAINE**

Justice LEVY. Thank you, Mr. Chairman, Ranking Member Grassley. It is an honor to be here. I am very grateful to the Committee for convening this hearing.

I would like to begin by expressing my gratitude to President Obama for the honor of this nomination. I am also very grateful to Maine Senator Susan Collins and Senator Angus King for the strong support they have given me throughout and for their kind words this morning.

My wife, Miriam Levy, was unable to be here this morning. I know that she is watching over the Web. She is a psychologist in Portland, Maine, and that is where she is right now. And we are the proud parents of two daughters, neither of whom could be here this morning either.

Our daughter Anna recently graduated from the University of Chicago with a master's degree in international relations, and she just got married. And so we have a brand-new son-in-law, Adam Prager, whom we are all very proud of.

And my other daughter, Rachel, just graduated from Northeastern with a degree in environmental science, and she is now working in education.

With me today I have several guests. My sister and brother-in-law, Jan and Ken Fein, came from New York; my cousin, Leonard Taylor, from Maryland; and my very good friend, Ann Newman, is here. She is also from Maryland.

I have many friends and colleagues and family members who are watching over the Web this morning. Of course, all of my colleagues from the Maine judicial branch, the appellate judges, the State judges, all of our clerks, marshals, administrators, the people that make justice happen who I wish to acknowledge.

And, finally, I would like to acknowledge Judge John T. Copenhaver, Jr. Judge Copenhaver is a U.S. District Judge in the Southern District of West Virginia who I clerked for out of law school. He is my professional mentor. It has been his example that has inspired me throughout my career.

Thank you.

[The biographical information of Justice Levy appears as a submission for the record.]

Senator WHITEHOUSE. Thank you very much, Judge Levy.

And let me now turn to Mr. Chuang. Welcome to the Committee. Please proceed with your statement.

**STATEMENT OF THEODORE DAVID CHUANG, NOMINEE  
TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND**

Mr. CHUANG. Thank you very much. Mr. Chairman, Ranking Member Grassley, thank you very much for the opportunity to appear before this very distinguished Committee.

I would like to begin by thanking the President of the United States for the high honor of this nomination. I would also like to thank Senator Mikulski and Senator Cardin for recommending me

to the President, for supporting me throughout this process, and for the very generous introductions they provided today.

I would also like to thank the Senate Judiciary Committee itself not only for holding this hearing and for considering my nomination, but also because 25 years ago this coming summer, I had the privilege of coming to Washington, DC, as a college student and serving as an intern on this Committee. That was a formative experience for me. That was one of the reasons that I chose to pursue a career in the law and in public service. And so I thank this Committee for the role it played in setting me on a path to come back here before you today.

I would like to also introduce family and friends who have joined me here today.

First, let me introduce my wife, Jacinta, who has been my partner in life and in raising our family for the past 15 years. She is also an inspiration for my professional career because she is an accomplished attorney who has devoted her entire career to serving the public interest and the community, and in so doing has set an example which I strive to follow in making sure that in whatever I do professionally I am also doing some good for our country and for our community.

I would also like to introduce our two daughters: Kalia, who is 12 years old and in seventh grade; Kiara, who is 9 years old and in third grade. They are both in the Montgomery County Public Schools.

Senator WHITEHOUSE. And who, for the record, are behaving wonderfully.

[Laughter.]

Mr. CHUANG. Thank you.

Also, I am very appreciative of having my sister Karen Chuang Harris here, who came from California. It means a lot to me that she made the trip. And I would like to say hello to her husband, Scott, and her daughter, our niece, Caitlin, who may be watching on the Webcast.

I would also like to say hello to my mother-in-law and father-in-law, also in California, who are watching on the Webcast.

I have a few cousins who are here today. David Su, Jennifer Hu, Stephanie Hu and her husband, Bill, are here today. I appreciate that very much.

I also have some friends, a very close friend, my oldest friend in the world with whom I have been friends since fourth grade, Chris Weaver, is here. Tacey Yune is here, a friend from here in Washington, DC.

And I would also like to recognize several friends and relatives who had been here yesterday and have been unable to return today, including my cousin Jessica Mach and her husband, Arthur, and their children, Kate and Christopher; my very good law school friend, Brian Caplan, who came down from New Jersey; a friend from college, Brian Sonnfield and his wife; and also a friend from Washington, Chris Carter.

Finally, I would like to end by introducing my parents, Ying and Kari Chuang, and I would like to note that this has been a very special year in the life of our family for reasons unrelated to today's proceeding, because it was 50 years ago this past summer



that my father first set foot on American soil in search of American freedom and the American dream. And it was 40 years ago this very month that my mother and father stood up in a courtroom and took the oath as United States citizens. Those moments have always inspired me and driven me to want to serve this great Nation and give back to this Nation that has given so much to our family, and I know that no matter what happens with this nomination, those will always be the proudest moments in the history of our family.

Thank you, and I look forward to answering your questions.

[The biographical information of Mr. Chuang appears as a submission for the record.]

Senator WHITEHOUSE. Thank you, Mr. Chuang.

Mr. Hazel, you are welcome in this Committee and welcome to proceed with your statement.

**STATEMENT OF GEORGE JARROD HAZEL, NOMINEE  
TO BE DISTRICT JUDGE FOR THE DISTRICT OF MARYLAND**

Mr. HAZEL. Thank you, Senator. First I would like to just say thank you to this Committee for holding this hearing, certainly special thanks to the Chairman and Ranking Member for your attendance here today.

I would certainly like to say thank you to the President for nominating me to the Federal bench. It is certainly the greatest honor of my professional life thus far, and so it is with great gratitude that I wish to extend my thanks for that.

I would also like to thank Senator Mikulski and Senator Cardin for recommending me to the President. I also thank them for their very generous and kind words today.

I do have a few family members here with me today that I would like to introduce.

First, to my far left is my wife of 10½ years, Nikki Hazel, who is joining us here today. Our children, George Joshua and Lauren Grace, are in school today, thus staying on track for their perfect attendance awards.

[Laughter.]

Mr. HAZEL. My mother, Brenda Hugo Hazel, has come down from New Jersey to attend this hearing. My father, George A. Hazel, was not able to make it here in person. I am sure he is watching on the Webcast from his home in Las Vegas, Nevada. And, finally, my uncle, Raymond Huger, is joining us here today, and so I appreciate him attending as well. I certainly know that and want to recognize I have many in Baltimore, DC, New York, and other places joining us both in spirit and through the Webcast today, and so I certainly also say hello to them.

Thank you.

[The biographical information of Mr. Hazel appears as a submission for the record.]

Senator WHITEHOUSE. Thank you very much, Mr. Hazel.

Mr. Crabtree, welcome. Please proceed with your statement and welcomes.

**STATEMENT OF DANIEL D. CRABTREE, NOMINEE  
TO BE DISTRICT JUDGE FOR THE DISTRICT OF KANSAS**

Mr. CRABTREE. Thank you, Senator, and thank you, Senator Grassley and Members of the Committee, for inviting me here today.

I express my gratitude to President Obama for the honor of this nomination. I am especially grateful to Senator Moran and Senator Roberts for their support through this process. I am particularly grateful for Senator Moran taking time to come over today and speak on my behalf.

With your permission, I would love to introduce my family to you.

Senator WHITEHOUSE. Of course.

Mr. CRABTREE. The row of dark-haired women all belong to me. First, my wife of 29 years, Maureen Mahoney, she is a distinguished lawyer for children in our home State, and she is my best friend and my closest adviser, and it means the world to me for her to be here today.

Our daughter, Colleen, a seventh grader, has graciously rearranged her final exam schedule to be with us today, and I might say that she took her civics exam on Tuesday, so she, too, is prepared for some questions.

[Laughter.]

Mr. CRABTREE. And my sister-in-law, Molly Mahoney, now a resident of Philadelphia, but there is a lot of Kansas in her, and she came down from Philadelphia for the hearing today.

I do want to recognize my colleagues at my law firm in Kansas City, Stinson Morrison Hecker, who I trust some are watching over the Webcast, and the others are probably doing my work for me.

And, last, I just would like to honor my parents. They are no longer in this world, but I am mindful, especially today, of all that they have done for me and my brother, Mike, and I just would like to honor them by placing their names, Charlie and Lois Crabtree, in the record.

Thank you very much for inviting me, and I look forward to your questions.

[The biographical information of Mr. Crabtree appears as a submission for the record.]

Senator WHITEHOUSE. Thank you very much, Mr. Crabtree.

For the record, I have been notified that the minority party intends to invoke the 2-hour rule again. That is the bad news. The good news is that we have 45 minutes left, so unless there is a sudden flood of Judiciary colleagues, we will be well done before that time horizon is reached. And for those of you who feel that there is a small turnout with just the Chairman and the Ranking Member here, trust me, that is a good sign. And I hope it is a signal of continuing smooth sailing for these nominees through an increasingly tempestuous process, and certainly we would like very much to make sure that all of you are confirmed speedily.

You may have listened to my opening statement. I have a relatively standard question that I ask of all of the nominees that represents what I think to be the basic parameters for appropriate conduct of judicial responsibilities. They include that judges must respect the role of Congress as representatives of the American

people; that you all decide cases based on the law and the facts; that no one prejudge any case; and that you provide an equal and fair ear to every party that comes before you; that you will respect the precedent that should guide your decisionmaking; and that you as judges would limit yourselves to the issues that are properly before you.

I trust that each of you agree with those principles, but if anybody does not, I would be eager to hear from them now as to where they disagree.

The record will reflect no disagreement with those, which is terrific.

There is another issue that I think it is important for judicial nominees to address, and it is particularly important for you who will be district court nominees, and that is the important role of the jury not just in our system of justice but also in our system of Government. Those of you who are students of history will know that the jury was an essential part of the core political structure that was brought over from England. The jury has its roots back in the 12th century. And when our relations with the Crown became strained, one of the key causes of that strain was the effort by the Crown to limit American access to American civil juries.

The *casus belli* of the Revolution included that denial, that effort to restrict. The jury was prominent in all of the expressions by the Founding Fathers and that revolutionary generation who pledged their lives, their fortunes, and their sacred honor to that battle, to protect the civil jury, to see that it was maintained, and they did so for, I think, a pretty good reason. And I could hazard my own ideas, but I do not need to because I can turn to people like de Tocqueville and Blackstone, whose knowledge and expertise is pretty much uncontested.

De Tocqueville described the jury as "one of the means of the sovereignty of the people" and "an essential institution of Government."

Blackstone describe it as "a means for resisting the encroachments of the wealthy and the powerful," which is an interesting observation because much of the Constitution is dedicated to protecting the individual from abuse of the power of Government.

The jury rather uniquely has, according to Blackstone, the additional responsibility to protect the ordinary individual from the more wealthy and powerful citizens, as he described it. And since we live in a time in which the most wealthy and powerful citizens of the United States tend to be corporate citizens and we also live in a time when the corporate citizenry is embarked pretty enthusiastically in an effort to diminish and deprecate the civil jury and access to it, I think it is important that we bear in mind that there is more to a civil jury than just a fact-finding appendage of the court, that it has a long tradition from the very founding of this Republic, that it has an essential role within our separation of powers, the markedly American system of Government that we enjoy, that has protected us through civil wars and world wars and great depressions and all kinds of upheavals, and, therefore, it is entitled to special, I think, solicitude.

And I would like to ask each of you for a comment on how you would see the role of the jury in your courtroom. We will begin with Judge Bashant.

Judge BASHANT. Well, as a trial court judge for the past 13 years, I have had the opportunity to preside over quite a few jury trials, and I believe there is something special about requiring 12 people from different backgrounds to come together and discuss things and reach a verdict. I am a fan, I am supportive of the jury system. And I would continue to be supportive if confirmed as a district court judge.

Senator WHITEHOUSE. Thank you very much.

Judge Levy.

Justice LEVY. Senator, the jury trial is really a central feature of our justice system as the Founders envisioned it, enshrining the right both in civil cases and criminal cases in the Bill of Rights. It is really central to our notion of what justice is. It seems to me that it is critically important that members of the public play that role, be in courthouses and be decisionmakers.

It is important for judges. I think judges are very much continually educated and affected by the public decisionmaking process that they steward, that they witness, in effect.

And I think it is also important for citizens. It is really one of the most important responsibilities of an American citizen, is to serve on the jury and have that experience of direct democracy in the truest sense. Absolutely critical.

Senator WHITEHOUSE. Thank you, Judge Levy.

Mr. Chuang.

Mr. CHUANG. Senator, I have always believed in the essential goodness and fairness of the American people, and the experiences I have had as a prosecutor trying cases before juries has validated that belief. I have always found juries to be very conscientious, dedicated, and serious about the work that they need to do.

I have also come to understand how much of an important part of the American system of checks and balances a jury is. And certainly if I am confirmed to be a judge, I would do everything I could to ensure that that system continues in the courtroom that I serve in or within the system in general.

Senator WHITEHOUSE. Thank you.

Mr. Hazel.

Mr. HAZEL. Senator, it is my feeling that juries in many ways are, in fact, the backbone of our judicial system. From my experience as a trial lawyer, I have always been impressed at how 12 people from various backgrounds, often with little or no experience in the matters which they are dealing with, are able to come together, listen conscientiously to the evidence, gather together, and then reach a verdict. Some of the greatest lessons I have learned as a lawyer have come from conversations I have had with jurors at the end of trials.

So I can certainly assure you, Senator, that I share your concerns, I share your thoughts and views of the importance of the jury system.

Senator WHITEHOUSE. And, finally, Mr. Crabtree?

Mr. CRABTREE. Senator, I agree with much of what my fellow panelists have said, and I will not repeat it here. I will simply add

that one of the more rewarding experiences I have had as a citizen was being called to jury duty in my home county of Wyandotte County, Kansas, and being selected to serve and watch from the inside and see the collective wisdom of a jury of 12 at work and watch the seriousness of purpose that people brought to the task.

Senator WHITEHOUSE. Thank you all very much.

I turn to our Ranking Member, Senator Grassley.

Senator GRASSLEY. Mr. Crabtree, a process question. I would like to have you explain what steps you took to ensure that you did not practice the unauthorized practice of law during the period of time after you took the Kansas State bar exam in 1982 and your taking the oath in 1988.

Mr. CRABTREE. Yes, Senator, thank you for permitting me to explain. I took the bar, the Kansas bar exam in February 1982, thinking that someday I might return to my home State. I was already admitted to practice and practicing in Missouri when I took the exam. At that time a lawyer whose office was located outside the State of Kansas, whether a member of the Kansas bar or not, could not practice in Kansas and could not appear. And so that rule changed in January 1988 when lawyers who were members of the Kansas bar but had offices elsewhere were permitted for the first time to appear in Federal court. And so I went ahead and completed the process and signed the rule of attorneys and took the oath and was admitted.

During that period of time, I was practicing predominantly in the State of Missouri where my office was located, and I do remember appearing in two Kansas cases, appearing under the supervision of Kansas local counsel and following the procedures that the court used at that time.

Senator GRASSLEY. A similar question for you, Mr. Hazel. You became Deputy State Attorney in December 2010. It is my understanding you had not been barred or licensed to practice law in Maryland. I do not know exactly when you were admitted to the Maryland bar. But could you also explain for the Committee the steps that you took to ensure that you did not practice the unauthorized practice of law during that period?

Mr. HAZEL. Thank you for the opportunity to address that issue, Senator. When then State's Attorney-Elect Glenn Burnstein and I first met to discuss the prospect of my moving from the U.S. Attorney's Office to take the position of Deputy State's Attorney in Maryland, one of the very first things we discussed was the fact that at that time I was a member of the Virginia bar, I was a member of the DC bar; I was not then a member of the Maryland bar. So we took time and did some research to see what was required and what was not required. The first thing we learned is that a Deputy State's Attorney does not have to be under law a member of the State bar of Maryland.

We then began to discuss the parameters of what my job would and would not entail, and I did not appear in court, I did not sign documents, I did not appear in front of the grand jury.

I did consult on cases. One of the things that we had looked at in our research is that under the Maryland Rules of Professional Conduct for Lawyers, as long as I was doing that in association with attorneys who were members of the bar themselves and who

were themselves actively involved in the case, that that was permitted under the Maryland rules. So those were the steps we took and ultimately decided that the way in which we were handling the situation was appropriate.

Senator GRASSLEY. Okay. Mr. Chuang, I am going to ask about something that you wrote in 1999, a profile about your former boss, Judge Nelson, Ninth Circuit. In this profile, you wrote that, "Some of Judge Nelson's most noteworthy opinions embody the principle that the courts must be vigilant in protecting the rights of weaker minority interests when they have been unjustifiably violated by the most powerful majority interest."

Would you take this approach to the administration of justice in your courtroom if you are confirmed?

Mr. CHUANG. Senator, thank you for the question. The approach I would take would be, regardless of who the parties are, to look at the law and the facts of the case and to apply the law to that case without any outside considerations. I definitely understand that there are cases in which the different parties come from different places in society, but the role of a judge is to make a decision evenhandedly based solely on the law and the facts, and that is how I would approach any case.

Senator GRASSLEY. On a 2006 panel that you participated in, one of your talking points was that, "In its legitimate zeal to root out white-collar crime, the Government has overreached with its tactics." Could you elaborate on what you meant by that statement?

Mr. CHUANG. Senator, if I recall, the panel discussion at the time was one that occurred when I was in private practice serving as a white-collar criminal defense attorney. I believe the references involved some of the efforts by the Justice Department at that point in time to seek to use the—to persuade parties to waive the attorney-client privilege in order to gain cooperation, particularly corporate parties. And I know that in the defense bar at the time there was a prevailing concern that that was invading the importance of the attorney-client privilege.

I would note that during the 3 years I served as a defense attorney, I did learn the perspectives from that side, but having also served for 6 years as a prosecutor, I have always seen both sides of cases and issues, and I would venture to say that when I was a prosecutor, I probably advocated from a different perspective on that very same issue.

In general, I think the fact that I have served both as a prosecutor and a defense attorney has given me a very broad perspective on major issues of criminal law and would help me to be fair and objective and balanced in making decisions, if confirmed to be a judge.

Senator GRASSLEY. Judge Levy, you are probably going to hate me if I bring up something you write in 1983, but you wrote an article about Judge Bork, and I have got a lot of questions on that, but I am only going to ask a couple.

You said, "Judge Bork's philosophy of original intent"—you referred to it as a "fallacy." You have been a judge for a number of years. How does your judicial philosophy differ from Judge Bork's, assuming you stand by your article about Judge Bork at that particular time?



Justice LEVY. Thank you, Senator.

Senator, the U.S. Supreme Court has in recent years been very clear that it is a proper and, in fact, very important tool of constitutional construction to consider the original public meaning of the text of the Constitution when interpreting and applying the Constitution. And I want to assure you and the Committee that I will honor that precedent, as I have honored precedent throughout the 18 years that I have been a judge, and will apply that precedent as indicated by the court.

With respect to the article that you refer to and Judge Bork, Judge Bork at the time was really one of the first and leading proponents of originalism but focused on original intent, and that led him to take issue with a number of established Supreme Court precedent that was really the subject of my letter, which was the reason for me writing that letter.

And certainly with the many, many years now that have passed and having been a judge now for 18 years, the world perhaps is not quite as black and white to me as it was in younger days, and it seems to me that a judge should consider all useful tools of constitutional construction as authorized by the Supreme Court, including the intent of the Framers, in construing the Constitution.

Senator GRASSLEY. Another question that might be more appropriate to what you are doing now as an Associate Justice: You advocated for Government-provided counsel for low-income litigants in civil matters, saying, "Where basic human needs are at stake, regardless of forum, it is, therefore, essential that all individuals be afforded access to publicly financed counsel to represent them."

I think this is a simple question. Was this opinion based upon the Maine Constitution, the U.S. Constitution, or were you just making a policy pronouncement?

Justice LEVY. Thank you, Senator. Senator, I am not sure what speech or article you might be referring to, so I am not certain of the context. But I will say that, yes, for a number of years now I have chaired the commission in Maine which is concerned with access to justice in the civil courts of Maine. And so I have been very involved in promoting pro bono representation by the private bar and in assisting and supporting the legal aid programs in Maine that do provide assistance.

And our experience, of course, is that justice is served when people have representation, they make better decisions, and justice is more likely to be achieved.

Senator, I have not advocated for a constitutionally supported basis for providing representation in civil matters. We have been advocating for it as a matter of both legislative policy and as a matter of the private bar's commitment to providing pro bono work. And so I have not articulated or expressed a position with respect to a constitutional right to civil counsel, nor would I because as a judge that issue could be presented to me. It has not. But I have not publicly supported a constitutional right, a general constitutional right to counsel.

Senator GRASSLEY. Judge Bashant, you have been active in abortion issues and things of that nature. I have got some quotes here I will not go into, but could you please explain to me what the con-

stitutionally excepted restrictions on the right of abortion are from your point of view?

Judge BASHANT. I believe that the Supreme Court has ruled that in certain limited circumstances a woman does have a right to choose abortion. If I were confirmed as a district court judge, I would follow that Supreme Court precedent.

Senator GRASSLEY. I think I am done. Thank you all very much.

Senator WHITEHOUSE. I thank all the witnesses for being here. The record will remain open for an additional week, and the hearing is adjourned.

[Whereupon, at 11:34 a.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]



## APPENDIX

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Witness List

Hearing before the  
Senate Committee on the Judiciary

On

"Judicial Nominations"

Thursday, December 19, 2013  
Dirksen Senate Office Building, Room 226  
10:25 a.m.

Daniel D. Crabtree, to be United States District Judge for the District of Kansas

Cynthia Ann Bashant, to be United States District Judge for the Southern District of California

Jon David Levy, to be United States District Judge for the District of Maine

Theodore David Chuang, to be United States District Judge for the District of Maryland

George Jarrod Hazel, to be United States District Judge for the District of Maryland

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

1. **Name:** State full name (include any former names used).  
Theodore David Chuang
  
2. **Position:** State the position for which you have been nominated.  
United States District Judge for the District of Maryland
  
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: United States Department of Homeland Security  
 Office of the General Counsel  
 Washington, D.C. 20528  
  
 Residence: Bethesda, Maryland
  
4. **Birthplace:** State year and place of birth.  
1969; Media, Pennsylvania
  
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.  
  
 1991 – 1994, Harvard Law School; J.D. (*magna cum laude*), 1994  
  
 1987 – 1991, Harvard College; B.A. (*summa cum laude*), 1991
  
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.  
  
 2009 – present  
 United States Department of Homeland Security  
 Office of the General Counsel

Washington, D.C. 20528  
 Deputy General Counsel (2011 – present)  
 Counselor on detail to United States Department of State (2013 – present)  
 Associate General Counsel (2009 – 2011)

2009  
 House Committee on Energy and Commerce  
 2322A Rayburn House Office Building  
 Washington, D.C. 20515  
 Chief Investigative Counsel

2007 – 2009  
 House Committee on Oversight and Government Reform  
 2471 Rayburn House Office Building  
 Washington, D.C. 20515  
 Deputy Chief Investigative Counsel

2004 – 2007, June – July 1993  
 Wilmer Cutler Pickering Hale and Dorr LLP  
 1875 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20006  
 Counsel (2004 – 2007)  
 Summer Associate (June – July 1993)

1998 – 2004  
 United States Attorney's Office for the District of Massachusetts  
 One Courthouse Way, Suite 9200  
 Boston, MA 02210  
 Assistant United States Attorney, Criminal Division

1995 – 1998  
 United States Department of Justice  
 Civil Rights Division  
 950 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20530  
 Trial Attorney, Housing and Civil Enforcement Section

1994 – 1995  
 United States Court of Appeals for the Ninth Circuit  
 Chambers of Judge Dorothy W. Nelson  
 125 South Grand Avenue, Suite 303  
 Pasadena, CA 91105  
 Law Clerk to Judge Dorothy W. Nelson

July – August 1994  
 United States Department of State

Office of the Legal Adviser  
2201 C Street, N.W.  
Washington, D.C. 20520  
Law Intern

May – July 1994  
United States Department of Justice  
Office of the Solicitor General  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Law Intern

Spring 1994  
Norfolk County District Attorney's Office  
360 Washington Street  
Brookline, MA 02445  
Student Prosecutor

July – August 1993  
Linklaters & Paines (now Linklaters LLP)  
One Silk Street  
London, United Kingdom EC2Y 8HQ  
Summer Law Clerk

Spring 1993  
United States Attorney's Office  
J.W. McCormack Post Office & Courthouse  
Boston, MA 02109  
Law Extern

Fall 1992 – Spring 1993  
Professor Laurence H. Tribe  
Harvard Law School  
Cambridge, MA 02138  
Research Assistant

Summer 1992  
Baker & McKenzie LLP  
Two Embarcadero Center, 11th Floor  
San Francisco, California 94111  
Summer Associate

Other affiliations (uncompensated):

2012 – present  
District of Columbia Bar

1101 K Street, N.W., Suite 200  
Washington, D.C. 20005  
Board of Governors

2005 – present  
Asian Pacific American Legal Resource Center  
1012 14th Street, N.W., Suite 450  
Washington, D.C. 20005  
Board of Directors (2005 – present)  
Chair of the Board (2007 – 2009)

2009  
Montgomery County District 16 Democratic Club  
(no physical address)  
Executive Board (Vice President)

2009  
Coalition of Asian Pacific American Democrats of Maryland  
(no physical address)  
Board of Directors

2003  
Massachusetts Bar Association  
20 West Street  
Boston, MA 02111  
House of Delegates

1999 – 2003  
Asian American Lawyers Association of Massachusetts  
c/o The Boston Bar Association  
16 Beacon Street  
Boston, MA 02108  
President (2002 – 2003)  
Secretary (2000 – 2002)  
Board of Directors (1999 – 2000)

2002 – 2003  
Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association  
294 Washington Street, Suite 443  
Boston, MA 02108  
Board of Directors

2001 – 2002  
Asian Pacific American Agenda Coalition  
(no physical address)



Boston, MA  
Board of Directors

1999 – 2001  
Massachusetts Law Reform Institute  
99 Chauncy Street  
Boston, MA 02111  
Board of Trustees

1996 – 1998  
Asian Pacific American Bar Association of the Greater Washington, D.C. Area  
P.O. Box 27223  
Washington, D.C. 20038  
President-Elect (1997 – 1998)  
Treasurer (1996 – 1997)

1996 – 1997  
Conference on Asian Pacific American Leadership  
P.O. Box 65073  
Washington, D.C. 20035  
Board of Directors

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 military. I registered for selective service at age 18.

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.

United States Coast Guard Public Service Commendation (2011)

United States Department of Justice Special Achievement Award (1997)

Harvard Law Review, Editor (1992 – 1994)

Harvard Law School Ames Moot Court Competition, Boykin C. Wright Memorial Prize (Best Brief, Final Round) (1993)

Harvard Law School Ames Moot Court Competition, Finalist (1993)

Endicott Peabody Saltonstall Prize: Awarded to top Harvard College senior attending Harvard Law School (1991)

Phi Beta Kappa (1991)

John Harvard Scholarship (1989 – 1991)

Time Magazine College Achievement Award: Awarded to 20 college juniors nationwide (1990)

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.

American Bar Association

Asian American Lawyers Association of Massachusetts

President (2002 – 2003)

Secretary (2000 – 2002)

Board of Directors (1999 – 2000)

Representative to the 2003 NAPABA Northeast Regional Conference Planning Committee (2003)

Chair, 2000 NAPABA Northeast Regional Conference Planning Committee (2000)

Asian Pacific American Bar Association of Maryland

Asian Pacific American Bar Association of the Greater Washington, D.C. Area

President-Elect (1997 – 1998)

Treasurer (1996 – 1997)

Pro Bono Committee Chair (1996 – 1997)

Boston Bar Association

Criminal Law Section Steering Committee and Publications Co-Chair (1999 – 2003)

District of Columbia Bar

Board of Governors (2012 – present)

Nominations Committee (2005 – 2006)

Maryland State Bar Association

Massachusetts Bar Association

Member, House of Delegates (2003)

National Asian Pacific American Bar Association

Women's Bar Association of the District of Columbia

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.

Maryland, January 3, 2012  
 District of Columbia, April 24, 1997  
 Massachusetts, March 30, 1995 (inactive)

There have been no lapses of membership, although my District of Columbia bar membership was inactive from approximately 1998 to 2004, and my Massachusetts bar membership is currently inactive.

- 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 Court of Appeals for the First Circuit, 1999  
 United States Court of Appeals for the Tenth Circuit, 2006  
 United States District Court for the District of Massachusetts, 2003  
 District of Columbia Court of Appeals, 1997  
 Maryland Court of Appeals, 2012  
 Massachusetts Supreme Judicial Court, 1995

There have been no lapses of membership.

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.

Asian Pacific American Agenda Coalition  
 Board of Directors (2001 – 2002)  
 Member (2000 – 2002)

Asian Pacific American Legal Resource Center  
 Board of Directors (2005 – present)  
 Chair of the Board (2007 – 2009)

Burning Tree Elementary School Parent Teacher Association (2006 – present)



Conference on Asian Pacific American Leadership  
Board of Directors (1996 – 1997)

Department of Homeland Security Asian American Pacific Islander Network  
(2011 – present)

Eastern Middle School Parent Teacher Association (2012 – present)

Harvard Club of Washington, D.C. Schools Committee  
Interviewer (1996 – 1997, 2005 – 2006, 2012 – present)

Harvard College Class of 1991 Reunion Committee (2000 – 2001)

Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association  
Board of Directors (2002 – 2003)

Massachusetts Law Reform Institute  
Board of Trustees (1999 – 2001)

National Parks Conservation Association (1997 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated 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 the best of my knowledge, none of the organizations listed in 11a currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

**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.

President's Message, *Asian American Lawyers Association of Massachusetts: A Year in Review*, 31 MASS. LAW. WKLY., Dec. 9, 2002. Copy supplied.

*President's Message*, AALAM NEWS, May 2002. Copy supplied.

*Justice Lu Reflects on His First Six Months on the Bench*, AALAM NEWS, Nov. 2001. Copy supplied.

*Section Hosts Brown Bag Lunch on Sexually Dangerous Person Statute*, BOS. BAR ASS'N CRIM. L. SEC. NEWSLETTER, Mar. 2001. Copy supplied.

*Judges Take Center Stage*, BOS. BAR ASS'N CRIM. L. SEC. NEWSLETTER, Jan. 2000. Copy supplied.

*Brown Bag Lunch: Polygraph Evidence*, BOS. BAR ASS'N CRIM. L. SEC. NEWSLETTER, Jan. 2000. Copy supplied.

*Judges Profile, Hon. Dorothy W. Nelson*, FED. LAW., Aug. 1999. Copy supplied.

Note, *The Birthright Citizenship Amendment: A Threat to Equality*, 107 HARV. L. REV. 1026 (1994). Copy supplied.

Recent Case, *People v. Bullock*, 485 N.W.2d 866 (1992), 106 HARV. L. REV. 1230 (1993). Copy supplied.

*The Hoop God*, HARVARD CRIMSON, Feb. 26, 1990.

*None Were Guilty of a Rally*, HARVARD CRIMSON, Feb. 5, 1990.

*Daddy? What Were Sports in The 80s Like?*, HARVARD CRIMSON, Dec. 15, 1989.

*Cagers Play "Easier" Blue Devils*, HARVARD CRIMSON, Dec. 9, 1989.

*Cagers Overrule Judges*, 52-46, HARVARD CRIMSON, Dec. 5, 1989.

*Locating Long-Lost Athletes Like Larry*, HARVARD CRIMSON, Nov. 8, 1989.

*This Year, Someone's Gotta Win*, HARVARD CRIMSON, Oct. 3, 1989.

*Still One Goal to Go*, HARVARD CRIMSON, June 8, 1989.

*Just One Day of Perfection*, HARVARD CRIMSON, Apr. 4, 1989.

*W. Swimming Wins Fourth Ivy Title*, HARVARD CRIMSON, Feb. 21, 1989.

*James' 26 Points Leads Cagers Over Yale*, HARVARD CRIMSON, Feb. 11, 1989.

*Title Hunt: Aquawomen Down Princeton*, HARVARD CRIMSON, Feb. 6, 1989.

*Ickey Who?*, HARVARD CRIMSON, Jan. 23, 1989.

*Bird Will Fly Again*, HARVARD CRIMSON, Dec. 14, 1988.

*Relax Bruce; Boston Says 'Don't Do It,'* HARVARD CRIMSON, Dec. 6, 1988.

*Aquawomen Edged by Bulldogs*, HARVARD CRIMSON, Dec. 5, 1988.

*Aquawomen Race to Second*, HARVARD CRIMSON, Dec. 3, 1988.

*Aquawomen Grab Two Triumphs, Overpower Columbia, Kenyon*, HARVARD CRIMSON, Nov. 28, 1988.

*Quincy House Serves as Poll*, HARVARD CRIMSON, Mar. 9, 1988.

*Men Spikers Fall Hard*, HARVARD CRIMSON, Feb. 8, 1988.

*Harvard Olympic Bobsledder Charges He Was Cut Unfairly*, HARVARD CRIMSON, Feb. 8, 1988.

*Proctor Light Renews Spirit in Freshman Dorm Sports*, HARVARD CRIMSON, Jan. 29, 1988.

*Harvard Phi Beta Kappa Inductees Announced*, HARVARD CRIMSON, Dec. 7, 1987.

*Lashman Brings Political Savvy to Board*, HARVARD CRIMSON, Dec. 1, 1987.

*M. Fencers Foil Upstart Bruins; Women Win Too*, HARVARD CRIMSON, Nov. 25, 1987.

*VES Students Slaughter Birds*, HARVARD CRIMSON, Nov. 6, 1987.

While serving as Secretary of the Asian American Lawyers Association of Massachusetts from April 2000 to April 2002, my duties included compiling articles and content for the organization's newsletter. Although I did not draft the articles contained in the newsletter (except for those that were attributed to me), I may have edited some of the text. Thus, I am providing copies of the following newsletters which I could locate for which I performed this role:

AALAM News, March 2002  
 AALAM News, January 2002  
 AALAM News, November 2001  
 AALAM News, May/June 2001  
 AALAM News, March/April 2001  
 AALAM News, February 2001  
 AALAM News, January 2001



AALAM News, December 2000  
 AALAM News, November 2000  
 AALAM News, October 2000  
 AALAM News, August/September 2000  
 AALAM News, July 2000  
 AALAM News, June 2000

Although it is possible that I wrote other short articles reporting on bar events or activities for bar association newsletters, I do not recall or have copies of any additional articles.

- 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.

To the best of my recollection, I have not prepared or contributed to the preparation of any such reports, memoranda, or policy statements. As a member of the D.C. Bar Board of Governors, I have voted to approve the issuance of the following reports or policy statements prepared by other individuals or entities within the D.C. Bar:

D.C. Bar Report of the Family Law Task Force (2013). Copy supplied.

D.C. Bar Resolution Authorizing the Board of Governors and Bar Officers To Make Public Statements Concerning Funding of District of Columbia Courts (2012) (voted to renew this resolution in 2013). Copy supplied.

D.C. Bar Resolution Authorizing the Board of Governors and Bar Officers To Make Public Statements Concerning Funding of Civil Legal Services as Proposed by the Access to Justice Commission (2012) (voted to renew this resolution in 2013). Copy supplied.

- 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.

None.

- 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 spoken at a number of professional events and law student career events and have listed below all of the events I have identified based on my recollection and my review of available files, but it remains possible that there are other events at which I gave remarks. I am unaware of any transcripts, recordings, or verbatim accounts of my remarks at the listed events. I have searched for and have attached available copies of outlines, draft remarks, talking points, or notes that I used in conjunction with these events, as noted below.

May 23, 2013: Panelist, "Transportation Security Administration Asian American and Pacific Islander Heritage Month Program," Transportation Security Administration, Arlington, Virginia. Notes supplied.

May 21, 2013: Panelist, "AAPI Mentorship Session: Legal Profession and Issues," White House Initiative on Asian Americans and Pacific Islanders, Washington, D.C. Notes supplied.

Feb. 2, 2013: Panelist, "Embracing, Reconciling, and Exploring the Modern Asian Identity," University of Pennsylvania Law School, 12th Annual Asian Pacific American Law Students Association Conference, Philadelphia, Pennsylvania. Outline supplied.

Aug. 20, 2012: Speaker, "White House and DHS Initiatives on Diversity in Federal Employment," National Asian Peace Officers Association and National Asian American Law Enforcement Commanders National Convention, Chicago, Illinois. Draft remarks supplied.

Aug. 8, 2012: Panelist, "A Career Panel on Opportunities in the Federal Workplace," White House Initiative on Asian Americans and Pacific Islanders and the U.S. Department of Housing and Urban Development, Washington, D.C. Talking points supplied.

June 7, 2012: Panelist, "Issues of Importance to Korean Americans," White House Briefing for Korean American Leaders, Washington, D.C. Talking points supplied.

Apr. 11, 2012: Speaker, "For the Public Good: Opportunities in the Federal Government," Cornell Law School, Asian Pacific American Law Students Association and Public Interest Union, Ithaca, New York. Outline supplied.

Nov. 18, 2011: Panelist, "Birthright Citizenship and the 14th Amendment: Facts,

Consequences, and Policy Considerations," National Asian Pacific American Bar Association (NAPABA) National Convention, Atlanta, Georgia. Talking points supplied.

May 16, 2011: Panelist, "Leadership, Diversity, Empowerment, and Beyond," U.S. Citizenship and Immigration Services Asian American and Pacific Islander Heritage Month Celebration, Washington, D.C. Notes supplied.

Oct. 5, 2010: Panelist, "Legal Landscapes: Government Panel," Harvard Law School, Cambridge, Massachusetts. My recollection is that this was a career panel in which I discussed my public sector legal experiences and transitioning between the public and private sectors. I have no notes, transcripts, or recordings. The sponsor of the event was Harvard Law School, Office of Public Interest Advising, 1563 Massachusetts Avenue, Cambridge, MA 02138.

Sept. 2008: Panelist, "Committee Operations Seminar for Members of Parliament," U.S. House of Representatives, Democracy Assistance Commission, Washington, D.C. Notes supplied.

Aug. 13, 2007: Panelist, "Addressing Organizational Conflicts of Interest and the New Wave of Government Oversight," American Bar Association Annual Meeting, Public Contract Law Section, San Francisco, California. Outline submitted for conference materials supplied.

May 1, 2007: Panelist, "Congressional Investigations: The Challenge of Responding Effectively," Fairfax County Chamber of Commerce, Government Contracts Council, McLean, Virginia. Talking points and press coverage supplied.

Feb. 20, 2007: Instructor, "Witness Preparation and Direct Examination," D.C. Bar Continuing Legal Education Program Essential Trial Skills Series, Washington, D.C. This one-evening CLE session consisted of providing instruction and practical advice to attorneys on preparing witnesses for direct examination and conducting direct examination in court. I have no notes, transcripts, or recordings. The event was sponsored by the District of Columbia Bar, 1101 K Street, N.W., Washington, D.C. 20005.

Nov. 11, 2006: Panelist, "White Collar Crime: Corporate Fraud Investigations and Prosecutions," NAPABA National Convention, Philadelphia, Pennsylvania. Outline supplied.

Mar. 18, 2006: Panelist, "Corporate Responsibility after Sarbanes-Oxley," NAPABA Southeast Regional Conference, Washington, D.C. Notes supplied.

Dec. 5, 2003: Presenter, "2003 AALAM Community Service Award to Long Nguyen," Harry H. Dow Memorial Legal Assistance Fund Annual Dinner,



Boston, Massachusetts. My recollection is that this was a brief presentation at which I described the biography and accomplishments of an award recipient. I have no notes, transcripts, or recordings. The event was sponsored by the Harry H. Dow Memorial Legal Assistance Fund, P.O. Box 6204, Boston, Massachusetts 02114.

Sept. 24, 2003: Panelist, "Practicing Law in Massachusetts: Career Paths and Insights," Asian American Lawyers Association of Massachusetts Kickoff Reception, Boston, Massachusetts. My recollection is that this was a career panel for junior attorneys and law students at which I discussed my experiences as an Assistant U.S. Attorney. I have no notes, transcripts, or recordings. The sponsor of the event was the Asian American Lawyers Association of Massachusetts, c/o The Boston Bar Association, 16 Beacon Street, Boston, Massachusetts 02108.

May 3, 2003: Panelist, "New Developments in Anti-Terrorism and the Law," NAPABA Northeast Regional Conference, Hartford, Connecticut. My recollection is that this panel consisted of a discussion of recent legislation and cases relating to anti-terrorism activities. I have no notes, transcripts, or recordings. The sponsor of the event was the National Asian Pacific American Bar Association, 1612 K Street, N.W., Washington, D.C. 20006.

April 30, 2003: President's Remarks at the Asian American Lawyers Association of Massachusetts (AALAM) Anniversary Banquet, Boston, Massachusetts. My recollection is that I provided a summary of AALAM's activities over the past year. I have no notes, transcripts, or recordings. The sponsor of the event was the Asian American Lawyers Association of Massachusetts, c/o The Boston Bar Association, 16 Beacon Street, Boston, Massachusetts 02108.

Dec. 12, 2002: Moderator, "The Federal Bench" (Panel of Federal Judges Advising on Criminal Law Practice), Boston Bar Association, Criminal Law Section, Annual Bench/Bar Conference, Boston, Massachusetts. Notes supplied.

Dec. 6, 2002: Presenter, "2002 AALAM Community Service Award to Paul W. Lee," Harry H. Dow Memorial Legal Assistance Fund Annual Dinner, Boston, Massachusetts. My recollection is that this was a brief presentation at which I described the biography and accomplishments of an award recipient. I have no notes, transcripts, or recordings, but press coverage is supplied. The event was sponsored by the Harry H. Dow Memorial Legal Assistance Fund, P.O. Box 6204, Boston, Massachusetts 02114.

Oct. 2, 2002: Remarks on behalf of the Asian American Lawyers Association of Massachusetts (AALAM), Joint Minority Bar Reception, Boston, Massachusetts. My recollection is that I described AALAM, its upcoming programs and initiatives, and my personal experiences as an attorney and law student. I have no notes, transcripts, or recordings. The event was co-sponsored by the Asian American Lawyers Association of Massachusetts, the Massachusetts Black

Lawyers Association, the Massachusetts Black Women Attorneys, and the Massachusetts Association of Hispanic Attorneys, c/o The Boston Bar Association, 16 Beacon Street, Boston, Massachusetts 02108.

Sept. 19, 2002: Introductory Remarks at Asian American Lawyers Association of Massachusetts (AALAM) General Meeting, Boston, Massachusetts. My recollection is that this was a brief description of AALAM and its recent activities. I have no notes, transcripts, or recordings. The sponsor of the event was the Asian American Lawyers Association of Massachusetts, c/o The Boston Bar Association, 16 Beacon Street, Boston, Massachusetts 02108.

July 24, 2002: Welcoming Remarks at Asian American Lawyers Association of Massachusetts (AALAM) Summer Intern Lunch, Boston, Massachusetts. My recollection is that this was a brief description of AALAM and the benefits of practicing in Boston. I have no notes, transcripts, or recordings. The sponsor of the event was the Asian American Lawyers Association of Massachusetts, c/o The Boston Bar Association, 16 Beacon Street, Boston, Massachusetts 02108.

2002 (approximate date): Panelist, "Office of Public Interest Advising Career Panel," Harvard Law School, Cambridge, Massachusetts. My recollection is that this was a career panel in which I discussed my experiences as an Assistant U.S. Attorney. I have no notes, transcripts, or recordings. The sponsor of the event was Harvard Law School, Office of Public Interest Advising, 1563 Massachusetts Avenue, Cambridge, MA 02138.

Nov. 14, 2001: Moderator, "The Federal Bench" (Panel of Federal Judges Advising on Criminal Law Practice), Boston Bar Association, Criminal Law Section, Annual Bench/Bar Conference, Boston, Massachusetts. Notes 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.

*Our Voices, Our Story*, Congressional Black Caucus Foundation Annual Report (2009). Copy supplied.

Press Release, Asian Pac. Am. Legal Res. Ctr., Asian Pacific American Legal Resource Center Names Myron Dean Quon Executive Director (Apr. 28, 2008). Copy supplied.

*Two Affiliated Bars Gain Seats on House of Delegates*, LAW.J., May 2003. Copy supplied.

*AALAM Director Named to Mass. Judicial Nominating Commission*, AALAM NEWS, Mar. 2003. Copy supplied.



*After Controversy, Mass. Bar Opens Itself to Changes*, BOSTON BUSINESS JOURNAL, Aug. 12, 2002. Copy supplied.

*Lawyer Ditches Hajji Sebagala*, NEW VISION, July 12, 1999. Copy supplied.

*Sebagala to Refund US Bank*, NEW VISION, Dec. 8, 1998. Copy supplied.

*U.S. Jury Finds Kampala Mayor Guilty of Fraud*, REUTERS NEWS, Dec. 4, 1998. Copy supplied.

*Fraud Trial of Ugandan Mayor Opens in US*, AGENCE FRANCE PRESSE, Nov. 3, 1998. Copy supplied.

*Sebagala's Appeal Stalls*, NEW VISION, Aug. 19, 1998. Copy supplied.

*Record Numbers Run for Council*, HARVARD CRIMSON, Oct. 8, 1987. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? \_\_\_\_\_

- i. Of these, approximately what percent were:

jury trials:	_____ %
bench trials:	_____ % [total 100%]
civil proceedings:	_____ %
criminal proceedings:	_____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that

were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

**15. 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.

Town Meeting Member, Lexington Town Meeting, Lexington, MA: Elected March 1989 and re-elected March 1992 (served 1989 – 1994). I served as one of 189 elected members of the town's non-partisan legislative body charged with appropriating funds for operating and capital budgets, approving general and zoning by-laws, and approving town by-laws and other town government matters.

I have not had unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- 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.

Executive Committee (Vice President), Montgomery County District 16 Democratic Club, Montgomery County, Maryland (2009). I helped plan membership events with elected officials and other speakers.

Board of Directors, Coalition of Asian Pacific American Democrats of Maryland (2009). I helped plan events at which elected officials and Asian American community leaders discussed issues of interest to the Asian American community.

Precinct Chair, Montgomery County Democratic Party, Montgomery County, Maryland (2008). I organized volunteers to staff a polling place information table on Election Day.

Volunteer, Obama for America Presidential Campaign (2008). I served on the Steering Committee of the Maryland Asian Pacific Americans for Obama, helping plan Asian American outreach efforts; on the organizing committee for a National Asian Pacific American Fundraiser, attending planning meetings and inviting personal contacts to attend the event; and as a field volunteer, conducting polling place legal monitoring, canvassing, phonebanking, and voter registration.

Host Committee, Ben Cardin for Senate Fundraiser, Potomac, Maryland (2006). I invited personal contacts to attend a fundraising event.



Delegate, Massachusetts Democratic State Convention (2002). I served as a delegate to the Massachusetts Democratic State Convention.

16. **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;

From August 1994 to August 1995, I served as a law clerk to Judge Dorothy W. Nelson, Circuit Judge of the United States Court of the Appeals for the Ninth Circuit.

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

I have not 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.

May – July 1994  
United States Department of Justice  
Office of the Solicitor General  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Law Intern

July – August 1994  
United States Department of State  
Office of the Legal Adviser  
2201 C Street, N.W.  
Washington, D.C. 20520  
Law Intern

1994 – 1995  
United States Court of Appeals for the Ninth Circuit  
Chambers of Judge Dorothy W. Nelson  
125 South Grand Avenue, Suite 303  
Pasadena, CA 91105  
Law Clerk to Judge Dorothy W. Nelson

1995 – 1998  
 United States Department of Justice  
 Civil Rights Division  
 950 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20530  
 Trial Attorney, Housing and Civil Enforcement Section

1998 – 2004  
 United States Attorney's Office for the District of Massachusetts  
 One Courthouse Way, Suite 9200  
 Boston, MA 02210  
 Assistant United States Attorney, Criminal Division

2004 – 2007  
 Wilmer Cutler Pickering Hale and Dorr LLP  
 1875 Pennsylvania Avenue, N.W.  
 Washington, D.C. 20006  
 Counsel

2007 – 2009  
 House Committee on Oversight and Government Reform  
 2471 Rayburn House Office Building  
 Washington, D.C. 20515  
 Deputy Chief Investigative Counsel

2009  
 House Committee on Energy and Commerce  
 2322A Rayburn House Office Building  
 Washington, D.C. 20515  
 Chief Investigative Counsel

2009 – present  
 United States Department of Homeland Security  
 Office of the General Counsel  
 Washington, D.C. 20528  
 Associate General Counsel (2009 – 2011)  
 Deputy General Counsel (2011 – present)  
 Counselor on detail to United States Department of State (2013 – present)

- 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 not served as a professional mediator or arbitrator. As a law student, I participated in the Harvard Mediation Program, through which I served as a co-mediator on a few cases arising in Massachusetts state

courts. I do not have records or a recollection of the specific matters mediated.

b. Describe:

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

From 1995 to 1998, when I served as a trial attorney at the United States Department of Justice, Civil Rights Division, I represented the United States as a plaintiff in civil litigation to enforce federal civil rights laws, particularly those relating to fair housing, access to public accommodations, fair lending, and housing rights for persons with disabilities. My activities included conducting investigations, conducting written discovery and depositions, drafting summary judgment motions, and drafting and negotiating consent decrees to settle cases for injunctive relief, damages, and civil penalties.

From 1998 to 2004, when I served as an Assistant United States Attorney at the United States Attorney's Office for the District of Massachusetts, I represented the United States as a federal prosecutor and conducted all phases of criminal prosecution, including grand jury investigations, motion practice, evidentiary hearings, jury trials, plea hearings, sentencing proceedings, and appeals in cases relating to violent crime, financial fraud, immigration crimes, and other federal offenses. My appellate activities included representing the United States in nine appeals (seven as appellee, two as appellant) before the United States Court of Appeals for the First Circuit by drafting the briefs and delivering oral argument in all five of those cases in which the court heard argument.

From 2004 to 2007, when I was a counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, I was engaged in private litigation practice as a defense attorney representing individuals and corporations from the securities, financial, communications, and energy sectors in criminal and civil enforcement investigations and litigation, at both the trial and appellate levels. In criminal cases, I represented companies under grand jury investigation by overseeing teams of attorneys engaged in responding to subpoenas and requests for documents, preparing witnesses, and negotiating resolutions to cases prior to indictment. I also represented defendants in indicted criminal cases, including preparing witnesses, drafting briefs on pre-trial motions, and drafting appellate briefs. In civil cases, I oversaw teams of attorneys engaged in responding to document requests, prepared witnesses for and defended depositions or on-the-record testimony in civil enforcement actions, and negotiated discovery issues and settlement with opposing counsel. In both civil and criminal cases, I



conducted internal investigations to assess potential criminal and civil exposure and to obtain facts to support negotiations to resolve the cases.

From 2007 to 2009, when I served as Deputy Chief Investigative Counsel for the House Committee on Oversight and Government Reform and as Chief Investigative Counsel for the House Committee on Energy and Commerce, I supervised and conducted congressional oversight investigations of federal government agencies and corporations in the national security, financial, and health sectors. Although not formal litigation, the investigations were similar to litigation in that they employed litigation tools, such as document requests, interrogatories, and depositions and often culminated in a formal congressional hearing including witness testimony.

Since I became Associate General Counsel and later Deputy General Counsel at the United States Department of Homeland Security, the majority of my responsibilities have consisted of providing legal advice in a counseling capacity relating to administrative law, labor and employment law, government contracts law, fiscal and appropriations law, intelligence and national security law, and criminal procedure. I have also supervised administrative litigation and overseen federal court litigation conducted by the Department of Justice on behalf of DHS relating to labor and employment law, the Federal Tort Claims Act, government contracts, and certain national security and law enforcement matters. I have also served on a temporary detail to the United States Department of State to provide legal advice and support on congressional investigations and significant litigation.

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

When I served as a trial attorney at the United States Department of Justice, Civil Rights Division, I represented the United States as a plaintiff in civil litigation. My areas of specialization were federal civil litigation and federal civil rights law.

As an Assistant United States Attorney at the United States Attorney's Office for the District of Massachusetts, I represented the United States in criminal prosecutions. My area of specialization was federal criminal law and procedure at the trial and appellate levels.

As a counsel at the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, I was engaged in private litigation practice representing individuals and corporations from the securities, financial, communications, and energy sectors in criminal and civil enforcement investigations and litigation. My areas of specialization included criminal defense,



government investigations, and federal civil litigation at the trial and appellate levels.

As the Deputy Chief Investigative Counsel for the House Committee on Oversight and Government Reform and as Chief Investigative Counsel for the House Committee on Energy and Commerce, I represented congressional committees in the conduct of congressional oversight investigations of federal government agencies and corporations in the national security, financial, and health sectors. My area of specialization was congressional investigations practice.

As Deputy General Counsel and Associate General Counsel at the United States Department of Homeland Security, I have represented the United States Department of Homeland Security and the United States Department of State (on detail) as in-house counsel. My areas of specialization have included administrative law, labor and employment law, government contracts law, fiscal and appropriations law, intelligence and national security law, criminal procedure, and federal court and administrative litigation.

- 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.

Throughout most of my career, I have engaged in litigation, either directly or by supervising or overseeing other counsel. When I was a trial attorney at the United States Department of Justice, Civil Rights Division from 1995 to 1998, my practice was 100% litigation, and I appeared in court occasionally. When I was an Assistant United States Attorney from 1998 to 2004, my practice was 100% litigation, and I appeared in court frequently. When I was in private practice from 2004 to 2007, my practice was 100% litigation, and I appeared in court occasionally.

When I was counsel to congressional committees from 2007 to 2009, my practice was not formal litigation, but consisted of the conduct of investigations similar to litigation in that they required the use of litigation tools such as document requests, interrogatories, and depositions and often culminated in a formal congressional hearing including witness testimony.

At the United States Department of Homeland Security since 2009, approximately 20% of my practice has been supervision or oversight of litigation. I have not appeared in court but have supervised and overseen the work of attorneys who did appear in court. I have estimated the percentages of my practice below based on my entire career in litigation.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 90%
  - 2. state courts of record: 1%
  - 3. other courts: 0%
  - 4. administrative agencies: 9%
- ii. Indicate the percentage of your practice in:
  - 1. civil proceedings: 35%
  - 2. criminal proceedings: 65%
- 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 have tried eight cases to verdict before the United States District Court, which included a total of approximately 95 jury trial days. Of these trials, I was the sole counsel for two trials and chief counsel for two trials. In all of the trials I conducted with other counsel, whether as chief counsel or not, I delivered either the opening statement or closing argument and had responsibility for an approximately equal share of witness examination and other trial activities. I also have tried one case to verdict before a state district court. I was a student prosecutor authorized to represent the state and was the sole counsel, but as required by rule was accompanied by an Assistant District Attorney advisor. All of the eight United States district court trials were criminal jury trials. The one state district court trial was a criminal non-jury trial.

- i. What percentage of these trials were:
  - 1. jury: 89 %
  - 2. non-jury: 11 %
- 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 not practiced before the Supreme Court of the United States.

17. **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. *United States v. Merlino et al.*, Crim. No. 99-10098-RGS (D. Mass. Mar. 24, 1999); 204 F. Supp. 2d 83 (D. Mass. 2002); 592 F.3d 22 (1st Cir. 2010).

In this case, four defendants were charged in a six-count indictment with attempted Hobbs Act robbery, conspiracy, use of an explosive and firearms in relation to a crime of violence, and felon-in-possession of an explosive and firearms, arising from a scheme to rob an armored car facility of over \$50 million in cash through the use of firearms, an assault rifle, and a hand grenade. I represented the United States and was the lead prosecutor for the trial and shared trial responsibilities with my co-counsel. During a 16-day jury trial, I examined or cross-examined approximately half of the witnesses, including the main cooperating witness whose testimony spanned all or part of seven trial days and included the introduction of substantial evidence from tape recordings. I also delivered the closing argument and shared responsibility for all other aspects of the trial, including jury selection and briefing and argument on motions. After trial, all four defendants were convicted on all counts and received sentences of 51, 47, 38, and 13 years' imprisonment. I did not participate in the appeal cited above, which upheld the original conviction.

Date of Representation:	Trial: September 24, 2001 – October 24, 2001
Court:	U.S. District Court, District of Massachusetts
Judge:	Hon. Richard G. Stearns
Co-Counsel:	Hon. James F. Lang (former Assistant U.S. Attorney) Associate Justice Massachusetts Superior Court Three Pemberton Square, 13th Floor Boston, MA 02108 (617) 788-8130 (978) 242-1931
Opposing Counsel:	Martin D. Boudreau, Esq. (defendant C. Merlino) (deceased)



Robert M. Goldstein, Esq. (defendant Turner)  
 The Goldstein Law Firm  
 20 Park Plaza, Suite 1000  
 Boston, MA 02116  
 (617) 742-9015

William J. Cintolo, Esq. (defendant Rossetti)  
 Cosgrove, Eisenberg & Kiley, P.C.  
 One International Place, Suite 1820  
 Boston, MA 02110-2600  
 (617) 439-7775

E. Peter Parker, Esq. (defendant W. Merlino)  
 151 Merrimac Street  
 Boston, MA 02114  
 (617) 742-9099

2. *United States v. Sebagala*, Crim. No. 98-10186-RCL (D. Mass Sept. 30, 1998); 256 F.3d 59 (1st Cir. 2001).

In this case, the defendant was the mayor of the capital city of Uganda and was charged in a ten-count indictment with bank fraud, transportation of altered securities, and making false statements to the United States government arising out of a scheme to fraudulently alter checks and traveler's checks originating in Africa and present them to a bank in the United States. The evidence at trial revealed that some of the proceeds of the crime were used to fund the defendant's political campaign. I was the sole prosecutor on the case from the original criminal complaint through indictment, trial, and appeal. During a 20-day jury trial, I handled all trial responsibilities on behalf of the United States, including jury selection, opening statement, examination and cross-examination of all witnesses, including two expert witnesses and several foreign witnesses, briefing and arguing all motions, and closing argument. After trial, the defendant was convicted on all counts and sentenced to 15 months' imprisonment. I also briefed and argued the appeal before the United States Court of Appeals for the First Circuit, which affirmed the conviction.

Date of Representation:	Trial: November 2, 1998 – December 4, 1998
Courts:	U.S. District Court, District of Massachusetts U.S. Court of Appeals for the First Circuit
District Judge:	Hon. Reginald C. Lindsay
Opposing Counsel:	Paul V. Kelly, Esq. Jackson Lewis, LLP 75 Park Plaza, Fourth Floor

Boston, MA 02116  
(617) 367-0025

3. *United States v. Donnelly, Bailey et al.*, Crim. No. 00-10431-RCL, 405 F.3d 102 (1st Cir. 2005).

In this case, seven Suffolk County jail officers were charged in a 15-count indictment with deprivation of constitutional rights, conspiracy, perjury, and obstruction of justice arising out of a series of beatings of detainees at the Nashua Street Jail in Boston. I served as a member of a three-attorney trial team and prepared for a trial of all seven defendants. Immediately prior to trial, three defendants (Donnelly, Nuzzo, Massucco) pleaded guilty to all charges. At the 18-day trial of three remaining defendants, I delivered the opening statement, examined or cross-examined approximately one-third of the witnesses, including a defendant and one of the main cooperating witnesses, and shared equally in all other aspects of the trial, including jury selection and briefing and arguing of motions. Defendant Bailey was convicted and sentenced to 41 months' imprisonment; the other two defendants (Bethune, Benson) were acquitted.

Dates of Representation: Trial: March 3 – 31, 2003

Court: U.S. District Court, District of Massachusetts

Judge: Hon. Reginald C. Lindsay

Co-Counsel: Ted Merritt  
Assistant U.S. Attorney, District of Massachusetts  
U.S. Attorney's Office  
One Courthouse Way  
Boston, MA 02210  
(617) 748-3100

Lisa Krigsten, Esq.  
(former U.S. Department of Justice trial attorney)  
Dentons US LLP  
4520 Main Street, Suite 1100  
Kansas City, MO 64111  
(816) 460-2554

Opposing Counsel: Evan Slavitt, Esq. (defendant Bailey)  
AVX Corporation  
One Avx Blvd  
Fountain Inn, SC 29644  
(864) 967-2150

Douglas I. Louison, Esq. (defendant Benson)  
 Louison, Costello, Condon & Pfaff, LLP  
 101 Summer Street, Fourth Floor  
 Boston, MA 02110  
 (617) 439-0305

Stephen C. Pfaff, Esq. (defendant Bethune)  
 Louison, Costello, Condon & Pfaff, LLP  
 101 Summer Street, Fourth Floor  
 Boston, MA 02110  
 (617) 439-0305

4. *United States v. Sutherland*, Crim. No. 00-10431-GAO (D. Mass. May 15, 2001).

This case consisted of an eight-day jury trial of defendant Sutherland, a Suffolk County jail officer, who was originally charged along with the Donnelly/Bailey defendants with deprivation of constitutional rights, conspiracy, and obstruction of justice, but had his case severed from that of the other defendants. I was one of two prosecutors representing the United States. I examined approximately half of the witnesses, delivered the closing argument, and shared equally in all other aspects of the trial, including jury selection and briefing and arguing of motions. The defendant was convicted of one count of obstruction of justice and was acquitted of the remaining counts. He was sentenced to ten months' imprisonment.

Dates of Representation:	Trial: October 14 – 28, 2003
Court:	U.S. District Court, District of Massachusetts
Judge:	Hon. George A. O'Toole, Jr.
Co-Counsel:	Ted Merritt Assistant U.S. Attorney U.S. Attorney's Office, District of Massachusetts One Courthouse Way Boston, MA 02210 (617) 748-3100
Opposing Counsel:	J.W. Carney, Jr., Esq. Carney & Bassil 20 Park Plaza, Suite 1405 Boston, MA 02116 (617) 963-0534

5. *United States v. Ziskind*, Crim. No. 02-10016-DPW (D. Mass. Jan. 16, 2002), 367 F.Supp.2d 4 (D. Mass. 2005), 491 F.3d 10 (1st Cir. 2007).

In this case, the defendant was charged in a three-count indictment with theft of interstate shipments and conspiracy arising from a scheme in which an organized crime figure recruited a group of UPS truck drivers to steal packages containing semiconductors, memory chips, and other computer-related products and provide them to the defendant for resale through his electronics business. I joined the case prior to trial and was one of two prosecutors representing the United States. During the nine-day trial, I examined approximately half of the witnesses, including an immunized witness, delivered the closing argument, and shared equally in all other aspects of the trial, including jury selection and briefing and arguing motions. The defendant was convicted on all counts and sentenced to 63 months' imprisonment. I did not participate in the post-trial motion or appeal cited above, the latter of which affirmed the conviction.

Date of Representation:	Trial: January 27 – February 12, 2003
Court:	U.S. District Court, District of Massachusetts
Judge:	Hon. Douglas P. Woodlock
Co-Counsel:	Fred M. Wyshak, Jr. Assistant U.S. Attorney U.S. Attorney's Office, District of Massachusetts One Courthouse Way Boston, MA 02210 (617) 748-3100
Opposing Counsel:	William J. Cintolo, Esq. Cosgrove, Eisenberg & Kiley, P.C. One International Place, Suite 1820 Boston, MA 02110-2600 (617) 439-7775

6. *United States v. Simons et al.*, Crim. No. 97-10334-GAO (D. Mass. 1997); 225 F.3d 54 (1st Cir. 2000).

In this case, seven defendants were charged in a 33-count indictment with interstate transportation of stolen property, conspiracy, structuring of financial transactions, money laundering, making false statements to the U.S. government, and criminal forfeiture arising out of scheme to steal approximately \$17 million worth of Microsoft Office software discs and other computer software and data storage devices from a distributor's warehouse and re-sell them through a separate business. Prior to trial, five of the defendants pleaded guilty. During a two-week jury trial of the two remaining defendants, I was one of two prosecutors.



representing the United States. I delivered the opening statement, examined approximately half of the witnesses, and shared equally in all other aspects of the trial, including jury selection and briefing and arguing of motions. Defendant M. Simons was convicted on all seven counts in which she was charged and sentenced to 33 months' imprisonment. Defendant Coviello was convicted on the single count in which he was charged and was sentenced to 30 months' imprisonment. I did not participate in the appeal cited above, which affirmed the conviction.

Dates of Representation:	Trial: March 1 – 19, 1999
Court:	U.S. District Court, District of Massachusetts
Judge:	Hon. George A. O'Toole, Jr.
Co-Counsel:	Ben T. Clements, Esq. (former Assistant U.S. Attorney) Clements & Pineault, LLP 24 Federal Street, Third Floor Boston, MA 02110 (857) 445-0133
Opposing Counsel:	Robert L. Shekatoff, Esq. (defendant M. Simons) One McKinley Square Boston, MA 02109 (617) 367-3449  Robert D. Lewin, Esq. (defendant Coviello) One Salem Street Malden, MA 02148 (781) 322-2228

7. *United States v. Hughes*, Crim. No. 99-10405-REK (D. Mass. Dec. 8, 1999); 95 F. Supp. 2d 49 (D. Mass. 2000); 131 F. Supp. 2d 64 (D. Mass. 2001); 279 F.3d 86 (1st Cir. 2002).

In this case, the defendant was charged in a six-count indictment with making false statements in connection with the purchase of firearms and illegal possession of firearms by a drug user or addict arising from the purchase of a total of 11 firearms over the course of three visits to a gun dealer. I represented the United States in all phases of this prosecution, including a suppression hearing that led to the suppression of evidence and a subsequent interlocutory appeal to the United States Court of Appeals for the First Circuit, which I briefed and argued, that resulted in the reversal of the suppression ruling. During an eight-day jury trial, I was the lead prosecutor and shared trial responsibilities with another Assistant U.S. Attorney. I examined approximately half of the witnesses, including an

expert witness, delivered the closing argument and rebuttal argument, and shared equally in all other aspects of the trial, including jury selection and briefing and arguing of motions. The defendant was convicted on all counts and sentenced to 18 months' imprisonment.

Dates of Representation:	Indictment: December 8, 1999 Trial: June 17 – 26, 2002
Courts:	U.S. District Court, District of Massachusetts U.S. Court of Appeals for the First Circuit
District Judge:	Hon. Robert E. Keeton
Co-Counsel:	Hon. Denise Jefferson Casper (former Assistant U.S. Attorney) United States District Judge U.S. District Court Moakley United States Courthouse One Courthouse Way Boston, MA 02210 (617) 748-4829
Opposing Counsel:	Miriam Conrad, Esq. Federal Public Defender 51 Sleeper Street, Fifth Floor Boston, MA 02210 (617) 223-8061

8. *United States v. Freeman*, Crim. No. 00-10020-RWZ (D. Mass. Jan. 19, 2000).

In this case, the defendant was charged with illegal possession of a firearm by a convicted felon arising from a police chase of the defendant at an apartment complex. I represented the United States in all phases of this prosecution from indictment to sentencing. During the three-day jury trial, I conducted jury selection, delivered the opening statement and closing argument, and examined all of the witnesses. The defendant was convicted and sentenced to a mandatory minimum of 180 months' imprisonment as an Armed Career Criminal. Subsequently, the defendant arranged for one of his predicate state convictions to be vacated and filed a petition under 28 U.S.C. 2255 to vacate the sentence, resulting in the re-sentencing of the defendant.

Dates of Representation:	Indictment: January 19, 2000 Trial: July 17 – 19, 2000 2255 Proceeding: Dec. 2002 – Jan. 2003
Court:	U.S. District Court, District of Massachusetts

Judge: Hon. Rya W. Zobel

Opposing Counsel: James Dilday, Esq.  
The Law Offices of James S. Dilday, P.C.  
27 School Street, Suite 400  
Boston, MA 02108  
(617) 227-3470

9. *United States v. Bashorun and Junaid*, Crim. No. 97-10318- NG (D. Mass. Dec. 3, 1997); 225 F.3d 9 (1st Cir. 2000).

In this case, two defendants were charged in an 11-count indictment with possession of heroin with intent to distribute, conspiracy, use of a communications facility to facilitate a controlled substance offense, and immigration fraud arising from a scheme to import heroin from Thailand by Express Mail. I joined the case in April 1998 as co-counsel to represent the United States in a six-day evidentiary hearing on a motion to suppress evidence and participated in the drafting of the post-hearing pleadings. After the motion was denied, I prepared the case for trial by preparing to examine approximately half of the witnesses, including an expert witness, and drafting pre-trial motions and submissions. Shortly before trial, the defendants pleaded guilty but reserved their rights to appeal the district court's denial of the motion to suppress. The defendants were sentenced to 63 months' imprisonment (defendant Bashorun) and 12 months' probation (defendant Junaid). On appeal, I served as counsel of record for both appeals (one filed by each defendant), drafted the government's briefs, and delivered oral argument in the one appeal in which the court heard argument. The U.S. Court of Appeals affirmed in both appeals.

Dates of Representation: March 1998 – September 2000

Courts: U.S. District Court, District of Massachusetts  
U.S. Court of Appeals for the First Circuit

District Judge: Hon. Nancy Gertner

Co-Counsel: Michael Ricciuti, Esq.  
K&L Gates  
State Street Financial Center  
One Lincoln Street  
Boston, MA 02111  
(617) 951-9094

Opposing Counsel: Hon. Peter B. Krupp (defendant Bashorun)  
Associate Justice  
Massachusetts Superior Court



Three Pemberton Square, 13th Floor  
 Boston, MA 02108  
 (617) 788-8130

Karnig Boyajian, Esq. (defendant Junaid)  
 One Gateway Center, Suite 315  
 Newton, MA 02458  
 (617) 332-2222

10. *United States v. Moore*, Crim. No. 98-10140-GAO (D. Mass. Apr. 29, 1998); 235 F.3d 700 (1st Cir. 2000); 286 F.3d 47 (1st Cir. 2002).

In this case, the defendant was charged in a one-count indictment with illegal possession of ammunition by a convicted felon. I represented the United States as sole counsel for all proceedings from indictment through appeal. During an evidentiary hearing on July 20, 1999, I examined all witnesses and presented oral argument. After the district court granted the motion to suppress, the government filed an interlocutory appeal to the United States Court of Appeals for the First Circuit. I briefed and argued the appeal, which resulted in the reversal of the district court's suppression ruling. The defendant then pleaded guilty, and I represented the United States at the plea hearing and sentencing hearing, at which the defendant was sentenced to a mandatory minimum 180 months' imprisonment as an Armed Career Criminal. On a subsequent appeal to the First Circuit related to sentencing, I was counsel of record for the United States and briefed the appeal. The United States Court of Appeals affirmed the sentence.

Dates of Representation: April 29, 1998 – March 18, 2002

Courts: U.S. District Court, District of Massachusetts  
 U.S. Court of Appeals for the First Circuit

District Judge: Hon. George A. O'Toole, Jr.

Opposing Counsel: E. Peter Parker, Esq.  
 151 Merrimac Street  
 Boston, MA 02114  
 (617) 742-9099

18. **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.)

Beyond the trial and litigation activities described above in response to questions 16 and 17, I have engaged in the following significant legal activities that did not consist of direct representation in litigation:

From 2007 to 2009, during my service as Chief Investigative Counsel of the House Committee on Energy and Commerce and Deputy Chief Investigative Counsel of the House Committee on Oversight and Government Reform, I supervised and conducted congressional oversight investigations of federal government agencies and corporations in the national security, financial, and health sectors. Although not formal litigation, the investigations were similar to litigation in that they employed litigation tools such as document requests, interrogatories, and depositions and often culminated in a formal congressional hearing including witness testimony and examination of witnesses by members of Congress. For such hearings, I briefed the Chairman and other members of the Committee on the results of the investigation and prepared proposed questions to be asked of the witnesses. As Chief Investigative Counsel, I had supervisory responsibility over a team of approximately 12 to 15 attorneys and investigators.

Since 2009, as Deputy General Counsel and Associate General Counsel at the United States Department of Homeland Security, I have provided, and supervised the provision of, legal advice in a counseling capacity to senior DHS officials on issues relating to administrative law, labor and employment law, government contracts law, fiscal and appropriations law, intelligence and national security law, and criminal procedure. The counseling related to issues such as counterterrorism, border security, immigration enforcement and administration, cybersecurity, and national disaster responses to events such as the BP/Deepwater Horizon oil spill. In these roles, I also oversaw litigation matters relating to employment law, government contracts, the Federal Tort Claims Act, and certain criminal procedure matters. As part of my litigation responsibilities, I served as the DHS lead on the federal government team supporting the BP/Deepwater Horizon litigation. As Associate General Counsel, I had supervisory responsibility over a team of 30 to 35 attorneys, including five supervisors who reported directly to me. As Deputy General Counsel, I had supervisory responsibility over the chief counsel of four Divisions and Components comprising a combined total of approximately 275 attorneys.

I have not registered as a lobbyist and have not performed lobbying activities during the course of my career.

19. **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.

None.

20. **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.

None.

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

No.

22. **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).

See attached Financial Disclosure Report.

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

See attached Statement of Net Worth.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements 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.

If confirmed, I would recuse in any litigation in which I had played a role. In particular, a case involving the United States Department of Homeland Security as a party might present a conflict of interest. I would examine whether the case arises from facts with which I had personal or supervisory involvement, or whether participation would violate relevant ethics and professional responsibility rules, and would recuse in such instances. Although I do not foresee any other likely conflicts of interest, I would also examine every case for any conflict or appearance of conflict arising out of any personal relationships.

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



I would follow 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other applicable ethics, rules, or statutes, to determine whether I should be recused.

25. **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 workload, 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.

Since 2005 and continuing to the present, I have served on the Board of Directors of the Asian Pacific American Legal Resource Center (APALRC), a non-profit legal services organization that serves low-income, limited English proficient Asian Americans and immigrants in Maryland, Washington, D.C., and Virginia. The APALRC provides legal representation and referral services in cases involving domestic violence, family law, immigration law, employment law, and a variety of other areas. As a member of the Board of Directors, I help to oversee the management, programs, and finances of the organization. For two years, from 2007 to 2009, I served as Chair of the Board of Directors. In addition to the duties of a Director, I was the principal point of contact for the Executive Director and led a search for a new Executive Director when a vacancy arose, set the agenda for and chaired all Board meetings, set the agenda for and chaired Executive Committee meetings, and represented the organization at various internal and external events and meetings.

From approximately 2002 to 2003, as President of the Asian American Lawyers Association of Massachusetts (AALAM), I oversaw and promoted a project of the organization's Community Service Committee to provide a *pro bono* legal workshop in Boston's Chinatown at which AALAM attorneys provided general information about immigration law, employment law, and other areas of law that may affect the lives of area residents.

From 2002 to 2003, I served on the Board of Directors of Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association (now the Lawyers' Committee for Civil Rights and Economic Justice), a nonprofit, nonpartisan legal organization that provides *pro bono* legal representation to victims of discrimination based on race or national origin.

From 1999 to 2001, I served on the Board of Trustees of the Massachusetts Law Reform Institute, a non-profit legal services organization whose mission is to advance economic, racial and social justice in Massachusetts through legal action, education and advocacy.

From approximately 1996 to 1997, I served as the Pro Bono Committee Chair of the Asian Pacific American Bar Association of the Greater Washington, D.C. Area (APABA). In that role, I led efforts to study means by which APABA could host a program through which its members could engage in *pro bono* activities.



26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On or about March 8, 2013, in response to a public notice soliciting applications for the position of United States District Judge for the District of Maryland, I submitted an application to the Office of Senator Barbara A. Mikulski. On March 18, 2013, I was interviewed in Baltimore, Maryland by a Review Committee of Maryland attorneys established by Senator Mikulski and Senator Ben Cardin, which then recommended me to the Senators. On May 6, 2013, I was interviewed in Washington, D.C. by Senator Mikulski and Senator Cardin. On June 10, 2013, Senator Mikulski informed me that she was recommending me to the President for nomination. Since June 11, 2013, I have been in contact with officials from the Office of Legal Policy at the United States Department of Justice. On July 17, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 25, 2013, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

<b>AO 10</b> Rev. 1/2013		<b>FINANCIAL DISCLOSURE REPORT</b> <b>NOMINATION FILING</b>		<i>Report Required by the Ethics          in Government Act of 1978          (5 U.S.C. app. §§ 101-111)</i>	
<b>1. Person Reporting (last name, first, middle initial)</b> Chuang, Theodore D.		<b>2. Court or Organization</b> United States District Court, District of Maryland		<b>3. Date of Report</b> 09/25/2013	
<b>4. Title (Article III judges indicate active or senior status;          magistrate judges indicate full- or part-time)</b> United States District Judge		<b>5a. Report Type (check appropriate type)</b> <input checked="" type="checkbox"/> Nomination      Date 09/25/2013 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final <b>5b.</b> <input type="checkbox"/> Amended Report		<b>6. Reporting Period</b> 01/01/2012 to 08/31/2013	
<b>7. Chambers or Office Address</b> United States District Court, District of Maryland 6500 Cherrywood Lane Greenbelt, MD 20770					
<b>IMPORTANT NOTES:</b> The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.					

**I. POSITIONS.** (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Board of Governors	District of Columbia Bar
2.	Board of Directors	Asian Pacific American Legal Resource Center
3.		
4.		
5.		

**II. AGREEMENTS.** (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ NONE (No reportable agreements.)

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Chuang, Theodore D.	09/25/2013

**III. NON-INVESTMENT INCOME.** *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)*
**A. Filer's Non-Investment Income**
☒ NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.		
2.		
3.		
4.		

**B. Spouse's Non-Investment Income** *- If you were married during any portion of the reporting year, complete this section.  
(Dollar amounts not required except for honoraria.)*
☐ NONE *(No reportable non-investment income.)*

DATE	SOURCE AND TYPE
1. 2012	Asian American Justice Center - salary
2. 2013	Asian American Justice Center - salary
3.	
4.	

**IV. REIMBURSEMENTS** *- transportation, lodging, food, entertainment.  
(Includes those to spouse and dependent children, see pp. 25-27 of filing instructions.)*
☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

**FINANCIAL DISCLOSURE REPORT**  
 Page 3 of 9

Name of Person Reporting	Date of Report
Chuang, Theodore D.	09/25/2013

**V. GIFTS.** (Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)

☐ NONE (No reportable gifts.)

	SOURCE	DESCRIPTION	VALUE
1.	Exempt		
2.			
3.			
4.			
5.			

**VI. LIABILITIES.** (Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)

☐ NONE (No reportable liabilities.)

	CREDITOR	DESCRIPTION	VALUE CODE
1.	CitiMortgage	Mortgage on rental property, Brookline, MA	M
2.			
3.			
4.			
5.			

## FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting	Date of Report
Chuang, Theodore D.	09/25/2013

## VII. INVESTMENTS and TRUSTS – Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-49 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code I (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
1. Rental Property, Brookline, MA	E	Rent	N	W	Exempt				
2. Citibank Cash Accounts	A	Interest	M	T	Exempt				
3. Emigrant Direct Cash Account	A	Interest	K	T	Exempt				
4. Fidelity Dividend Growth Fund	A	Dividend	K	T	Exempt				
5. Lord Abbett Affiliated A Fund	C	Dividend	M	T	Exempt				
6. Brokerage Account #1 (H)									
7. - Dreyfus International Stock Index Fund	A	Dividend	K	T	Exempt				
8. - Dreyfus Mid Cap Index Fund	B	Dividend	K	T	Exempt				
9. - Janus Global Research Fund	A	Dividend	K	T	Exempt				
10. - Janus Growth & Income Fund	A	Dividend	K	T	Exempt				
11. - Loomis Sayles Bond Fund	B	Dividend	K	T	Exempt				
12. - Oakmark Fund	B	Dividend	L	T	Exempt				
13. - Schwab S&P 500 Fund	A	Dividend	K	T	Exempt				
14. - Schwab Small Cap Index Fund	B	Dividend	K	T	Exempt				
15. Brokerage Account #2 (H)									
16. - Schwab 1000 Fund	A	Dividend	L	T	Exempt				
17. - Schwab Core Equity Fund	A	Dividend	J	T	Exempt				

1. Income Code: (See Column B and D)	A = \$1,000 or less F = \$10,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	C = \$2,501 - \$5,000 H = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 T = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	D = \$5,001 - \$10,000 I = \$1,000,001 - \$5,000,000 M = \$100,001 - \$250,000 P2 = \$1,000,001 - \$25,000,000	E = \$10,001 - \$50,000 P3 = \$25,000,001 - \$50,000,000
2. Value Code: (See Column C and D)	Q = Appraisal U = Bank Value	R = Cost (Real Estate Only) V = Other	S = Accretion W = Estimated	T = Cash Market	
3. Value Method Code: (See Column C)					



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<b>Name of Person Reporting</b>	<b>Date of Report</b>
Chuang, Theodore D.	09/25/2013

**VII. INVESTMENTS and TRUSTS** -- Income, value, transactions (Includes those of spouse and dependent children; see pp. 34-68 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "XX" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
18. Brokerage Account #3 (H)									
19. - Cisco Systems stock	A	Dividend	J	T	Exempt				
20. - Invesco Diversified Dividend A	A	Dividend	K	T	Exempt				
21. - Microsoft Corporation stock	A	Dividend	J	T	Exempt				
22. - Power Shares QQQ TR	A	Dividend	J	T	Exempt				
23. 401(k) #1	D	Dividend	N	T	Exempt				
24. - Allianz GI International Small Cap Fund (Y)									
25. - Eaton Vance Large Cap Value Fund (Y)									
26. - Neuberger Berman Large Cap Fund (Y)									
27. - Artisan Mid Cap Fund									
28. - GRT Value Fund									
29. - Hancock Horizon Dividend International Fund									
30. - Ivy Small Cap Fund									
31. - MFS International New Discovery Fund									
32. - MFS Value Fund									
33. - Touchstone Sands Capital Select Growth Fund									
34. IRA #1	A	Dividend	K	T	Exempt				

1. Income Code:	A = \$1,000 or less	B = \$1,001 - \$2,000	C = \$2,501 - \$5,000	D = \$5,001 - \$15,000	E = \$15,001 - \$50,000
(See Columns B1 and D4)	F = \$55,001 - \$100,000	G = \$100,001 - \$1,000,000	H = \$1,000,001 - \$5,000,000	I = More than \$5,000,000	
2. Value Code:	J = \$15,000 or less	K = \$15,001 - \$50,000	L = \$50,001 - \$100,000	M = \$100,001 - \$250,000	
(See Columns C1 and D3)	N = \$250,001 - \$500,000	O = \$500,001 - \$1,000,000	P = \$1,000,001 - \$5,000,000	Q = \$5,000,001 - \$25,000,000	
3. Value Method Code:	R = Appraisal	S = Other (Rent Exempt Only)	T = Other	U = Assessed	V = Cash Market
(See Column C2)	W = Block Value	X = Other	Y = Estimated		

## FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Chuang, Theodore D.

Date of Report

09/25/2013

## VII. INVESTMENTS and TRUSTS — income, value, transactions (Includes those of spouse and dependent children; see pp. 34-49 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (Including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. -- Janus Growth & Income Fund									
36. -- Oakmark Fund									
37. -- Schwab 1000 Fund									
38. IRA #2	A	Int./Div.	K	T	Exempt				
39. -- Charles Schwab Bank Cash Account									
40. -- Columbia Energy & Natural Resources Fund									
41. -- Oakmark Fund									
42. -- Oakmark Global Select Fund									
43. -- Schwab 1000 Fund									
44. -- Schwab Small Cap Index Fund									
45. State Retirement Plan #1		None	J	T	Exempt				
46. -- Mass. Deferred Comp. SMART Plan Large Co. Blend Stock Fund									
47. -- Mass. Deferred Comp. SMART Plan Large Co. Stock Index Fund									
48. Fidelity Freedom 2030	B	Dividend	L	T	Exempt				
49. Fidelity Freedom 2035	A	Dividend	K	T	Exempt				
50. Vanguard Life Strategy Growth Fund	A	Dividend	K	T	Exempt				
51. Utah Educational Savings Plan Age Based Aggressive Global	C	Dividend	M	T	Exempt				

1. Income Gain Codes: (See Column 9) and (D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less K = \$25,001 - \$50,000 P1 = \$25,000,001 - \$50,000,000 P3 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 Q = \$500,001 - \$1,000,000 R = Cash (Real Estate Only) V = Other	C = \$2,501 - \$5,000 H = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$5,000,000	D = \$5,001 - \$15,000 I1 = \$1,000,001 - \$5,000,000 I2 = More than \$5,000,000 P2 = \$5,000,001 - \$25,000,000 T = Cash Interest	E = \$15,001 - \$50,000
2. Value Codes: (See Column C) and (D3)	H = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000 Q = Appraisal U = Book Value		S = Assessment W = Estimated		

<b>FINANCIAL DISCLOSURE REPORT</b> Page 7 of 9	<b>Name of Person Reporting</b> Chuang, Theodore D.	<b>Date of Report</b> 09/25/2013
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**VII. INVESTMENTS and TRUSTS** – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-48 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets)  Place "X" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
52. Maryland College Investment Plan Portfolio 2024		None	M	T	Exempt				
53. Northwestern Mutual Whole Life Insurance Policy	B	Dividend	K	T	Exempt				
54. U.S. Govt. Securities Series EE Bonds		None	L	T	Exempt				
55.									

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000 J = \$15,000 or less N = \$250,001 - \$500,000 P1 = \$25,000,001 - \$50,000,000	B = \$1,001 - \$2,000 G = \$100,001 - \$1,000,000 K = \$15,001 - \$50,000 Q = \$500,001 - \$1,000,000	C = \$2,001 - \$5,000 H = \$1,000,001 - \$5,000,000 L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	D = \$5,001 - \$15,000 I1 = \$1,000,001 - \$5,000,000 I2 = More than \$5,000,000 M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	E = \$15,001 - \$50,000
2. Value Codes: (See Columns C1 and D5)					
3. Value Method Codes: (See Column C3)	Q = Appraisal U = Book Value	R = Cash (Real Estate Only) V = Other	S = Annuitant W = Exempt	T = Cash Market	

**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
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**VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.** *(Indicate part of report.)*



**FINANCIAL DISCLOSURE REPORT**  
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Name of Person Reporting	Date of Report
Chuang, Theodore D.	09/25/2013

**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/ Theodore D. Chuang*

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

## FINANCIAL STATEMENT

## NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		226	633	Notes payable to banks-secured			
U.S. Government securities - see schedule		95	700	Notes payable to banks-unsecured			
Listed securities - see schedule	1	318	303	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable - see schedule		789	633
Real estate owned - see schedule	1	222	900	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		25	000				
Cash value-life insurance		26	624				
Other assets itemize:							
Thrift Savings Plan		428	095				
				Total liabilities		789	633
				Net Worth	2	553	622
Total Assets	3	343	255	Total liabilities and net worth	3	343	255
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, cosigner or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

## FINANCIAL STATEMENT

## NET WORTH SCHEDULES

U.S. Government Securities

Series EE Bonds	\$ 95,100
Series E Bond	600
Total U.S. Government Securities	<u>\$ 95,700</u>

Listed Securities

Artisan Mid Cap Fund	44,153
Cisco Systems stock	2,345
Columbia Energy & Natural Resources Fund	1,982
Dreyfus International Stock Fund	23,921
Dreyfus Mid Cap Index Fund	28,547
Fidelity Dividend Growth Fund	37,168
Fidelity Freedom 2030 Fund	70,398
Fidelity Freedom 2035 Fund	21,738
GRT Value Fund	39,187
Hancock Horizon Dividend International Fund	32,339
Invesco Diversified Dividend A	24,084
Ivy Small Cap Growth Fund	28,731
Janus Global Research Fund	25,658
Janus Growth & Income	22,416
Loomis Sayles Bond Fund	25,964
Lord Abbett Affiliated A Fund	181,300
Maryland College Investment Plan Portfolio 2024 (529)	115,529
Mass. Deferred Comp. Smart Plan Large Co. Blend Stock Fund	4,764
Mass. Deferred Comp. Smart Plan Large Co. Stock Index Fund	4,772
MFS International New Discovery Fund	35,271
MFS Value Fund	40,660
Microsoft Corporation stock	6,710
Oakmark Fund	69,492
Oakmark Global Select Fund	1,485
Power Shares QQQ Trust	7,596
Schwab 1000 Index Fund	77,147
Schwab Core Equity Fund	12,758
Schwab S&P 500 Fund	34,123
Schwab Small Cap Index Fund	36,965
Touchstone Sands Capital Select Growth Fund	38,004
Utah Educ. Savings Plan Age Based Aggressive Global (529)	173,670
Vanguard Life Strategy Growth Fund	50,112
Total Listed Securities	<u>\$1,318,303</u>

Real Estate Owned

Personal residence

\$ 735,500

Rental property

487,400

Total Real Estate Owned

\$ 1,222,900Real Estate Mortgages Payable

Personal residence

\$ 563,466

Rental property

226,168

Total Real Estate Mortgages Payable

\$ 789,633




AFFIDAVIT

I, Theodore David Chuang, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

September 26, 2013  
(DATE)

  
Theodore David Chuang

  
(NOTARY)  
DISTRICT OF COLUMBIA  
MY COMMISSION EXPIRES ON:  
SEPT. 30, 2016.



**Senator Chuck Grassley  
Questions for the Record**

**Theodore David Chuang  
Nominee, U.S. District Judge for the District of Maryland**

1. **As a former congressional staffer who has worked in the Executive Branch for some time, and who is now nominated to serve in the Judicial Branch you have a unique perspective. How has your experience shaped your understanding of the balance between Congress's constitutional obligation to conduct oversight and the Executive Branch's interests?**

Response: As a former counsel for congressional oversight committees, I firmly believe and appreciate that appropriate congressional oversight of the Executive Branch is a critical part of our constitutional system of checks and balances and can lead to important reforms and improvements in the operations of government. Having also worked on such issues from the Executive Branch, I also recognize that congressional oversight should be sensitive to the Executive Branch's legitimate need to have candid internal deliberations in order to carry out its various missions effectively. Ultimately, I believe that congressional oversight is most effective when both branches approach this important function with a spirit of cooperation and accommodation of each branch's legitimate interests.

2. **I understand that for the last few months, you have been working with the State Department and its response to the ongoing congressional investigation into the attack on the U.S. mission in Benghazi. On August 1, 2013, House Oversight and Government Reform Committee Chairman Darrell Issa issued a subpoena to the State Department that compelled the Secretary of State to produce, among other things, all the notes and summaries of witness interviews conducted by the State Department's Accountability Review Board. I understand that the State Department has refused to comply with that aspect of the subpoena. Please answer each question separately.**

- a. **On what legal basis is the State Department withholding those documents?**

Response: The State Department articulated the institutional concerns surrounding production of these documents, and its willingness to engage in a process of accommodation, in its letter of September 20, 2013 to the House Committee on Oversight and Government Reform.

- b. **Has the Executive asserted Executive Privilege?**

Response: At this time, the Executive has not asserted Executive Privilege over these documents.

- c. **Has the Executive asserted any privilege?**

Response: At this time, the Executive has not asserted an applicable privilege. The State Department articulated the institutional concerns surrounding production of these documents, and its willingness to engage in a process of accommodation, in its letter of September 20, 2013 to the House Committee on Oversight and Government Reform.

- d. Do you believe there are valid reasons—other than an assertion of executive privilege or another privilege—to withhold documents from Congress that have been subpoenaed?**

Response: A valid legal privilege could form an appropriate basis for withholding documents subpoenaed by Congress. In practice, if an Executive Branch agency identifies other reasons that providing certain subpoenaed documents to Congress may have adverse consequences for the government, it may seek, through the traditional process of accommodation, to reach an understanding with the relevant congressional committee that production of such documents need not occur.

- e. Did you advise the Secretary to withhold those documents from the House Oversight Committee?**

Response: My role during my temporary detail to the State Department, as in all of my professional positions, has been as legal counsel. In that capacity, I have provided legal advice to the Department on the parameters of the law. As an attorney subject to rules of professional responsibility, I do not believe it is appropriate to discuss specific legal advice provided to a client.

- 3. In your hearing, I asked you about the statement you wrote of Judge Nelson that said, “some of Judge Nelson’s most noteworthy opinions embody the principle that the courts must be vigilant in protecting the rights of weaker minority interests when they have been unjustifiably violated by more powerful majority interests.” When I asked you whether you would take this approach to the administration of justice in your courtroom, if confirmed, you said you would approach your cases by looking at the facts and following precedent. While I appreciate that you will follow the law, I would like a more responsive answer.**

- a. In what ways will you protect the rights of “weaker minority interests”?**

Response: The role of a judge is to make decisions based on the law and the facts, without regard for outside considerations, such as whether one party has more or fewer resources or is advocating for a more or less popular position. If confirmed to serve as a federal judge, I would rule for whichever party the law and facts dictate should prevail, regardless of the party’s level of resources or the popularity of its position.



- b. Are there circumstances under which these interests can be justifiably violated?

Response: If the law and facts do not support the position of a party which has fewer resources or has a less popular or minority position, the court should rule against that party.

4. In that same 1999 profile of Judge Nelson you wrote about her dissenting opinion in a Ninth Circuit case upholding the state of Hawaii's designation of Good Friday as a state holiday. Judge Nelson found this to be a violation of the establishment clause. Do you agree with her dissent in this case? Please explain.

Response: If confirmed as a federal judge, any personal views I may have about any issue would not play a role in my evaluation of any case. The Fourth Circuit has addressed the question of whether Good Friday can be designated as a public school holiday under the Establishment Clause and held that such a designation is permissible. *Koenick v. Felton*, 190 F.2d 259, 268-69 (4<sup>th</sup> Cir. 1999), cert. denied, 528 U.S. 1118 (2000). This opinion is consistent with the rulings of the Seventh Circuit in *Bridenbaugh v. O'Bannon*, 185 F.3d 796 (7<sup>th</sup> Cir. 1999), and the Ninth Circuit in the case in which Judge Nelson dissented, *Cammack v. Waihee*, 932 F.2d 765 (9<sup>th</sup> Cir. 1991). If confirmed to serve as a United States District Judge for the District of Maryland, I would be bound by and would faithfully apply all Supreme Court and Fourth Circuit precedent relating to the Establishment Clause, including *Koenick*.

5. What is the most important attribute of a judge, and do you possess it?

Response: The most important attribute of a judge is the ability to be entirely fair and impartial toward parties and their arguments, such that cases are decided based on the applicable facts and law and not on any outside considerations. I believe that over the course of my legal career, I have demonstrated that I possess this ability.

6. Please explain your view of the appropriate temperament of a judge. What elements of judicial temperament do you consider the most important, and do you meet that standard?

Response: As a guardian of the rule of law and the American system of justice, a judge must be able to consider every case fairly and objectively, based on the applicable law and facts, without consideration of outside factors. A judge must also act in a manner that instills confidence in the parties and the public that the judge's rulings are rendered in this manner. Accordingly, a judge should be fair, open-minded, and evenhanded in all matters. A judge should also be respectful, courteous, and patient with all who appear in the courtroom. I believe that I have demonstrated these qualities over the course of my legal career.

7. In general, Supreme Court precedents are binding on all lower federal courts and Circuit Court precedents are binding on the district courts within the particular



**circuit. Please describe your commitment to following the precedents of higher courts faithfully and giving them full force and effect, even if you personally disagree with such precedents?**

Response: A district judge is bound by precedent of the Supreme Court and the relevant Circuit Court. If confirmed, I would faithfully apply controlling precedents of the Supreme Court and the Fourth Circuit and give them full force and effect, regardless of whether I personally agree or disagree with such precedents.

- 8. At times, judges are faced with cases of first impression. If there were no controlling precedent that was dispositive on an issue with which you were presented, to what sources would you turn for persuasive authority? What principles will guide you, or what methods will you employ, in deciding cases of first impression?**

Response: In a matter of first impression, I would consider the plain language of an applicable statute and, if necessary, would apply the canons of statutory construction to assist in interpreting the language for purposes of the case. I would also review and consider persuasive case law, including Supreme Court and Fourth Circuit case law addressing analogous issues and case law from other circuits addressing the same issue. I would follow the principle of judicial restraint and would endeavor to decide only those issues that need to be decided to resolve the case.

- 9. What would you do if you believed the Supreme Court or the Court of Appeals had seriously erred in rendering a decision? Would you apply that decision or would you use your best judgment of the merits to decide the case?**

Response: As a district court judge, I would apply controlling Supreme Court or Fourth Circuit precedent even if I believed that the higher court's ruling was incorrect.

- 10. Under what circumstances do you believe it appropriate for a federal court to declare a statute enacted by Congress unconstitutional?**

Response: Having served as legal counsel to congressional committees, I have a strong appreciation for the prerogative of the elected representatives in the Legislative Branch to enact the laws of the United States. Accordingly, and consistent with the doctrine of constitutional avoidance, I believe that a federal court should address the constitutionality of a federal statute only when it is necessary to decide the case at hand and should declare a statute unconstitutional only in rare circumstances, when the Constitution and applicable legal precedent make clear that such a ruling is required.

- 11. In your view, is it ever proper for judges to rely on foreign law, or the views of the "world community," in determining the meaning of the Constitution? Please explain.**

Response: No. In the absence of Supreme Court or Fourth Circuit precedent requiring me to do so, I would not rely on foreign law or the views of the "world community" in determining the meaning of the Constitution.

12. **What assurances or evidence can you give this Committee that, if confirmed, your decisions will remain grounded in precedent and the text of the law rather than any underlying political ideology or motivation? In your answer, please address how your work with several different Democratic organizations and campaigns will not influence you as a judge.**

Response: All of my professional positions have been as legal counsel, and although I have had some limited involvement with political activities on a voluntary basis, I have always understood that politics has no place in legal analysis. Throughout my legal career, I have represented individuals and institutions of diverse political, economic, and social backgrounds, including representing both the Legislative and Executive Branches, serving in a U.S. Attorney's Office under both Democratic and Republican administrations, and representing large corporations in the securities, financial, energy, and telecommunications sectors as well as individuals with diverse viewpoints while in private practice. Throughout these legal representations, I have always advocated for the best interests of my clients regardless of their political or philosophical viewpoints, and I have not allowed any personal views or my limited participation in certain political activities to affect my legal advice and representation. While I recognize that the role of a judge is very different from that of an advocate, if confirmed I would draw on this experience in setting aside any personal views and prior political participation and commit that I would decide cases solely based on the facts and the relevant legal text and precedent.

13. **What assurances or evidence can you give the Committee and future litigants that you will put aside any personal views and be fair to all who appear before you, if confirmed?**

Response: Throughout my legal career I have represented diverse interests as discussed in my response above to question 12, including as a criminal prosecutor, criminal defense attorney, and as a civil attorney for both plaintiffs and defendants. Throughout these legal representations, I have always advocated for the best interests of my clients regardless of their positions or viewpoints, and I have always set aside any personal views in representing my client as an attorney. While I recognize that the role of a judge is very different from that of an advocate, if confirmed I would draw on this experience and would set aside any personal views, treat all parties fairly regardless of their background or circumstances, and decide cases solely based on the relevant law and facts.

14. **Do you believe that judges have a role in controlling the pace and conduct of litigation and, if confirmed, what specific steps would you take to control your docket and manage your caseload?**

Response: In order to advance the administration of justice and the efficiency of the justice system, judges may play a role relating to the pace and conduct of litigation, provided that they act in accordance with existing precedent on the due process rights of litigants. I would expect to employ scheduling and discovery orders, case management and status conferences, pretrial conferences, and other similar tools to advance the efficiency of the litigation process. I would also endeavor to issue timely rulings so as to keep cases proceeding toward resolution.



15. **You have spent your entire legal career as an advocate for your clients. As a judge, you will have a very different role. Please describe how you will reach a decision in cases that come before you and to what sources of information you will look for guidance. What do you expect to be most difficult part of this transition for you?**

Response: In deciding a case that came before me should I be confirmed, I would seek to learn and understand the facts of the case as presented through witness testimony, exhibits, and submissions by the parties. I would then apply the relevant law to those facts. In determining what law to apply, I would consider the oral and written arguments of the parties but would also conduct independent legal research as necessary. The sources I would rely upon would include the language of any applicable statutes and regulations, controlling Supreme Court or Fourth Circuit precedent, and other relevant case law.

Having served as a judicial law clerk, as well as a government attorney whose role included weighing opposing interests to make an assessment of a fair outcome for both parties, I believe that I am well equipped to make this transition. One difficult but surmountable part of the transition may be the need expeditiously to learn new areas of federal law in order to decide specific cases.

16. **According to the website of American Association for Justice (AAJ), it has established a Judicial Task Force, with the stated goals including the following: "To increase the number of pro-civil justice federal judges, increase the level of professional diversity of federal judicial nominees, identify nominees that may have an anti-civil justice bias, increase the number of trial lawyers serving on individual Senator's judicial selection committees".**

- a. **Have you had any contact with the AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ regarding your nomination? If yes, please detail what individuals you had contact with, the dates of the contacts, and the subject matter of the communications.**

Response: I have had no such contact.

- b. **Are you aware of any endorsements or promised endorsements by AAJ, the AAJ Judicial Task Force, or any individual or group associated with AAJ made to the White House or the Department of Justice regarding your nomination? If yes, please detail what individuals or groups made the endorsements, when the endorsements were made, and to whom the endorsements were made.**

Response: No.

- 17. Please describe with particularity the process by which these questions were answered.**

Response: I received these questions on December 20, 2013. I drafted responses to the questions and provided them to the U.S. Department of Justice. After discussing my responses with a representative of the Department of Justice, I finalized my responses and authorized the Department to transmit them to the Committee.

- 18. Do these answers reflect your true and personal views?**

Response: Yes.



**Senator Ted Cruz  
Questions for the Record**

**Theodore David Chuang  
Nominee, U.S. District Judge for the District of Maryland**

**Describe how you would characterize your judicial philosophy, and identify which U.S. Supreme Court Justice's judicial philosophy from the Warren, Burger, or Rehnquist Courts is most analogous to with yours?**

Response: I believe that a federal judge is a guardian of the rule of law and the American system of justice. Accordingly, my judicial philosophy is that a judge must always decide cases based on the Constitution, the applicable laws, and the facts of the case, and not on any outside considerations. A judge's role is to learn the facts of a case, study the applicable statutes and precedents, and apply the law to the case in a fair and impartial manner, treating all parties with respect and dignity. I have profound respect for the institution of the Supreme Court and for its justices, past and present, but I do not have a sufficient basis of knowledge to identify a single justice who has expressed a judicial philosophy that I would adopt as my own.

**Do you believe that originalism should be used to interpret the Constitution? If so, how and in what form (i.e., original intent, original public meaning, or some other form)?**

Response: If confirmed to serve as a United States District Judge, my role in cases involving constitutional interpretation would be to study and apply to the case at hand the applicable precedent of the Supreme Court and the Fourth Circuit, including precedent considering the original intent of the drafters or the original public meaning of the text. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008).

**If a decision is precedent today while you're going through the confirmation process, under what circumstances would you overrule that precedent as a judge?**

Response: If confirmed to serve as a United States District Judge, I would be bound by the precedent of the Supreme Court and the Fourth Circuit. I would not overrule that precedent.

**Explain whether you agree that “State sovereign interests ... are more properly protected by procedural safeguards inherent in the structure of the federal system than by judicially created limitations on federal power.”**  
*Garcia v. San Antonio Metro Transit Auth.*, 469 U.S. 528, 552 (1985).

Response: If confirmed to serve as a United States District Judge, I would be bound by Supreme Court and Fourth Circuit precedent addressing limitations on federal action toward state governments, including cases such as *Garcia*, which addressed the specific issue of regulatory immunity for state governments under the Commerce Clause. I would apply such precedent without regard to any personal views.

**Do you believe that Congress’ Commerce Clause power, in conjunction with its Necessary and Proper Clause power, extends to non-economic activity?**

Response: The Supreme Court has identified three categories of activity that may be regulated under the Commerce Clause: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce and persons or things in interstate commerce; and (3) those activities that substantially affect interstate commerce. *Gonzales v. Raich*, 545 U.S. 1, 16-17 (2005); *United States v. Morrison*, 529 U.S. 598, 608-09 (2000); *United States v. Lopez*, 514 U.S. 549, 558-59 (1995). In *Morrison*, the Court declined to “adopt a categorical rule against aggregating the effects of any noneconomic activity” in order to uphold congressional action under the Commerce Clause, but noted that the Court historically has “upheld Commerce Clause regulation of intrastate activity only where that activity is economic in nature.” 529 U.S. at 613. If confirmed to serve as a United States District Judge, I would follow all applicable Supreme Court and Fourth Circuit precedent on the extent of congressional authority under the Commerce Clause.

**What are the judicially enforceable limits on the President’s ability to issue executive orders or executive actions?**

Response: According to the Supreme Court, “[t]he President’s authority to act, as with the exercise of any governmental power, must stem either from an act of Congress or from the Constitution itself.” *Medellin v. Texas*, 552 U.S. 491, 524 (2008) (internal citations omitted). In *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), the Supreme Court invalidated an executive order requiring federal seizure of the nation’s steel mills based on the determination that it was not authorized by statute or the Constitution. The prevailing framework for a court to analyze whether executive action exceeds presidential authority is set forth in Justice Jackson’s concurrence in *Youngstown*. 343 U.S. at 635-38 (Jackson, J., concurring).

**When do you believe a right is “fundamental” for purposes of the substantive due process doctrine?**

Response: The Supreme Court has stated that fundamental rights include “the specific freedoms protected by the Bill of Rights,” and “those fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition” and which are “implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Gluckberg*, 521 U.S. 702, 720-21 (1997) (internal citations and quotations omitted). If confirmed, I would consider a right to be fundamental under the Due Process Clause if the Supreme Court or the Fourth Circuit has previously held it to be fundamental under this standard.


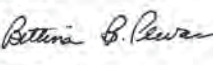
**When should a classification be subject to heightened scrutiny under the Equal Protection Clause?**

Response: The Supreme Court has identified the classifications which are subject to heightened scrutiny under the Equal Protection Clause. These classifications include race, alienage, and national origin, which are subject to strict scrutiny; and gender and illegitimacy, which are subject to intermediate scrutiny. See, e.g., *City of Cleburne, Texas v. Cleburne Living Center*, 473 U.S. 432, 440-41 (1985). If confirmed, I would follow Supreme Court and Fourth Circuit precedent on what classifications are subject to heightened scrutiny and how to apply such scrutiny.

**Do you “expect that [15] years from now, the use of racial preferences will no longer be necessary” in public higher education? *Grutter v. Bollinger*, 539 U.S. 306, 343 (2003)?**

Response: I do not have sufficient background or expertise to have any personal expectations on this matter. If confirmed, I would apply *Grutter* and any other subsequent Supreme Court or Fourth Circuit precedent on the use of race in admissions to public institutions of higher education, such as *Fisher v. Univ. of Texas at Austin*, 133 S. Ct. 2411 (2013), in any applicable cases.



<p>CHAIR Bettina B. Plevan 11 Times Square New York, NY 10036-8299</p> <p>FIRST CIRCUIT Paul L. Sarnoff Suite 2100 1 Penn Plaza-Supreme Boston, MA 02116-2129</p> <p>SECOND CIRCUIT Jeff C. Johnson 1265 Avenue of the Americas New York, NY 10020-6004</p> <p>THIRD CIRCUIT Karl Levine-Walker 1 Kew-Forest Plaza Floral Park 1017 Kew-Forest Boulevard New York, NY 11362-5421</p> <p>FOURTH CIRCUIT William P. Vinograd 500 Eastmore Drive #700 Raleigh, NC 27604</p> <p>FIFTH CIRCUIT Wayne L. Law 845 Cambridge Street Miami, FL 33139</p> <p>SIXTH CIRCUIT Thomas C. Ingalls, Jr. P.O. Box 1711 1100 College Street Birmingham, AL 35202-0770</p> <p>SEVENTH CIRCUIT Patricia A. Hovick-Straub Suite 1600 211 South Wacker Drive Chicago, IL 60606-6107</p> <p>EIGHTH CIRCUIT Charles A. Weiss Suite 300 211 N. Broadway St. Louis, MO 63102-2769</p> <p>NINTH CIRCUIT Jared R. Adams Suite 1100 500 South Canal Avenue Los Angeles, CA 90071</p> <p>TENTH CIRCUIT Mary J. Wolfert Suite 4100 600 Elliott Street Seattle, WA 98101</p> <p>ELEVENTH CIRCUIT Jim Leahy Suite 400 1700 Lincoln Street Denver, CO 80202-4550</p> <p>THIRTEENTH CIRCUIT Frank R. Angonesi Courtney Towers Floor 8 44 West Flagler Street Miami, FL 33135-4802</p> <p>FOURTEENTH CIRCUIT Ronald A. Galt 10540 First Forest Drive Crest Hills, IL 60006-1741</p> <p>FIFTEENTH CIRCUIT Doreen J. Kennedy 1201 Pennsylvania Avenue, NW Washington, DC 20004-1401</p> <p>STAFF COUNSEL Denise A. Cardman 802-663-7341 denise.cardman@abamail.org</p>	<div style="text-align: right;">  <p><b>Defending Liberty Pursuing Justice</b></p> </div> <p>AMERICAN BAR ASSOCIATION</p> <p>Standing Committee on the Federal Judiciary Attn: Denise A. Cardman Suite 400 1950 Connecticut Avenue, NW Washington, DC 20036</p> <p>RECEIVED OCT 18 2013</p>	<p>Please respond to:</p> <p><b>Bettina B. Plevan, Esq.</b> <b>Proskauer Rose LLP</b> 11 Times Square New York, New York 10036 Tel: (212) 969-3065 Fax: (212) 969-2900 E-Mail: <a href="mailto:blevan@proskauer.com">blevan@proskauer.com</a></p> <p><b>VIA EMAIL AND FIRST-CLASS MAIL</b></p> <p>September 26, 2013</p> <p>The Honorable Patrick J. Leahy, Chairman Committee on the Judiciary United States Senate 224 Dirksen Senate Office Building Washington, DC 20510</p> <p>Re: <u><b>Nomination of Theodore David Chuang to the United States District Court for the District of Maryland</b></u></p> <p>Dear Chairman Leahy:</p> <p>The ABA Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Theodore David Chuang who has been nominated for a position on the United States District for the District of Maryland. As a result of our investigation, a substantial majority of the Committee is of the opinion that Mr. Chuang is Well Qualified and minority of the Committee is of the opinion that Mr. Chuang is Qualified.</p> <p>A copy of this letter has been provided to Mr. Chuang.</p> <p>Sincerely,</p> <p> Bettina B. Plevan Chair</p> <p>BBP:ddc</p> <p>cc: Theodore David Chuang, Esq. The Honorable Kathy Ruemmler (via email) Michael Zubrensky, Esq. (via email) ABA Standing Committee on the Federal Judiciary (via email) Denise A. Cardman, Esq. (via email)</p>
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September 26, 2013  
Page 2

This letter was sent to Honorable Charles E. Grassley, Ranking Member of the Minority Committee on the Judiciary, United States Senate, 224 Dirksen Senate Office Building, Washington, DC 20510-6275 on August 29, 2013.



c/o T. Christine Pham  
 Rosenberg Martin Greenberg, LLP  
 25 South Charles Street, Suite 2115  
 Baltimore, Maryland 21201  
 410.547.9142  
 E-mail: [info@APABA-MD.org](mailto:info@APABA-MD.org)  
 Website: [www.APABA-MD.org](http://www.APABA-MD.org)

December 16, 2013

VIA First Class Mail and Electronic Transmission  
[info@judiciary-dem.senate.gov](mailto:info@judiciary-dem.senate.gov)

Senator Patrick J. Leahy, Chairman  
 Senator Chuck Grassley, Ranking Member  
 U.S. Senate Committee on the Judiciary  
 224 Dirksen Senate Office Building  
 Washington, D.C. 20510

Re: Confirmation of Theodore D. Chuang for the  
 United States District Court for the District of Maryland

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the Asian Pacific American Bar Association of Maryland ("APABA-MD"), we submit this letter in support of the confirmation of Theodore D. Chuang's nomination for the judicial vacancy on the United States District Court for the District of Maryland.

As you may be aware, APABA-MD is the Maryland chapter of a national, professional association of attorneys. One of our goals is to promote diversity and address issues affecting the Maryland Asian and Pacific American communities.

APABA-MD commends the Senate Committee on the Judiciary for its efforts to diversify the federal bench over the last fifteen years and three presidencies. While these confirmations have certainly expanded diversity on the federal bench, for which the association is immeasurably grateful, currently less than 3% of the over 800 active federal judges are of East Asian, South Asian or Pacific American descent.

In the State of Maryland, the time is ripe for your Committee to make another mark on history by confirming the first Asian American as a United States District Court Article III Judge

Chairman Leahy and Ranking Member Grassley  
December 16, 2013  
Page 2

in Maryland, Virginia, or Washington, D.C. The confirmation of Theodore Chuang, a member of the Maryland bar and a longtime Montgomery County resident, to the federal bench, would once again demonstrate the Committee's strong support of diversity among the leadership of our great United States.

Mr. Chuang is expected to serve as a jurist with integrity, intellect, respect, and excellence, as he has done in his years as a lawyer. Mr. Chuang will bring his unique talents, background, and perspectives to the bench. Notably, Mr. Chuang has devoted the vast majority of his professional and personal life to public service.

Following his judicial clerkship with the Honorable Dorothy Nelson, United States Court of Appeals for the Ninth Circuit, Mr. Chuang embarked on his path of public service through his positions with the U.S. Department of Justice's Civil Rights Division, United States Attorney's Office, House Committee on Oversight and Government Reform, and House Committee on Energy and Commerce. Mr. Chuang presently serves as Deputy General Counsel for the United States Department of Homeland Security ("DHS") and has served at DHS since 2009.

Throughout his life, Mr. Chuang has developed and embodied an appreciation for the law and the role that it serves in the communities that we live in. Mr. Chuang's community service and his involvement with the Asian Pacific American Legal Resource Center ("APALRC") evidence his commitment to serve the public and to promote diversity. APALRC is a non-profit legal services organization that serves APA immigrants in Maryland, Virginia, and Washington, D.C. who often have nowhere else to turn. One of its goals is to ensure that APAs have access to the legal system to protect and enforce their rights. Mr. Chuang does not merely pay lip service to these efforts, but actively participates to ensure that due process of law and access to justice is available to everyone. Above all, APABA-MD is confident that Mr. Chuang will lead by example inside and outside the courtroom.

Members of APABA-MD have gotten to personally know Mr. Chuang, a member of our organization, and we strongly believe that his even temperament, keen insight and demeanor will ensure that he performs his duties and obligations with fairness and respect for our judicial system and the people that it serves. There is no doubt that Mr. Chuang will both proudly and humbly serve the citizens of Maryland, and all who come before him, with distinction. Accordingly, APABA-MD wholeheartedly supports and enthusiastically endorses the nomination of Theodore Chuang for the United States District Court for the District of Maryland.

Chairman Leahy and Ranking Member Grassley  
December 16, 2013  
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The President and Co-Chairs of the Judicial Selections Committee of APABA-MD are available to you should you have any questions or would like to discuss Mr. Chuang's confirmation further.

Ranju R. Shrestha, Esquire, President	877.711.5019, ext. 28933
Ari Ghosal, Esquire, Judicial Selections Co-Chair	301.804.3615
Michael W. Siri, Esquire, Judicial Selections Co-Chair	410.583.2400
T. Christine Pham, Judicial Selections Co-Chair	410.547.9142

Thank you for your time and consideration.

Respectfully,



T. Christine Pham  
Co-Chair, APABA-MD  
JUDICIAL SELECTIONS COMMITTEE




**APABA DC**

Asian Pacific American Bar Association

 2013-2014  
 BOARD OF DIRECTORS

December 16, 2013

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

 The Honorable Chuck Grassley  
 Ranking Member  
 Committee on the Judiciary  
 224 Dirksen Senate Office Building  
 Washington, DC 20510

Dear Chairman Leahy and Ranking Member Grassley:

On behalf of the Asian Pacific American Bar Association of the Greater Washington, D.C. Area (APABA-DC), I write to respectfully request that you vote in favor of confirming Theodore D. Chuang to become the first Asian Pacific American judge on the United States District Court for the District of Maryland, Greenbelt Division, and indeed, the first Asian Pacific American judge on any federal court within the Fourth Circuit. His confirmation hearing is scheduled on December 18, 2013. With over 600 members, APABA-DC is the oldest and largest association of Asian Pacific American attorneys in the national capital region. We proudly support Mr. Chuang as a long-standing member and former officer of our organization.

Mr. Chuang is very well-qualified to serve as a District Judge. He is a graduate *magna cum laude* of Harvard Law School, where he was an editor of the Harvard Law Review. Following a clerkship for a U.S. Court of Appeals judge, he practiced law as a trial attorney at the Department of Justice, an Assistant U.S. Attorney, and an attorney in private practice with a leading law firm. His nearly 20 years of legal experience has included representing the prosecution and defense in criminal matters, and plaintiffs and defendants in civil matters. Through his recent service in the Obama Administration as the Deputy General Counsel for the U.S. Department of Homeland Security (DHS) and prior experience as counsel to congressional committees, Mr. Chuang has a strong understanding of complex federal laws and regulations and the legislative process.

Besides being an accomplished attorney, Mr. Chuang has served as a leader in multiple bar associations, as well as non-profit legal organizations, and is an active member of the community. Most significantly, Mr. Chuang has worked to ensure that

Asian Pacific American Bar Association of the Greater Washington, D.C. Area, Inc.  
 ADDRESS: Post Office Box 27223, Washington, D.C. 20038-7223 E-MAIL: [apaba@apaba-dc.org](mailto:apaba@apaba-dc.org) WEBSITE: [www.apaba-dc.org](http://www.apaba-dc.org)

The Honorable Patrick J. Leahy  
 The Honorable Chuck Grassley  
 December 16, 2013

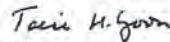
Maryland residents have access to justice. He has served as Chair of the Board of the Asian Pacific American Legal Resource Center (APALRC), which serves low-income, limited-English proficiency Asian Americans in Montgomery County and in Washington, D.C. In this position, he has worked to secure critical funding for legal services from Montgomery County and the Maryland Legal Services Corporation. He also has served as a precinct chair for elections in Montgomery County.

Finally, we believe in the importance of having federal courts that reflect the communities they serve. Asian Americans are the fastest growing population in Montgomery County and make up approximately 14% of the County, which is served by the Greenbelt Division, yet there has never been an Asian American judge on the Maryland federal district court. We urge you to be part of the historic process of appointing an Asian American from Montgomery County to the U.S. District Court in Greenbelt.

Mr. Chuang is the son of immigrants who came to the United States 50 years ago seeking freedom and opportunity. He has devoted the majority of his professional career to public service and has demonstrated his commitment to upholding the United States Constitution and the laws of the United States for the benefit of all parties. He would be an exemplary and inspiring addition to the federal bench in Maryland. For all these reasons, we strongly urge you to support Mr. Chuang's confirmation as a judge of the United States District Court for the District of Maryland, Greenbelt Division.

If you would like to discuss Mr. Chuang's qualifications or any of the information above, please do not hesitate to contact me at [nominations@apaba-dc.org](mailto:nominations@apaba-dc.org).

Sincerely,



Tacie H. Yoon  
 Nominations Committee Co-Chair

APABA-DC, a 501(c)(6) organization, is the oldest and largest association of Asian Pacific American attorneys in the greater Washington, D.C. area. Since its founding in 1981, APABA-DC's membership has grown into a network of over 600 lawyers, law professors, law school students, and other community leaders. APABA-DC encourages and promotes the professional growth and advancement of our members by providing substantive professional development and educational programs, mentoring and networking opportunities, and opportunities to develop leadership and public speaking. To learn more about our organization and its activities, please visit our website at [www.apaba-dc.org](http://www.apaba-dc.org). Contributions to APABA-DC are not deductible as charitable contributions.

**ASHCROFT SULLIVAN™**

December 17, 2013

The Honorable Patrick J. Leahy – Chairman  
The Honorable Charles E. Grassley – Ranking Member  
United States Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

*Letter of Recommendation for Judicial Nominee, Mr. Theodore Chuang*

Dear Chairman Leahy and Ranking Member Grassley:

The work of the Judiciary Committee is vital to ensure that nominees to our Federal Courts have exceptional professional experience as well as superior integrity and judicial temperament. Recognizing that the best of the best should be considered for appointment as Federal Judges, it is with great pleasure and confidence that I offer my recommendation and support for Mr. Theodore Chuang, the President's nominee for the United States District Court for the District of Maryland. Theodore Chuang is an exceptional nominee who has demonstrated throughout his life and career a devotion to fairness and justice, an extraordinary knowledge and respect for the law, an inquisitive mind and a temperament that will serve the people of Maryland and our Nation well.

I have had the distinct privilege of knowing Theo Chuang for over 12 years. I first met Theo when I was appointed United States Attorney for the District of Massachusetts in September, 2001. Theo was an assistant with an already impressive reputation. Theo's experiences at the United States Attorney's Office included all phases of criminal prosecution; grand jury and other investigations, evidentiary hearings, jury trials, plea hearings, sentencing proceedings, and appeals relating to the wide variety of matters that the United States Attorney's office is privileged to handle on behalf of the United States. Theo has all the important technical and legal knowledge and experiences that are the foundation of those judges, that are viewed as most successful and are most respected. Theo's experiences, however, go well beyond his technical skills and knowledge. He is a good and decent person.

Because of what he has done and how he has served, Theo has rightfully earned an exceptional reputation and is known for working well with all within our justice system, including investigators, colleagues, defense attorneys, the Court, victims and witnesses. Theo is always respectful, always conscientious and always open minded in his pursuit of fairness and justice.

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As you know, much responsibility and authority rests in the hands and judgment of those privileged to serve as assistant United States Attorneys. Theo always understood and demonstrated extraordinary judgment as he exercised his responsibility and authority as an assistant United States Attorney. He has a key sense of fairness in the pursuit of justice. Those qualities will serve him well as a District Court Judge.

Your Committee has a very important role to insure that nominees possess experiences, judgment and temperament to effectively carry out the enormous responsibilities of serving as an Article III Judge. Theo is extremely bright. His professional and life experiences will serve him well on the Court. I am confident your Committee will be as impressed with Nominee Chuang as others have, who have had the privilege of knowing and working with Theo throughout his career.

I would be honored to provide any additional information for the Committee as they conduct the important work in considering the nomination of Mr. Theodore Chuang.

Sincerely,



Michael J. Sullivan



I pay tribute to an individual about whom I don't know a lot personally or of his background or his family. It is a sad thing about the nature of today's busy world in which we don't know people—as I certainly do at home and in hometowns across our country—but I will tell you that the opportunity to be with and experience the conversation and joy that Daryl adds to this place has been a real treat and a wonderful experience for me.

I wish him and his family best wishes in his retirement and thank him for his service to the Senate and to the people of our country.

NOMINATION OF NANCY MORITZ

I rise to tell my colleagues about a nomination we are considering, and I speak in support of Justice Nancy Moritz.

She is currently a supreme court justice on the Kansas Supreme Court, and she is before us today as a nominee to sit on the U.S. Court of Appeals for the Tenth Circuit.

I appreciate working with my colleague Senator ROBERTS and those in the White House as we came together to try to find an acceptable and honorable nominee, and I believe we did. I extend my appreciation to Justice Moritz for having agreed to answer the call to serve her country in a new capacity as a member of the Tenth Circuit Court of Appeals.

She comes today before the Senate and again on Monday as someone who is highly qualified, greatly prepared, and who has the necessary background. Certainly the educational requirements are there, but the experience that she has encountered in her distinguished legal career, both public and private, really adds a dimension to this person and something that I would look for in a member of the tenth circuit.

For the past 4 years she has been a justice on the Kansas Supreme Court. Prior to that she spent 15 years as an attorney in the U.S. attorney's office in our State in both Kansas City and Topeka. Prior to that she had 6 years of experience in private practice as well.

Justice Moritz was raised in a small neighboring town of mine. Her hometown is Tipton. It is in many ways a typical small Kansas town. I know folks in Tipton would tell me how exceptional they are—and I have seen many instances of how true that is—but I know the people of Tipton. I have witnessed their character, their integrity, their work ethic, their kindness, their care and genuine concern for others. That sense of community you attain when you grow up in a town of just a few hundred people is something I think has great benefit in becoming who we are.

I, in some ways, admire the justice for that background and know what that kind of experience means in molding her character as well as her work ethic and how she conducts herself.

She also served for a period of time as a law clerk to Judge Ed Larson. Ed

Larson was a law partner of mine, and he remains a good friend. I called to visit with him about the nomination of Justice Moritz, and I trust his judgment. He not only was a law partner in practice with me—or really I was in practice with him—but he then went to the court of appeals and then was elevated to the Kansas Supreme Court.

Of all the people I have met in life, and certainly many of the attorneys I have met in life and the judges, if you were looking for someone whose opinion and judgment you would trust, Judge Ed Larson is certainly that person. He has made clear to me that Justice Moritz was one of the very best law clerks he ever had, and he believes her to be highly qualified. With his recommendation, my judgment about Justice Moritz was even more increased and enhanced.

Again, I am convinced that her background, growing up the way she did, her experience with Judge Larson and his stamp of approval upon her character and abilities, suggests we have a great person to join the tenth circuit.

I encourage my colleagues to review her qualifications, and I would hope and assume they would reach the same conclusion that I have, that the Tenth Circuit Court of Appeals will be well served with this Kansan on it. I look forward to supporting her confirmation, and I ask my colleagues to do the same.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

NOMINATIONS OF GEORGE HAZEL AND THEODORE CHUANG

Mr. CARDIN. I rise in support of the nominations of George Hazel and Theodore Chuang to be U.S. district judges for the District of Maryland.

Let me say from the beginning that I am very proud of the manner in which Senator MIKULSKI, the senior Senator from Maryland, and I have established a process to review and make recommendations to the President for the vacancies in the U.S. District of Maryland.

We have used a process that we think works. It gets us the most qualified individuals, and these two today are certainly an example of highly qualified individuals who want to be judges for the right reasons. They have a demonstrated track record of public service.

I particularly appreciate their commitment to pro bono. They understand that the courts need to be open to all and that we have a special responsibility as lawyers and as judges to make sure that there is equal access to justice. They understand the appropriate role of a judge in our system to be objective and to carry out the laws of this land.

George Jarrod Hazel received his B.A. cum laude in 1996 from Morehouse College and his J.D. in 1999 from Georgetown University Law Center. He was

nominated to fill the vacancy created by the taking of senior status in May of 2013 by Judge Alexander Williams, Jr.

I might just say Judge Williams had a very distinguished record on the district court.

Mr. Hazel began his legal career in private practice from 1999 to 2004. He then became a government prosecutor as an assistant U.S. attorney in the District of Columbia from 2005 to 2008.

He then joined the Greenbelt, MD, U.S. attorney's office for the District of Maryland. Finally, Mr. Hazel joined the office of the State's attorney for Baltimore City and now serves as the chief deputy State's attorney.

I can attest that being the chief deputy State's attorney in Baltimore City is a demanding position. In his present job, Mr. Hazel helps to oversee 200 prosecutors and 200 support staffers, and he has fought tirelessly to keep our communities safe and make them safer. In fact, he has played a key role in achieving those objectives.

He has demonstrated in his entire career as a lawyer a commitment to public service in each of the positions that he has held. He wants to serve the public, and these are the types of people I would hope we would like to see in our district court.

Mr. Hazel has extensive Federal and State court litigation experience, including civil and criminal matters, as well as jury trials. He has served as a prosecutor, private attorney, and manager of a large legal office.

Mr. Hazel lives in North Potomac with his wife and two children. He is an active member of his community. He is a leader in the Metropolitan Baptist Church of Largo, MD, and in Washington, DC, and has served as a member, trustee, and now as a deacon.

In terms of his pro bono commitment, Mr. Hazel has been president of his church's legal ministry, where he has assisted members of the church, including many who could not afford lawyers, in obtaining legal representation when they are in need.

He also prepares meals at the church and teaches Sunday school classes.

Mr. Chuang was nominated to fill the vacancy created by Judge Roger Titus when he took senior status in January of this year.

Judge Titus had a very distinguished record and continues to have a very distinguished record in our district court.

Mr. Chuang received his J.D. magna cum laude in 1994 from Harvard Law School and his B.A. summa cum laude in 1991 from Harvard University. He began his legal career as a law clerk for Judge Dorothy W. Nelson in the U.S. Court of Appeals for the Ninth Circuit from 1994 to 1995. From 1995 to 1998, Mr. Chuang served as a trial attorney in the Civil Rights Division of the U.S. Department of Justice. From 1998 to 2004, Mr. Chuang served as an assistant U.S. attorney in the District of Massachusetts. He spent 3 years in private practice from 2004 to 2007.



He served as a deputy chief investigative counsel for the U.S. House Committee on Oversight and Government Reform from 2007 to 2009. In 2009 he became the chief investigative counsel for the Committee on Energy and Commerce in the House of Representatives. Mr. Chuang currently serves as deputy chief counsel of the U.S. Department of Homeland Security, where he has worked since 2009.

Like Mr. Hazel, Mr. Chuang has devoted his entire professional career to serving the public. He is very much interested in helping this community and, again, he is the type of individual I hope we would all like to see in our district court.

Mr. Chuang has extensive Federal court litigation experience, both civil and criminal cases, including jury trials. He has served in all three branches of government: as clerk, law clerk, congressional investigative counsel, and agency deputy general counsel. The American Bar Association's Standing Committee on the Federal Judiciary gave him a "well qualified" rating. You can see that he has the type of experience and type of sensitivity to understand the appropriate role of a district court judge.

Mr. Chuang lives in Bethesda with his wife and his two children. He is an energetic member of his community. In terms of his pro bono work, he has served on the board of directors of the Asian Pacific American Legal Resource Center, a nonprofit legal services organization that serves low-income, limited-English proficient Asian Americans and immigrants in Maryland, Washington, DC, and Virginia, and which provides legal representation and referral services in cases involving domestic violence, family law, immigration law, employment law, and a variety of other areas.

Mr. Chuang also told us that from approximately 2002 to 2003, as president of the Asian American Lawyers Association of Massachusetts, he oversaw and promoted a project of the organization's Community Service Committee to provide a pro bono legal workshop in Boston's Chinatown, at which attorneys provided general information about immigration law, employment law, and other areas of law that may affect the lives of area residents.

He is committed to helping his community, and he has demonstrated that during his entire professional career.

Mr. Chuang's parents emigrated from Taiwan to the United States seeking freedom and opportunity. I would note that if confirmed, Mr. Chuang would not only be the first Asian-American Federal judge in Maryland but also the first Asian-American Federal judge in the Fourth Circuit, covering five States in the Mid-Atlantic and South.

President Obama nominated these two individuals in September of 2013 and the Judiciary Committee held their confirmation hearings in December of 2013. The Judiciary Committee then favorably reported both nominations in January of this year.

I urge the Senate to confirm these very well-qualified nominees and fill these important vacancies to better serve the people of Maryland.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### JUSTICE FOR ALL REAUTHORIZATION ACT

Mr. LEAHY. Mr. President, last year, the Senate came together to pass meaningful legislation that was supported by victims of violence, law enforcement, and those committed to working to end domestic and sexual abuse. That bill, the Leahy-Crapo Violence Against Women Reauthorization Act, had the support of all Senate Democrats and a majority of Senate Republicans. It cleared the Republican House overwhelmingly and it was signed into law 1 year ago. In a divided Congress, this historic reauthorization was made possible because so many victims and service providers stood together to push for a comprehensive bill.

The Violence Against Women Reauthorization Act, which I was proud to co-author with Senator MIKE CRAPO, a Republican from Idaho, strengthens protections on campuses, where far too many students have become victims of devastating violence instead of enjoying the wonderful experience of learning and growth that we all wish for our children. Our bill, which was signed into law last year, ensures that college students are informed of the resources available to them if they are victims of sexual assault or stalking, and of their school's planned response to such crimes.

For women like Laura Dunn, these provisions have real meaning. When many skeptics called for a watered-down VAWA bill to make it easier to pass, champions like Ms. Dunn, a courageous survivor of campus sexual assault, urged us to stand strong for all victims. More than 200 survivors of campus violence at 176 colleges and universities joined her in an open letter to Congress calling for the passage of the Leahy-Crapo VAWA bill. People like her made all the difference in our ability to ultimately pass this important legislation.

One year after its enactment, I am heartened that the Obama administration has begun to implement the Leahy-Crapo VAWA bill and that it announced a series of steps that will help colleges and universities meet new requirements contained in the law. This includes stronger reporting requirements and better training for university officials, more coordination be-

tween campus police and local law enforcement, and the implementation of privacy policies to protect the identity of victims. I can remember the horrific scenes I witnessed when I was a prosecutor in Vermont. I can also remember that I never asked a victim about their nationality, immigration status, religion, sexual orientation, or political affiliation. As I have said countless times, a victim is a victim is a victim. Providing a victim with the services they need in a safe and private environment is common sense and I am glad the Obama administration is making the protections Senator CRAPO and I fought for a reality for students across the country.

We cannot stop there, however, and we should be doing even more to protect all victims of crime. That is why I urge my fellow Senators to support the Justice for All Reauthorization Act. This comprehensive and bipartisan legislation was unanimously approved by the Senate Judiciary Committee in October. The Justice for All Reauthorization Act protects victims of crime by providing them with the resources they need and enhancing protections for crime victims. It also helps to prevent and overturn wrongful convictions, and provides law enforcement with the tools and resources necessary to ensure justice for all.

The Justice for All Act reauthorizes the Debbie Smith DNA Backlog Reduction Act, which has provided significant funding to reduce the backlog of untested rape kits so that victims need not live in fear while rape kits languish in storage. It also strengthens the Kirk Bloodsworth Post Conviction DNA Testing Grant Program, one of the key programs created in the Innocence Protection Act.

Kirk Bloodsworth was a young man just out of the Marines when he was sentenced to death for a heinous crime that he did not commit. He was the first death row inmate in the United States to be exonerated through the use of DNA evidence. There are certainly others out there like Kirk Bloodsworth now, wrongly convicted, waiting for the day when a DNA test will prove their innocence and set them free. We must never stop trying to improve our imperfect criminal justice system, to bring closure to cases swiftly but accurately, and to correct mistakes when they happen.

The Justice for All Act reauthorizes funding for the Paul Coverdell Forensic Science Improvement Grant Program, which assists laboratories in performing the many forensic tests that are essential to solving crimes and prosecuting offenders.

The Justice for All Reauthorization Act is a bipartisan bill that Senator CORNYN and I introduced nearly 1 year ago. All Senate Democrats support passage of this bill, and it is even cosponsored by the minority leader, Senator MCCONNELL, but it has not passed the Senate because some Senate Republicans object. In the face of this obstruction, some would have us pick