

January 6, 2014

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

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on September 25, 2013, to be a United States District Judge for the District of Maryland. Incorporating the additional information below, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

Questions 6 and 16(a):

My temporary detail to the United States Department of State is scheduled to end on January 10, 2014. I will return to the United States Department of Homeland Security on January 13, 2014.

Question 11(a):

In November 2013, I became a member of the Harvard Club of Washington, D.C.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Sincerely,



Theodore D. Chuang

cc: The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

*Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Chuang, Theodore D.	2. Court or Organization United States District Court, District of Maryland	3. Date of Report 01/06/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge	5a. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination Date 01/06/2014 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final 5b. <input type="checkbox"/> Amended Report	6. Reporting Period 01/01/2013 to 12/21/2013
7. Chambers or Office Address U.S. Department of Homeland Security Office of the General Counsel Washington, DC 20528		
IMPORTANT NOTES: <i>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>		

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

NONE *(No reportable positions.)*

	<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
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.)*

	<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.		
2.		
3.		

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Chuang, Theodore D.

Date of Report

01/06/2014

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.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> <i>(yours, not spouse's)</i>
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 amount not required except for honoraria.)

NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2013	Asian American Justice Center - salary
2.	
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.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. Exempt				
2.				
3.				
4.				
5.				

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

NONE *(No reportable gifts.)*

	<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
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.)*

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

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Name of Person Reporting

Chuang, Theodore D.

Date of Report

01/06/2014

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 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) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) 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	C	Dividend	K	T	Exempt				
5. Lord Abbett Affiliated A Fund	B	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	A	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	C	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	C	Dividend	L	T	Exempt				
17. - Schwab Core Equity Fund	B	Dividend	J	T	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$5,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting

Chuang, Theodore D.

Date of Report

01/06/2014

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 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) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) 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 Diversified 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	B	Dividend	K	T	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$5,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

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Chuang, Theodore D.

Date of Report

01/06/2014

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 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) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. - Janus Growth & Income Fund									
36. - Oakmark Fund									
37. - Schwab 1000 Fund									
38. IRA #2	B	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	A	Dividend	L	T	Exempt				
49. Fidelity Freedom 2035	A	Dividend	K	T	Exempt				
50. Vanguard Life Strategy Growth Fund	A	Dividend	L	T	Exempt				
51. Utah Educational Savings Plan Age Based Aggressive Global	C	Dividend	M	T	Exempt				

1. Income Gain Codes: (See Columns B1 and D4)	A = \$1,000 or less F = \$50,001 - \$100,000	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

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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) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) 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	A	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	B = \$1,001 - \$2,500 G = \$100,001 - \$1,000,000	C = \$2,501 - \$5,000 H1 = \$1,000,001 - \$5,000,000	D = \$5,001 - \$15,000 H2 = More than \$5,000,000	E = \$15,001 - \$50,000
2. Value Codes (See Columns C1 and D3)	J = \$15,000 or less N = \$250,001 - \$500,000 P3 = \$25,000,001 - \$50,000,000	K = \$15,001 - \$50,000 O = \$500,001 - \$1,000,000	L = \$50,001 - \$100,000 P1 = \$1,000,001 - \$5,000,000 P4 = More than \$50,000,000	M = \$100,001 - \$250,000 P2 = \$5,000,001 - \$25,000,000	
3. Value Method Codes (See Column C2)	Q = Appraisal U = Book Value	R = Cost (Real Estate Only) V = Other	S = Assessment W = Estimated	T = Cash Market	

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

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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		255	662	Notes payable to banks-secured			
U.S. Government securities – see schedule		95	700	Notes payable to banks-unsecured			
Listed securities – see schedule	1	444	786	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		782	991
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	868				
Other assets itemize:							
Thrift Savings Plan		482	005				
				Total liabilities		782	991
				Net Worth	2	769	930
Total Assets	3	552	921	Total liabilities and net worth	3	552	921
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker 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	\$ 49,223
Cisco Systems stock	2,113
Columbia Energy & Natural Resources Fund	2,108
Dreyfus International Stock Fund	25,585
Dreyfus Mid Cap Index Fund	31,040
Fidelity Dividend Growth Fund	40,987
Fidelity Freedom 2030 Fund	75,137
Fidelity Freedom 2035 Fund	23,428
GRT Value Fund	42,951
Hancock Horizon Dividend International Fund	34,469
Invesco Diversified Dividend A	26,249
Ivy Small Cap Growth Fund	31,603
Janus Global Research Fund	28,225
Janus Growth & Income Fund	24,601
Loomis Sayles Bond Fund	27,150
Lord Abbett Affiliated A Fund	199,348
Maryland College Investment Plan Portfolio 2024 (529)	127,387
Mass. Deferred Comp. Smart Plan Large Co. Blend Stock Fund	5,525
Mass. Deferred Comp. Smart Plan Large Co. Stock Index Fund	5,612
MFS International New Discovery Fund	37,468
MFS Value Fund	44,721
Microsoft Corporation stock	7,360
Oakmark Fund	77,499
Oakmark Global Select Fund	1,628
Power Shares QQQ Trust	8,650
Schwab 1000 Index Fund	86,155
Schwab Core Equity Fund	14,206
Schwab S&P 500 Fund	37,549
Schwab Small Cap Index Fund	41,013
Touchstone Sands Capital Select Growth Fund	45,014
Utah Educ. Savings Plan Age Based Aggressive Global (529)	186,183
Vanguard Life Strategy Growth Fund	54,599
Total Listed Securities	<u>\$ 1,444,786</u>

Real Estate Owned

Personal residence	\$ 735,500
Rental property	487,400
Total Real Estate Owned	<u>\$ 1,222,900</u>

Real Estate Mortgages Payable

Personal residence	\$ 559,689
Rental property	223,302
Total Real Estate Mortgages Payable	<u>\$ 782,991</u>

**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.
1. *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

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.

AFFIDAVIT

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

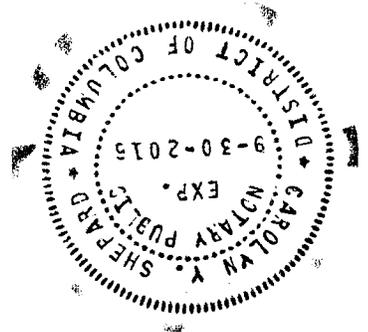
September 26, 2013
(DATE)



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 (4th 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 (7th Cir. 1999), and the Ninth Circuit in the case in which Judge Nelson dissented, *Cammack v. Waihee*, 932 F.2d 765 (9th 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.