

[ERRATA]
CONFIRMATION HEARINGS ON FEDERAL
APPOINTMENTS

HEARING

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

FIRST SESSION

JUNE 13, JULY 13, JULY 29, SEPTEMBER 14, OCTOBER 7,
OCTOBER 26, AND NOVEMBER 10, 1999

Part 1A

Serial No. J-106-33

Printed for the use of the Committee on the Judiciary



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[ERRATA]

[FOR COMMITTEE USE ONLY]

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final 3/98

**UNITED STATES SENATE JUDICIARY COMMITTEE
QUESTIONNAIRE FOR JUDICIAL NOMINEES**

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
Answer: William (Bill) Haskell Alsup.
2. Address: List current place of residence and office address(es).
Answer: Residence: Oakland, California; Office: Morrison & Foerster, LLP, 425 Market Street, San Francisco, California 94105.
3. Date and place of birth.
Answer: June 27, 1945, Jackson, Mississippi.
4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).
Answer: Married; Suzan Elizabeth Caldwell; teacher; Oakland Unified School District, Santa Fe Elementary School, 54th and Market Streets, Oakland, California 94608.
5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
Answer:

School	Dates	Degrees/Dates
Mississippi State University	1963-1967	B.S., Mathematics, 1967 (with honors)
Harvard Law School	1967-1971	J.D. (cum laude), 1971
Kennedy School of Government	1969-1971	M.P.P., 1971
6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including

firms with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Employer/Organization	Position	Dates
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Partner	1998- Present
Antitrust Division United States Department of Justice 1401 "H" Street, NW Suite 3000 Washington, D.C. 20005	Special Counsel	June-July 1998
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Partner	1980-1998
Solicitor General Wade McCree United States Department of Justice 950 Pennsylvania, NW Washington, D.C. 20530	Assistant Solicitor General	1978-1980
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Associate/ Partner	1973-1978
Pyles & Tucker 507 East Pearl Street Jackson, MS 39201	Attorney	1972-1973
Associate Justice William O. Douglas United States Supreme Court Washington, D.C. 20530	Law Clerk	1971-1972
Mississippi Research & Development Center 2835 Ridgewood Road Jackson, MS 39211	Summer Intern	Summer 1970
Kindel & Anderson 510 South Spring St. Los Angeles, CA 90024	Summer Associate	Summer 1969
Law Offices of John F. Dunne, Jr. 9033 Wilshire Blvd.	Summer Associate	Summer 1968

Beverly Hills, CA 90211		
McTavishe's Kitchens 34 George Street Oban, Argyll, Scotland United Kingdom	Waiter, Folk Singer	Summer 1967
Mississippi State University Engineering Department State College, MS	Intern	Summer 1965
Gulfport Construction Company Barnett-Madden Bldg. South Congress Street Jackson, MS (now defunct)	Survey Crew	Summer 1963 and Summer 1964
Legal Aid Society of San Francisco 1663 Mission Street Suite 400 San Francisco, California 94103	Board Member since 1981 and president of board from 1991-93 (two-year term)	1981 to Present
Yosemite Association Box 230 El Portal, California 95318	Board Member	1987 to Present
Yosemite Restoration Trust 1212 Broadway, Suite 814 Oakland, California 94612	Board Member; (co-chair from 1990-95)	1990 to Present
Friends of Photography Foundation (Ansel Adams Center for Photography) 250 Fourth Street San Francisco, California 94103	Board Member	1989-91 (approx.)
Lawyers Committee for Civil Rights 301 Mission Street, Suite 400 San Francisco, California 94105	Board Member for local chapter	1985-87 (approx.)
Friends of the Bancroft Library University of California Rare Manuscript Library Berkeley, California 94720	Board Member	1989-94 (approx.)

Berkeley Law Foundation University of California Berkeley, California 94720	Board Member	1985-87 (approx.)
National Student YMCA 291 Broadway Street New York, New York	President	1967-68

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

Answer: No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Answer:

- Unanimously rated "exceptionally well qualified" in 1997 by the Board of Governors of the California Women Lawyers in an evaluation for the federal bench.
- Elected to the American College of Trial Lawyers (in 1996). This is an honorary society in the sense that no one can apply for membership and fellows are selected by the ACTL based on reputation and first-hand experience by peers. In California, membership is limited to one-half of one percent of the practicing trial lawyers. I am in my second year of work on the Emil Gumpert Committee (that gives an annual award to the best trial advocacy program at a law school). Also, I am in my second year of membership on the Federal Judiciary Committee of the ACTL.
- Appointed by Chief Judge Thelton Henderson as the first chair of the Advisory Committee on Professional Conduct for the United States District Court for the Northern District of California (1995-).
- Selected by the district court judges as a Lawyer Delegate to the Ninth Circuit Judicial Conference (1993-96).
- Selected as the 1993 annual Honorary Member of the California State Park Rangers Association as a result of pro bono work to protect Bodie State Park from a proposed gold mine.

- Elected President of the Legal Aid Society of San Francisco (1991-93).
 - Selected as Chair of the nationwide Litigation Department of Morrison & Foerster (1985-88).
 - Included in all editions of *The Best Lawyers in America* in the category of Business Litigation.
 - Rated "AV" by Martindale-Hubbell.
 - Asked to serve by court (and did serve) as a pro tem judge in the Superior Court for Santa Clara County.
9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

Answer:

- I am currently serving on a committee formed by Judge Marilyn Hall Patel, Chief Judge, Northern District of California, to recommend a local rule governing disciplinary procedures for professional misconduct, a problem of procedure arising out of the current lack of disciplinary enforcement by the state bar.
- The American Judicature Society (since 1998).
- American College of Trial Lawyers (since 1996).
- The most significant work I have done for the American Bar Association was as a member of the Amicus Brief Committee, which passes on proposed amicus briefs on behalf of the ABA (1995-97).
- In 1995, Chief Judge Thelton Henderson appointed me as the first chair of the Advisory Committee on Professional Conduct established under General Order 40 of the United States District Court for the Northern District of California in San Francisco.
- Board member of the Legal Aid Society of San Francisco since 1981 (president from 1991-1993).
- Ninth Circuit Historical Society (since approximately 1990).

- California Supreme Court Historical Society (since approximately 1990).
 - The most significant California state bar committee on which I have served was the Committee on the Administration of Justice (1984-87), which concerned itself principally with revisions to the Civil Code, Code of Civil Procedure and California Rules of Court.
 - American Law Institute (since 1983).
 - American Bar Association (since 1973).
 - State Bar of California (since 1973).
 - San Francisco Bar Association (since 1973).
10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Answer:

- Yosemite Restoration Trust. This is a non-profit group I helped found in 1990 to support and to work for the implementation of the 1980 General Management Plan for Yosemite National Park. Its office is in Oakland. I am on the board.
- Yosemite Association. This is a non-profit group that was founded in 1926 to work with the National Park Service in Yosemite. YA publishes books and organizes outings for the public. All profits go to Yosemite National Park. I am a board member.
- American Radio Relay League. I am a ham radio operator (N6XMW) and the ARRL is the national ham radio organization. I am a member.
- Northern California DX Club. This is a Bay Area club of ham radio operators that promotes long-distance ("DX") communication with foreign countries. I am a member.
- Turlock (CA) Amateur Radio Club. This is a Central Valley amateur club that maintains a repeater with coverage in the High Sierra where I often hike. I help support the repeater. I am a member.
- Sierra Club. I am a member (off and on).

- North Oakland-Piedmont Little League. I was head coach of a little league team the last two years and before that assistant coach for two years. Now I am an umpire. My son is a player in the league.

11. Court Admissions: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Answer:

Mississippi Supreme Court (Inactive)	1972
United States Court of Appeals for the Fifth Circuit	1972
United States District Court, Southern District of Mississippi	1972
All California Courts	1973
United States District Court, Northern District of California	1973
United States District Court, Eastern District of California	1973
United States District Court, Central District of California	1973
United States Court of Appeals for the Ninth Circuit	1973
United States Supreme Court	1976
United States Court of Appeals for the Federal Circuit	1993

12. Published Writings: List the titles, publishers and dates of books, articles, reports or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Answer:**Published Legal Writings**

- Alsup, "The Role of the Commonwealth in Managing Solid Waste Disposal," 8 *Suffolk U. L. Rev.* 555 (1974).
- Alsup, "A Policy Assessment of the National Court of Appeals," 25 *Hastings L. J.* 1313 (1974).
- Alsup, "Reservations on the Proposal of the Hruska Commission to Establish A National Court of Appeals," 7 *U. Tol. L. Rev.* 431 (1976).
- Alsup, "Freedom of Information and Privacy," *The William O. Douglas Inquiry Into the State of Individual Freedom* 3 (1979).
- Alsup, "Managing the Costs and Risks in Litigation: Measures for Institutions," 6 *Nat. L. J.* 20 (Oct. 10, 1983).
- Alsup and Salisbury, "A Comment On Chief Justice Burger's Proposal For A Temporary Panel to Resolve Intercircuit Conflicts," 11 *Hastings Cong. Law Quarterly* 359 (1984).
- Alsup, "Book Review on Dombroff on Direct and Cross-Examination," 71 *ABA Journal* 78 (Dec. 1985).
- Alsup and Wiggin, "Hilton Davis and Jury Trials," *Hastings Communications & Entertainment L. J.* 717 (1996).
- Alsup and Lincoln, "A Management and Litigation Strategy Under Perdue," 42 *Bus. Lawyer* 893 (1987).
- Alsup, "Protecting Patents Behind the Robe," *Intellectual Property (The Recorder)* at 4 (Summer 1995).
- Alsup, "A Moment's Place In History," *Los Angeles Daily Journal*, Jan. 16, 1998 at 8 (remembrance of speech given by Dr. Martin Luther King).
- Alsup, "A Passion For the Wild," *The Recorder*, Oct. 16, 1998 at 5 (remembrance of 'Justice William O. Douglas on his 100th birthdate).
- Alsup, "Justice on the Merits: Federal Courts in California Have Almost Achieved Equal Respect For All," *Los Angeles Daily Journal and San Francisco Daily Journal*, March 23, 1998.
- Alsup, "Piercing the Corporate Veil, Alter Ego Issues," *Accountants' Seminar* (May 22, 1998, speech).

- Alsop, "Accountants As Expert Witnesses: A Trial Lawyer's Perspective." (January 19, 1999, speech.)

Books and Publications on Yosemite and the Sierra

Since 1973, I have completed 100 backcountry explorations of the Sierra Nevada (and many day hikes as well). My publications on this subject include:

- *Such A Landscape!* This is a hardback book published in a collector edition by the Yosemite Association in 1987. I wrote this book to reconstruct the day-by-day journey of the 1864 expedition of the California Geological Survey into the High Sierra, a trip that was a mini-Lewis & Clark expedition into the range. I reconstructed their route from original records and my own assessments in the field, and hiked and photographed it with my 4x5 field camera. I developed all the negatives and printed all the photographs (black and white). Forty of the photographs are reproduced in the volume as duotones. The text is a day-by-day account of their activities.
- "A Bear Story," published in *Yosemite*, at 16 (Spring 1995). (*Yosemite* is a journal for members of the Yosemite Association.)
- "Become A Ham and Carry A Radio in the Wilderness," *Yosemite*, at 15 (Summer 1994).

Publications on Amateur Radio

I am a ham radio operator and hold the highest license allowed by the FCC, an Extra Class Amateur Radio License (N6XMW). The following articles all involve amateur radio:

- Alsop, "The HF Illumination Profile and the Bright Leading Edge of Illumination," *ARRL Antenna Compendium*, Vol. 4, p. 131 (1995).
- Alsop, "The Effect of Slope on Vertical Radiation Patterns of a Horizontal Antenna," *ARRL Antenna Compendium*, Vol. 5, p. 72 (1996).
- Alsop, "A Wilderness VHF FM Protocol," *QST*, p. 99 (Feb. 1994).
- Alsop, "A Yosemite Search and Rescue," *QST*, p. 91 (Apr. 1996).

College Student Publication

- 1967 Letter to Editor of Mississippi State University Newspaper on Student YMCA's position (I was its president) on MSU prohibition

against controversial speakers on campus (letter dated January 13, 1967).

13. Health: What is the present state of your health? List the date of your last physical examination.

Answer: Excellent; February 12, 1999.

14. Judicial office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Answer: None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Answer: Not Applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

Answer: None.

17. Legal Career:

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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;

Answer: I clerked for Associate Justice William O. Douglas in the United States Supreme Court, from 1971-1972.

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

Answer: No, except briefly as follows. In June and July, 1998, I accepted the assignment as chief trial counsel for the United States (at the request of the Antitrust Division of the United States Department of Justice) in the government's suit to enjoin the proposed merger of Lockheed-Martin and Northrop-Grumman. In order to avoid any appearance of conflict (because my firm represented a subsidiary of Lockheed-Martin), I withdrew from the firm and worked as a consultant to the Antitrust Division of the Department of Justice in Washington, D.C. Lockheed then aborted the merger and the case was over. Afterwards, the firm took me back. The address was United States Department of Justice, Antitrust Division, City Center Building, 1401 "H" Street, N.W., Washington, D.C. 20530.

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

Answer:

Law Firm & Address	Position	Dates
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Partner	1998-Present
Antitrust Division, United States Department of Justice 1401 "H" Street, NW Suite 3000 Washington, D.C. 20005	Special Counsel	June-July 1998
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Partner	1980-1998
Solicitor General Wade McCree United States Department of Justice 950 Pennsylvania, NW Washington, D.C. 20530	Assistant Solicitor General	1978-1980
Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105	Associate/ Partner	1973-1978

Pyles & Tucker 507 East Pearl Street Jackson, MS 39201	Attorney	1972-1973
Kindel & Anderson 510 South Spring St. Los Angeles, CA 90024	Summer Associate	Summer 1969
Law Offices of John F. Dunne, Jr. 9033 Wilshire Blvd. Beverly Hills, CA 90211	Summer Associate	Summer 1968

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

Answer: Overall, since 1972, I have enjoyed a wide and general litigation practice, appearing mostly in federal court, on largely civil but also criminal matters, pro bono and paying, at the trial and appellate levels, representing both plaintiff and defendant. I have tried sixteen cases, about forty percent of which were jury cases. Most of my professional work has been in the trial courts with the following exception:

In 1978-80, I served as an Assistant Solicitor General under Solicitor General Wade McCree at the United States Department of Justice in Washington. In that two-year period, my work was representing the government in the United States Supreme Court and in working to uphold government convictions in criminal cases. This was all exclusively appellate work.

- b. 2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Answer: My practice in recent years has been complex civil litigation, including trials and appeals. I have not specialized in any specific area but have handled a broad range of civil cases, including securities, RICO, antitrust, contract, fraud, patent, employment, will contests, and other cases. Typical clients have been Acuson Corporation, Fujitsu Ltd., and James Corfman, an individual.

- c. 1. Did you appear in court frequently, occasionally or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

Answer: Yes, I have appeared in court frequently throughout my legal career.

2. What percentage of these appearances was in:

- (a) federal courts;
- (b) state courts of record;
- (c) other courts.

Answer: About sixty percent of my appearances have been in federal courts, the remaining forty percent in state courts.

3. What percentage of your litigation was:

- (a) civil;
- (b) criminal.

Answer: Almost all of my litigation practice has been civil.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel or associate counsel.

Answer: I have tried sixteen cases to conclusion (counting the ITC case described elsewhere). In twelve, I was lead counsel (and sole counsel in one of the twelve) and I was associate trial counsel in the remainder. I am not counting a number of cases that settled part of the way through trial.

5. What percentage of these trials was:

- (a) jury;
- (b) non-jury.

Answer: About forty percent have been jury trials.

18. **Litigation:** Describe the ten most significant litigated matters which you personally handled. 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.

Answer:

1. *Hard Rock Café and Peter Morton v. Robert Brown* (Los Angeles County Superior Court, Docket No. BC127353, September-October 1996). I represented Morton, the founder and CEO of the Hard Rock Cafe, who fired Brown, the highest ranking executive after Morton, and sued Brown to recover stock in the company. Brown countersued, alleging a derivative action for alleged cheating of investors, a wrongful termination action, a whistle-blower action and an action for alleged breach of oral contract for nine percent of a project Brown worked on for Morton. The derivative action was dismissed on summary judgment, and the remaining claims went to a four-week jury trial. The verdict was entirely for Morton and the Hard Rock Cafe, our clients, on all claims. I was lead counsel for Morton and the Hard Rock. *Judge:* The Honorable Judith Chirlin, Los Angeles County Superior Court, Department 34, Los Angeles, California, (213) 974-5643. *Opposing Counsel:* Wayne S. Grajewski, of Arter & Hadden, LLP, Citicorp Plaza, 725 South Figueroa Street, Suite 3400, Los Angeles, California 90017-5434, (213) 430-3000.
2. *In the Matter of Certain Integrated Circuits and Products Containing Same*, ITC Investigation No. 337-TA-402, April 1998. This was a patent case to obtain an order to exclude Samsung's dRAM memory chips from being imported into the United States brought by Fujitsu, our client. I was lead trial counsel on one of two patents-in-suit, Patent No. 4,641,166. After a two-week

trial, the ITC staff counsel recommended an exclusion order in our favor on all issues on this patent. The case was then settled. *Judge:* The Honorable Paul J. Luckern, United States International Trade Commission, Washington, D.C., (202) 205-2694. *ITC Counsel:* Smith R. Brittingham IV, of Office of Unfair Import Investigations, U.S. International Trade Commission, 500 "E" Street, S.W., Room 401, Washington, D.C. 20436, (202) 204-2576; *Opposing Counsel:* John D. Allcock, of Gray Cary Ware Freidenrich, Suite 1700, 401 B Street, San Diego, California 92101-4297, (619) 699-2828.

3. *FDIC v. Main Hurdman, et al.* (United States District Court, Eastern District of California (Sacramento), Docket No. S-85-552 LLK, October 1988-July 1989). This was a ten-month jury trial in which we represented the plaintiff FDIC against a national accounting firm for malpractice and misrepresentation in the preparation of audited financial statements of a borrower from a national bank. The jury awarded the FDIC damages in the amount of \$15,147,000. We obtained what I believe is the first and only jury verdict ever obtained by the FDIC against an accounting firm. I was lead trial counsel for plaintiff the FDIC. A pretrial opinion is reported at 655 F. Supp. 259, and a January 24, 1986 decision is available on Lexis. *Judge:* The Honorable Lawrence K. Karlton, United States District Court, Sacramento, California, (916) 498-5670. *Opposing Counsel:* Thomas G. Redmon, Wilke, Fleury, Hoffelt, Gould & Birney, LLP, 22nd Floor, 400 Capitol Mall, Sacramento, California 95814-4416, (916) 441-2430; Robert J. Kheel, of Willkie Farr & Gallagher, The Equitable Center, 787 Seventh Avenue, New York, New York 10019-6099, (212) 821-8000; and James A. Askew, of Askew & Archbold, 1776 West March Lane, Suite 350, Stockton, California 95207, (209) 955-2260. *Counsel for Third Party Continental Bank:* William A. Wineberg, of Wineberg, Simmonds & Narita, 44 Montgomery Street, Suite 3880, San Francisco, California 94104, (415) 352-2200.
4. *Diasonics, Inc. v. Acuson Corporation* (United States District Court, Northern District of California, February-April 1993). This was a two-month jury trial in which I was lead trial counsel for Acuson Corporation against a charge of infringement of two patents. The subject matter was non-invasive ultrasound imaging. At trial, the court dismissed all claims of willfulness and dismissed all damages from 1986 to January 1991 for plaintiff's failure to mark, *i.e.*, for

failure to brand its own products with the patent number. The verdict was in our favor on all counts except as to one claim in one patent, which the jury found was infringed under the doctrine of equivalents. However, the jury found that claim invalid and did not reach any damages issues. Because the jury's finding of invalidity was inconsistent with a special interrogatory answer, a partial new trial was ordered. With the issues much narrowed, the case promptly settled. *Judge:* The Honorable D. Lowell Jensen, United States District Court, Oakland, California, (510) 637-3550. *Opposing Counsel:* Jonathan C. Dickey, then at Brobeck, Phleger & Harrison, now at Gibson, Dunn & Crutcher LLP, 1530 Page Mill Road, Palo Alto, California 94304-1125, (650) 849-5300.

5. *Hendry v. Exide Electronics Corp.* (United States District Court, Northern District of California, Docket No. C-89-0077 SAW, 1994). This was a diversity case brought by a terminated manufacturer's representative who claimed credit for having won a large Air Force contract for the company. After remand from the Ninth Circuit reversing a judgment of nearly \$17 million, Morrison was asked by defendant Exide Electronics to become trial counsel in the retrial. Mel Goldman was lead trial counsel. I was the lead on the damages defense case and conducted all examinations on that subject. The plaintiff's compensatory damages figure was about \$35 million plus punitives. The jury accepted our compensatory damages figure of \$2.6 million and added \$1.3 million in exemplary damages for a total of \$3.9 million. The trial was in 1994 and lasted about three weeks. *Judge:* The Honorable Stanley A. Weigel, United States District Court, San Francisco, California, (415) 522-3660. *Opposing Counsel:* F. Brock Gowdy and Martin L. Fineman, of Brobeck, Phleger & Harrison, One Market Plaza, Spear Street Tower, San Francisco, California 94105, (415) 442-0900. Martin L. Fineman is now at Davis, Wright Tremaine LLP, One Embarcadero Center, Suite 1000, San Francisco, California 94111, (415) 276-6500.
6. *Giallanza v. Milidyne* (United States District Court, Northern District of California, Docket No. C-82-6354 SC, 1985). This case was a securities fraud suit brought against our clients for alleged misrepresentations in the sale and acquisition of a telecommunications business. After a full bench trial, our clients were completely exonerated by the court. I was lead defense trial counsel. *Judge:* The Honorable Samuel Conti, United States District Court, San

Francisco, California, (415) 522-4080. *Opposing Counsel:* Harry Bremond, of Wilson, Sonsini, Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304, (650) 493-9300.

7. *Crocker National Bank v. Rockwell International Corporation* (United States District Court, Northern District of California, 1982). Crocker was a victim in one of the largest Ponzi schemes in history, the OPM Leasing Fraud, which collapsed in the 1980s. As lead counsel for Crocker, I was one of the early counsel to invoke RICO for a civil plaintiff. We sued Rockwell International, Lehman Brothers and a New York law firm. In an opinion that presaged the Supreme Court's ultimate rulings on the same issues, Judge Conti sustained our RICO complaint against a series of legal defense theories. This ruling, plus a prompt and impending trial date, led to a favorable settlement. Two opinions are reported, at 555 F. Supp. 47, and Fed. Sec. L. Rep. (CCH) P99,007. *Judge:* The Honorable Samuel Conti, United States District Court, San Francisco, California, (415) 522-4080. *Opposing Counsel:* E. Judge Elderkin and Luther K. Orton, of Brobeck, Phleger & Harrison, Two Embarcadero Place, 2200 Geng Road, Palo Alto, California 94303, (650) 424-0160.

8. *United States v. D-Q University* (United States District Court, Eastern District of California (Sacramento), Docket No. S-82-531, 1984). This case began as a dispute between the United States and D-Q University, a small Native North American college near Sacramento, California, over whether the school had met the conditions for retaining its land grant. The government had obtained a preliminary injunction and had moved for summary judgment to reclaim the land when the college, D-Q University, asked Morrison to take over the case. Robert Raven asked me to take it on and I did. We filed our own countersuit for wrongful termination of student Pell grants and undertook discovery from the government. The government, I believe, acquired a renewed faith in the leadership of the school as the case progressed. The case was eventually settled on favorable terms under which D-Q University retained possession of one half of the land and had the right to acquire the rest (and eventually did so). In addition, student aid was restored, and new university grants were made by the Department of Education. *Judge:* The Honorable Philip Wilkins (deceased), United States District Court, Sacramento, California, (916) 498-5687. *Opposing Counsel:* Assistant

U.S. Attorney Lou Demas, now in private practice at 910 Florin Road, Suite 102, Sacramento, California 95831, (916) 399-8064.

9. *Digidyne v. Data General Corp.* (United States District Court, Northern District of California, 1987). After a successful appeal by Digidyne which established liability against Data General, Morrison was asked to take the lead in trying the damages case, and I was the primary counsel on remand for plaintiff Digidyne in preparing the damages case for trial. I regard the case as significant because of the challenge in keeping pace with the many opposing law firms, all vigorous, and because of the favorable result. There was one reported decision after we joined the case, 734 F.2d 1336 (1984), cert. denied, 473 U.S. 908 (1985), *hearing denied*, 473 U.S. 926 (1985). I acted as lead counsel for plaintiff. *Judge*: The Honorable Marilyn Hall Patel, United States District Court, San Francisco, California, (415) 522-3600. *Opposing Counsel*: Douglas Schwab, of Heller, Ehrman, White & McAuliffe, 333 Bush Street, San Francisco, California 94104, (415) 772-6000; Stephen R. Steinberg, then at Reavis & McGrath, present address: P.O. Box 2158, Bridgehampton, New York 11932, (516) 537-9049; Lawrence W. Boes, then at Reavis & McGrath, now at Fulbright & Jaworski L.L.P., 666 Fifth Avenue, 31st Floor, New York, New York 10103-3198, (212) 318-3000; Steven M. Schatz, of Wilson, Sonsini, Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304, (650) 493-9300; Joseph A. Darrell, then at Thelen, Marrin, Johnson & Bridges, now at 6680 Alhambra Avenue, Suite 410, Martinez, California 94553; L.J. Chris Martiniak, then at Stark, Stewart, Wells & Robinson, now at Feldman, Waldman & Kline, Three Embarcadero Center, Suite 2800, San Francisco, California 94111, (415) 981-1300. *Co-Counsel*: Jack C. Provine and Lawrence A. Callaghan, both formerly of Miller, Starr & Regalia. Mr. Callaghan is now at Severson & Werson, One Embarcadero Center, Twenty-fifth Floor, San Francisco, California 94111, (415) 398-3344. Mr. Provine is now with Shapiro Buchman Provine & Patton LLP, 1331 North California Boulevard, Suite 320, Walnut Creek, California 94596, (925) 988-4988.
10. *Crocker National Bank v. Louis B. Scott* (Contra Costa County Superior Court action, 1984). This matter was a six-week, lender liability trial brought by a real estate developer alleging breach by Crocker of an oral agreement to lend

more money on three real estate developments. Crocker, our client, counterclaimed for fraud in the inducement of the original loans. A twelve-person jury rendered a unanimous verdict for Crocker on all claims and awarded Crocker a million dollars plus punitive damages against the developer. I was lead trial counsel for Crocker. *Judge:* The Honorable Robert McGrath, (recently deceased), Contra Costa County Superior Court, Martinez, California, (925) 646-4001. *Opposing Counsel:* Paul O. Lamphere, 1320 Arnold Drive, Suite 271, Martinez, California 94553, (925) 370-2440.

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

Answer:

1. My work with the Antitrust Division of the United States Department of Justice in Washington, D.C., falls into this category. In June 1998, Joel Klein, the Assistant Attorney General for the Antitrust Division, asked me to serve in a special capacity as lead trial counsel for the United States in the then-pending case against the merger of two defense contractors, Lockheed-Martin and Northrop-Grumman. I took on this assignment and went to Washington and began working with the large team of DOJ lawyers and legal assistants, all with the objective of having the case trial-ready on September 8, 1998. After I began, however, Lockheed aborted the merger and the case was over. This led to a request, after I returned to my law firm, by the Assistant Attorney General for me to work with DOJ (along with the remainder of my normal case load at my law firm) on its pending investigation of alleged predatory airline practices, which I am currently doing.
2. I have counseled many clients over the prospects of potential litigation and helped them work out plans to avoid litigation altogether or to settle before litigation. All of this involved attorney-client information, so I cannot give examples.
3. I have served as a volunteer arbitrator in the local Superior Court's arbitration program. This is where the parties, shortly before trial, take one day and present their evidence to an arbitrator, who then rules on the merits. Either side can go to trial anyway but there are penalties if the party insisting on trial does

not do better than the arbitrator's award. I have done approximately ten of these cases as the arbitrator over the years.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

Answer: My law firm has no retirement plan. If I am confirmed as a judge, I will resign from my firm and would be paid my capital account immediately (\$270,000). There would be no continuing financial connection.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

Answer: The only significant potential conflict of interest would involve presiding over cases in which my current law firm would be representing a party. In such cases, I would recuse myself. After a number of years, I would feel free to hear such cases. I would consult with the Chief Judge concerning what would be an appropriate length of time for me to avoid cases involving my law firm. Obviously, as a perpetual bar, I would be unable to hear any case in which I had participated as counsel. Given that virtually all of my investments are either in our home, Mariposa County house and land, in mutual funds or government securities, it is very unlikely that these assets would give rise to a conflict of interest. At all events, I will follow the Code of Judicial Conduct.

3. 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.

Answer: No.

4. 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, patents, 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.)

Answer: See accompanying financial disclosure report.

5. Please complete the attached financial net worth statement in detail. (Add schedules as called for.)

Answer: See accompanying net worth statement.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Answer: No.

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 (see schedule)	506	051	Notes payable to banks—secured		
U.S. Government securities—add schedule	251	245	Notes payable to banks—unsecured		
Listed securities—add schedule	1	595 187	Notes payable to relatives		
Unlisted securities—add schedule			Notes payable to others		
Accounts and notes receivable:			Accounts and bills due	10	000
Due from relatives and friends	15	000	Unpaid income tax		
Due from others			Other unpaid tax and interest		
Doubtful:			Real estate mortgages payable—add schedule	105	000
Real estate owned—add schedule	1	040 000	Chattel mortgages and other liens payable		
Real estate mortgages receivable			Other debts—itemize:		
Autos and other personal property	100	000			
Cash value—life insurance (Est.)	10	000			
Other assets—itemize:					
Capital account at law firm	270	000			
			Total liabilities	115	000
			Net Worth	3	672 483
Total Assets	3	797 483	Total liabilities and net worth	3	797 430
CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, comaker or guarantor			Are any assets pledged? (Add schedule.)		
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	145	000			
Other special debt					

Supplemental Net Worth Schedule For William Haskell Alsop
As of 2/28/99
(Senate Judiciary Committee)

Note: Except for our two homes, virtually all of our assets are in four investment accounts, the largest two of which are at Merrill Lynch. To conform to the format requested, however, I have taken the relevant sub-categories from our statements and placed them under the categories requested. This supplement is only for the items requested to be itemized and does not include all assets. All assets are totaled on the main form.

Cash on Hand:	Checking Accounts at Bank of America Accounts	\$ 147,380 ¹	
	Uninvested Cash HR-10 at Merrill Lynch	\$ 24,412	
	Uninvested Cash Investment Account at Merrill Lynch	\$ 40,541	
	Uninvested Cash Investment Account for daughter Allison (Merrill Lynch)	\$ 5145	
	Uninvested Cash (Prudential)	\$ 122	
	Uninvested Cash (Morgan Stanley)	\$ 48	
		Certificates of Deposit (All in HR-10):	
	CD Hamilton BK Miami, Fla.	\$ 76,587	
	CD EXCEL BK Edina MN	\$ 75,592	
	CD EXCEL BK Edina MN	\$ 95,671	
	Savings Accounts at Washington Mutual San Francisco	\$ 40,553	
Subtotal Cash:			\$ 506,051
U.S. Government Securities:	GNMA		\$ 251,245

¹ The account balance varies day-to-day as checks and deposits come in. The balance on March 15, 1999 was \$147,380. This was unusually high since it included a recent deposit from earnings to cover tax payments about to fall due.

**Supplemental Net Worth Schedule For William Haskell Aisup
As of 2/28/99**

Listed Securities:	HR-10 (Merrill Lynch)	
	Various Mutual Funds	\$ 324,172
	Corporate Bonds	
	Citigroup Inc.	\$ 20,949
	Equitable of Iowa	\$ 21,249
	Chase Capital IV	\$ 51,374
	Travelers P&C Capital I	\$ 14,300
	Accrued Interest	\$ 3,643
	Pfd. Stock Grand Metro Pfd.	<u>\$ 85,875</u>
	Subtotal HR-10:	<u>\$ 521,562</u>
Investment Account (Merrill Lynch):	Mutual Funds	\$ 70,389
	Municipal Bonds:	
	East Bay, CA MUN UTIL DT	\$ 54,179
	Los Angeles Co. CAMEL TR.	\$ 139,352
	California PCF AUTH. PLLN	\$ 52,696
	Sacramento, CA MUN UTIL DT	\$ 53,047
	Accrued Interest	\$ 3,298
	Annuity/Mutual Funds	<u>\$ 104,095</u>
	Subtotal for Account:	<u>\$ 477,056</u>
	Investment Trust Account for daughter Allison (Merrill Lynch)	Grand Metro DEL LP
Santander Fin. Ltd.		\$ 6,060
Subtotal For Account:		<u>\$ 40,260</u>
Investment Account (Trust) for son John (Merrill Lynch)		
AIM GCBL Health Care Fund A	\$ 15,569	
CALIF. ST CPN	\$ 62,671	
Subtotal For Account:	<u>\$ 78,240</u>	

**Supplemental Net Worth Schedule For William Haskell Aisup
As of 2/28/99**

	Investment Account (Prudential Securities)	
	Mutual Funds	<u>\$ 452,232</u>
	Investment Account (Morgan Stanley)	
	Calif. VETGO-AK	\$ 11,462
	Riverside UTIL	<u>\$ 14,375</u>
	Subtotal:	<u>\$ 25,837</u>
	Subtotal All Listed Securities:	\$ 1,595,187
Real Estate Owned:	Oakland, California (free and clear)	\$ 750,000
	Midpines, California (Subject to mortgage of \$108,000)	\$ 290,000
	Subtotal Real Estate:	\$ 1,040,000

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics
Reform Act of 1989, Pub. L. No.
101-194, November 30, 1989
(5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Alsop, William H.		2. Court or Organization U.S.D.C., No. Distr. of Calif.	3. Date of Report 03/24/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Court Nominee		5. Report Type (check type) X Nomination, Date / / Initial Annual Final	6. Reporting Period 01/01/1997 to 03/01/1999
7. Chambers or Office Address Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Partner	Morrison & Foerster, LLP, 425 Market Street, San Francisco, CA 94105
2 Board Member	Legal Aid Society of San Francisco, 1663 Mission Street, Suite 400, San Francisco, CA 94103
3 Board Member	Yosemite Association, P.O. Box 230, El Portal, CA 95318

AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	Note: If confirmed, my law firm will immediately pay out my capital account-\$270,000 and there would be no continuing financial connection.

NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1997	Partner Income, Morrison & Foerster, LLP	\$ 545,720.00
2 1997	Oakland Unified School District (S)	
3 1997	Sale of photographs (estimated)	\$ 1,500.00
4 1998	Partner Income, Morrison & Foerster, LLP	\$ 589,370.00

FINANCIAL DISCLOSURE REPORT	Name of person reporting	Date of Report
	Sp, William H.	03/24/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE (No such reportable reimbursements.)	DESCRIPTION
1	<input type="checkbox"/> NONE	
2	EXEMPT	
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE (No such reportable gifts.)	DESCRIPTION	VALUE
1	<input type="checkbox"/> NONE		
2	EXEMPT		
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR (No reportable liabilities.)	DESCRIPTION	VALUE CODE*
1	<input type="checkbox"/> NONE		
2			
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 0=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Date of Report
 JP, William H. 03/24/1999

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (I-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 MERRILL LYNCH (HR-10)					EXEMPT				
2 Cash and Money Funds (J)	B	Interest	K	T					
3 CD HAMILTON BK (Miami) (J)	C	Interest	L	T					
4 CD EXCEL BANK 4.8% (J)	C	Interest	L	T					
5 CD EXCEL BANK 4.9% (J)	D	Interest	L	T					
6 GNMA's - Combined (J)	E	Interest	N	T					
7 CITIGROUP INC. Bond (J)	B	Dividend	K	T					
8 EQUITABLE OF IOWA (J)	B	Dividend	K	T					
9 CHASE CAPITAL IV (J)	C	Dividend	L	T					
10 TRAVELERS P&C CAPITAL I (J)	B	Dividend	J	T					
11 GRAND METRO DEL. LP (J)	D	Dividend	L	T					
12 AINSBL TELECOM (J)	A		K	T					
13 DAVIS NY VENTURE FDA (J)	A	Dividend	M	T					
14 PUTNAM EU FD SBI (J)	A	Dividend	L	T					
15 PUTNAM HEALTH SCIENCES (J)	A	None	K	T					
16 GT GLOBAL TELE. FUND (J)	A	Dividend		V					
17 PUTNAM GLOBAL GROWTH FD (J)	B	Dividend		V					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of person reporting
Mr. William H. Date of Report
03/24/1999

VII. Page 2 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 16-14 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (I-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (I-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18 PUTNAM VOYAGER FD (J)	A	Dividend		V					
19 SELIGMAN COMMUNIC FUND (J)	D	Dividend		V					
20 MERRILL LYNCH INV. ACCOUNT (J)									
21 CASH AND MONEY FUNDS (J)	B	Interest	K	T					
22 EAST BAY CA MUN. UTIL. DT (J)	D	Interest	L	T					
23 LOS ANGELES CO CA MET TR (J)	D	Interest	M	T					
24 CALIF. PCF AUTH PLLN CTL (J)	D	Interest	L	T					
25 SACRAMENTO CA MUN UTIL DT (J)	D	Interest	L	T					
26 ML CALIF. MUNI. BD C (J)	D	Dividend	L	T					
27 ML DEV. CAP MKTS FOCUS (J)	A	Dividend	K	T					
28 ML GLOBAL STRAT FOCUS (J)	A	Dividend	L	T					
29 MERRILL LYNCH (FOR DAUGHTER) (J)									
30 CASH AND MONEY FUNDS (J)	A	Interest	J	T					
31 SANTANDER FINANCIAL LTD. PFD. (J)	A	Dividend	J	T					
32 GRAND METRO DEL. LP SERIES A PFD (J)	D	Dividend	K	T					
33 MORGAN STANLEY DEAN WITTER (FOR SGR) (J)									
34 CALIFORNIA VET GO-AK (J)	B	Dividend	J	T					

1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 E=\$15,001-\$50,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

VII. Page 3 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes this spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(DC)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-F)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-F)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
35 RIVERSIDE UTIL ZERO COUPON (J)		None	K	T					
36 PRUDENTIAL SECURITIES (J)									
37 CASH AND MONEY FUNDS (J)	B	Interest		T					
38 NEW PERSPECTIVE (J)	D	Dividend	M	T					
39 WASHINGTON MUTUAL FUND (J)	E	Dividend	N	T					
40 MERRILL LYNCH (FOR SON) (J)									
41 CASH AND MONEY FUNDS (J)		None	J	T					
42 CALIFORNIA ST. CPM MTR (J)	D	Dividend	L	T					
43 AIM GLBL HEALTH FND (J)	D	Dividend	K	T					
44 WASHINGTON MUTUAL BANK ACCOUNT (S)	C	Interest	K	T					
45 BANK OF AMERICA BANK ACCOUNT (J)	D	Interest	M	T					
46 MORRISON & FOERSTER (J)	B	Interest	J	T					
47 LOAN RECEIVABLE FROM K. YOUNG (S)	A	Interest	J	T					
48 LOAN RECEIVABLE FROM A. ALSUP (J)		None	J	T					
49									
50									
51									
1 Incl/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 I2=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	NAME OF REPORT PREPARED BY A. S. , William H.	DATE OF REPORT 03/24/1999
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III. ADDITIONAL INFORMATION OR EXPLANATIONS.
(Indicate part of report.)

PART 1: Name of Organization/Entity re: Partner, M, cont'd ...Mission Street, San Francisco, CA 94103; Board Member, Yosemite Restoration Trust, 1212 Broadway Street, Suite 814, Oakland, CA 94612.

FINANCIAL DISCLOSURE REPORT	NAME OF REPORT PREPARED BY A. S. , William H.	DATE OF REPORT 03/24/1999
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SECTION HEADING. (Indicate part of report)
Information continued from Parts I through VI, inclusive.

PART 1. POSITIONS (cont'd.)

Line	Position	Name of Organization/Entity
4	Board Member	Yosemite Restoration Trust, 1212 Broadway Street, Suite 814, Oakland, CA 94612
5	Trustee	For Reversionary Trust for Daughter Allison Alsop At Merrill Lynch, San Francisco.
6	Trustee	For Trust Account (UTMA) For Son John Alsop, Merrill Lynch, San Francisco.

PART 2. AGREEMENTS (cont'd.)

Line	Date	Parties and Terms
4		
5		

PART 3. NON-INVESTMENT INCOME (cont'd.)

Line	Date	Source and Type	Gross Income
5	1998	Oakland Unified School District (S) \$	0.00
6	1998	Sale of photographs (estimated) \$	1,500.00
7	6,7/98	Direct payments from United States Department of Justice	\$ 48,402.92
8	1999	Partner Income, Morrison & Foerster LLP (1/1/99 - 2/28/99) \$	0.00

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Dr. William H.	03/24/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Wm H. Allen Date March 24, 1999

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. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

III. GENERAL (PUBLIC)

1. 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.

Answer: Over more than a quarter-century of private practice, I have contributed about 100+ hours per year in pro bono work for the disadvantaged and, in some cases, for the court system. At the request of the Legal Aid Society of San Francisco, for example, I agreed to come in as trial counsel to represent a group of janitors who were denied employment benefits, because the employer classified them as "independent contractors." The Legal Aid Society of San Francisco also asked me to assist on an amicus brief to uphold an order prohibiting racial epithets in the workplace (against a free-speech challenge). The Superior Court in Alameda County, to give another example, asked me to represent it in a case involving its effort to use electronic recording in lieu of official court reporters (in some instances). I also serve as a volunteer arbitrator for the local superior court under its mandatory arbitration program. These are examples, but, in general, I have tried to take my share of pro bono cases when called on by a legal services agency or the court.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates—through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

Answer: I have never belonged to any such organization.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

Answer: Senator Barbara Boxer has a selection committee which screens and recommends judicial candidates. I applied in 1995 and was interviewed by the committee. I was told then that I was among the "finalists," but the pick went to another person. In this more recent time, there was no interview since the committee already knew me. I was a finalist again. Senator Boxer chose me this time. I have been interviewed by the FBI, the ABA and certain Justice Department personnel officials.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue or question? If so, please explain fully.

Answer: No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- (a) A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- (b) A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- (c) A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- (d) A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- (e) A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

Answer:

In our democracy, law should be made by the elected branches of the government. The federal judiciary has the important role of carrying out the law made by the elected branches. Federal judges should not substitute their judgment for that of Congress in determining the statutory policy of the United States. Federal judges must see that the will of the elected branches of government is faithfully executed.

In our democracy, the Constitution lays down limits on the scope of governmental action. No law, for example, can be enacted that would deny freedom to worship in a church. In furtherance of our system of checks and balances, it has fallen, by necessity, to the non-elected branch of our government, the judicial branch, to say when governmental action crosses the line into the impermissible.

This power should be rarely needed or used, given the broad scope of legislative authority held by Congress. All statutes are presumptively valid. And, a judge should not reach out to decide constitutional issues but should wait, until, if ever, an issue is squarely presented. Only in a clear case (and on a proper record) should a statutory enactment by the elected branch in a democracy be held unconstitutional. Yet when government action does cross the line, judges must do their duty and uphold the Constitution.

When constitutional issues are squarely presented, judges should not rule based on their personal predilections but should rule, to the extent professionally and humanly possible, in accordance with precedent and the Constitution. By that I mean, first and foremost, due respect for controlling or analogous authority. The precedents should be studied and the weight of their authority should be followed, even if a judge would, as an individual policy matter, prefer a different outcome.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

Thomas Lee Ambro

2. Address: List current place of residence and office address(es).

Residence

Wilmington, Delaware

Office

Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, DE 19899

3. Date and place of birth.

December 27, 1949
Cambridge, Ohio

4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Married to Mary Lucia Ambro (formerly Mary Lucia Olivere)
Math instructor (adjunct)
State of Delaware
Delaware Technical & Community College
400 Stanton-Christiana Road
Newark, DE 19713

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Georgetown University B.A. 1971 (attended from 9/68-12/71)
Georgetown University Law Center J.D. 1975 (attended from 8/72-5/75)

6. **Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partners, proprietor, or employee since graduation from college.

<u>Employer</u>	<u>Dates of Employment</u>	<u>Position</u>
Richards, Layton & Finger, P.A.	July 1976-Present	Associate 1976-82 Director, Officer and Shareholder 1982-Present
State of Delaware Supreme Court	July 1975-June 1976	Law Clerk to the Honorable Daniel L. Herrmann
United States Senate	March 1974-May 1975	Staff of the Honorable William V. Roth, Jr.
U.S. Civil Service Commission	Spring 1973-Fall 1973	Claims Processor in Bureau of Retirement, Insurance & Occupational Health
Republican National Committee	April 1972 - Fall 1972	Solicited political contributions nationwide
Scholarly Resources, Inc.	December 1971 - April 1972	Freelance researcher for Professor Jules Davids of Georgetown University
<u>Other</u>		
West End Neighborhood House, Inc.	1980 - Present	Director
	1983-1985	President and Chairman of the Board
	Various Times	Member of Executive Committee
Glasgow Professional Properties, Inc.	1990 - Present	Shareholder, Director, Secretary and Assistant Treasurer
Kawasaki Chemical Holding Company, Inc.	1992 - Present	Secretary

7. **Military Service:** Have you had any military service?

No.

If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

Not applicable.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

- College: On full tuition scholarship (freshman and sophomore years)
Gladys and Mary Kaime Scholarship (junior and senior years; in addition to full tuition, this scholarship, I recall, also paid for room, board and books)
Magna Cum Laude
Phi Beta Kappa
Phi Alpha Theta History Honors Society
- Law School: Selected as member of Appellate Litigation Clinical Program (Professor Sherman L. Cohn) (wrote briefs, and argued twice, re: appeals to United States Court of Appeals for the D.C. Circuit)
- ABA Section of Business Law: Given award for work on Committee on Publications (1997)
- Georgetown University: Given The William Gaston Award by Alumni Club (1999)

9. **Bar Associations: List all bar associations, legal or judicial-related committees 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

- Member (1976-Present)
Member, Standing Committee on Publishing Oversight (1995-Present)
Member, Working Group on Publishing (1994-1995)

- **Section of Business Law**

- Member (1976-Present)
Vice Chair (1999-Present) (will be Chair-Elect in 2000-01, and Chair of Section in 2001-02)
Secretary (1998-1999)
Editor, The Business Lawyer (1999-Present)
Member, Editorial Board, The Business Lawyer (1998-1999)
Member, Council of Section of Business Law (1994-1998)
Chair or Co-Chair, Committee on Publications (1994-1997)
Chair, Committee on Legal Opinions (1994-1998) (Member of Committee since 1988)
Member, Drafting Subcommittee Re: Legal Opinion Project (1989-1991)
Participant, Silverado Conference on Legal Opinions (1989)

Chair, Committee on Meetings (1990-1994) (Member of Committee since 1988)
 Chair, Subcommittee on Opinion Letters of the Commercial Financial
 Services Committee (1991-1995)
 Vice Chair, Committee on Programs (1987-1991)
 Member, Committee on Business Bankruptcy
 Member, Committee on Commercial Financial Services
 Member, Committee on Uniform Commercial Code
 Member, Committee on Negotiated Acquisitions
 Past Member, Ad Hoc Committee on Central and Eastern European Law Initiative.

- **Section of Litigation**

Member (1976-Present)

- **Section of Real Property, Probate and Trust Law**

Member (1992-Present)

Delaware State Bar Association

Member (1976-Present)
 Member, Commercial Law Section
 Chair of Section (1979-82)
 Vice Chair of Section (1982-83)
 Chair, Committee on Uniform Commercial Code (1983-Present)
 Chair, Ad Hoc Committee Re: Exposure Draft of ABA Third-Party Legal Opinion
 Report (1990-91)
 Member, Bankruptcy Law Committee
 Member, Bankruptcy Rules and Practice Committee
 Member, Corporation Law Section
 Member, Real and Personal Property Law Section
 Past Member, Continuing Legal Education Section

TriBar Opinion Committee

Member (1988-Present)
 Chair, Subcommittee on UCC Security Interest Opinions (1991-1993)
 Member, Subcommittee on Remedies Opinions (1989-1991)
 Member, Editorial Group (1996-Present)

Other

Member of judicial recommendation committee for United States Bankruptcy Judge
 vacancy for the District of Delaware (1998)
 Charter member (1991) and member of Board of Regents (1998-Present), American
 College of Commercial Finance Lawyers

Member, American College of Bankruptcy (1996-Present)
 Member, Third Circuit Admissions Committee (1999-Present)
 Member, American Bankruptcy Institute (1994-Present)
 Member, Turnaround Management Association (1997-Present)
 Member, American College of Investment Counsel (1992-Present)
 Member, Association of Trial Lawyers of America (1999-Present)
 Member, American Arbitration Association (1994-Present)
 Member, National Association of Bond Lawyers (1984-Present)
 Member, American Judicature Society (1982-Present)
 Member, The Supreme Court Historical Society (1986-Present)
 Member, Third Circuit Judicial Council Committee on Bench-Bar Relations & The
 Lawyers' Advisory Committee (1998-Present)
 Member, Richard S. Rodney American Inn of Court (1999-Present)

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies.

American Bar Association
 Delaware State Bar Association

Please list all other organizations to which you belong.

Director, West End Neighborhood House (1980-Present)
 Member, Board of Editors, Delaware Lawyer magazine (1982-Present)
 Member, The World Affairs Council of Wilmington (1998-Present)
 Chairman, Georgetown University, Northern Delaware Alumni Admissions Program (1977-Present)
 Vice Chairman, Alumni Admissions Committee Board of Advisors (1999-Present)
 Member, Alumni Admissions Committee Board of Advisors (1991-94; 1998-Present)
 Georgetown Club of Delaware (Vice President 1995-96; Emeritus Officer 1997-Present)
 Member, Democratic Leadership Council (1998-Present)
 Member, St. Thomas More Society (1989-Present)
 Member, Wilmington Country Club (1993-Present)
 Member, The Rodney Square Club (1983-Present)
 Member, University and Whist Club of Delaware (1989-Present)
 Member, Wilmington Club (1996-Present)

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such membership lapsed.

Delaware Supreme Court (includes all lower courts, including the Court of Chancery, Superior Court, et al.) 1976

United States Supreme Court	1979
United States Court of Appeals for the Third Circuit	1980
United States District Court for the District of Delaware (includes United States Bankruptcy Court for the District of Delaware)	1976

Please explain the reason for any lapse of membership.

Not applicable.

Give the same information for administrative bodies which require special admission to practice.

Not applicable.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited.

Thomas L. Ambro, *Third Party Legal Opinions*, Ch. 15A in *Asset Based Financing: A Transactional Guide* (Matthew Bender 1990)

---- and Martin I. Lubaroff, *Special Purpose Banking Corporations*, Ch. 26 in *The Delaware Law of Corporations and Business Organizations* (Prentice Hall Law & Business, 2d Ed. 1990)

---- *How Delaware Does Business Courts*, Vol. 4, No. 3, *Business Law Today* (Jan./Feb. 1995), pp. 28-29

---- Editor's Notes, Vol. 16, No. 3, *Delaware Lawyer* (Fall 1998), pp. 3-4

---- *Lost In Legal Opinions? Let This Book Be Your Compass* -- book review of FitzGibbon and Glazer on *Legal Opinions: What Opinions In Financial Transactions Say and What They Mean*, Vol. 3, No. 4, *Business Law Today* (March/April 1994), pp. 40-41

---- and J. Truman Bidwell, Jr., *Some Thoughts on the Economics of Legal Opinions*, 1989 *Colum. Bus. L. Rev.* 307 (1989)

---- As chair of Subcommittee on UCC Security Interest Opinions of the TriBar Opinion Committee, *Special Report of the TriBar Opinion Committee: UCC Security Interest Opinions*, 49 *Bus. Law.* 359 (1993) (principal author)

---- As member of the Subcommittee on Remedies Opinions of the TriBar Opinion Committee, *Special Report of the TriBar Opinion Committee: The Remedies Opinion*, 46 *Bus. Law.* 959 (1991) (principal author with Morton Moskin)

---- As member of Editorial Group, *Third-Party "Closing" Opinions: A Report of the TriBar Opinion Committee*, 53 *Bus. Law.* 591 (1998)

---- and Roberta DeAngelis, Joseph A. Dworetzky and Philip E. Beard, "Practical Implications of Recent Decisions of the United States Supreme Court and the United States Court of Appeals for the Third Circuit," presented in connection

- with Bankruptcy Judges' session of the Third Circuit Judicial Conference (October 19, 1998)
- "Opinions by U.S. Counsel on Possible U.S. Law Aspects Re: Liens Under Non-U.S. Law," presented in connection with ABA Annual Meeting program entitled "Cross-Border Legal Opinions" (August 3, 1998)
 - "Opinions Re: Transfer of Financial Assets--Effect of Recent Auditing Interpretation," presented in connection with ABA Section of Business Law Spring Meeting program entitled "Recent Developments in Third-Party Legal Opinions" (April 3, 1998)
 - and Mark D. Collins, *Why Delaware?*, The Corporate Edge, (newsletter of the Delaware Division of Corporations) (Spring 1998)
 - and Seth Kramer, "Proposals of the National Bankruptcy Review Commission," presented in connection with the Foundation for Accounting Education Bankruptcy and Reorganization Conference (July 23, 1997)
 - and David L. Renaud, "UCC Pending Revisions and Current Developments," presented in connection with National Business Institute program entitled "Recent Developments in Bankruptcy in Delaware" (March 3, 1995)
 - and Karen F. Castello, "Trends in Lender Liability," presented in connection with National Business Institute program entitled "Recent Developments in Bankruptcy in Delaware" (March 3, 1995)
 - and David L. Renaud, "Business Courts: Litigation Reform in Delaware," presented in connection with ABA Annual Meeting program entitled "Increasing Cost Effective Justice: Are Business Courts the Answer?" (August 9, 1994)
 - "A Practical Guide to the Third-Party Legal Opinion Report," presented in connection with ABA National Institute entitled "Legal Opinions--Accord or Discord" (December 4, 1992)
 - "A Summary of the Third-Party Legal Opinion Report," presented in connection with ABA Section of Business Law Spring Meeting program entitled "Silverado at Rest: The Third-Party Legal Opinion Report" (April 10, 1992)
 - "Opinions After Silverado," presented in connection with Advanced Corporate and Securities Law Institute of the University of Houston Law Center (December 6-7, 1990 and September 19-20, 1991)
 - "Aircraft Sale-Leasebacks Under Section 1110 of the Bankruptcy Code," presented in connection with meeting of the Subcommittee on Aircraft Financing of Commercial Financial Services Committee of ABA Section of Business Law (August 11, 1991)
 - and Mike Sigal and Jon Yard Arnason, "Recent Section 1110 Litigation," presented in connection with Airfinance Journal's "Workout Workshop for Aviation" (July 1, 1991)
 - "Business Organizations," presented in connection with ABA Seminar on Business Law (Warsaw, Poland – January 8-9, 1991)
 - "Bankruptcy Opinions: Fraudulent Conveyances, Non-Consolidation and Preferences," presented in connection with ABA National Institute entitled "Third Party Legal Opinions: The Silverado Process -- Before the Dawn" (October 4-5, 1990, November 1-2, 1990 and November 15-16, 1990)

- and Robert C. Mendelson, "Annotated Form of Legal Opinion and Supporting Certificate," presented in connection with ABA Annual Meeting program entitled "Esoteric Collateral -- Legal Opinions re: Perfection and Priority" (August 6, 1990)
 - "Legal Opinions re: Security Interests," presented in connection with ABA Satellite Seminar entitled "Fundamentals of Asset Based Financing" (February 15, 1990)
 - "UCC Opinions," presented in connection with Delaware State Bar Association CLE program entitled "Third Party Legal Opinions. Is There Really an 'Easier Path?'" (January 26, 1990)
 - "Liabilities and Ethics," presented in connection with ABA Section of Business Law National Institute entitled "The Silverado Summit: The Standardization of Legal Opinions - Order Out of Chaos" (November 2-3, 1989 and November 30-December 1, 1989)
 - "Key Issues in Intercreditor Agreements," presented in connection with ABA Section of Business Law Spring Meeting program entitled "Current Issues in Multi-Lender Transactions" (March 30, 1989)
 - "Security Interests in Uncertificated Securities," presented in connection with ABA Section of Business Law Spring Meeting program entitled "Financing Transactions Supported by Security Interests in Investment Securities" (March 25, 1988)
 - "Lender Liability," presented in connection with the Delaware State Bar Association's CLE program entitled "Business Law Transactions: Problems and Pitfalls for Borrowers, Lenders and Their Attorneys" (February 19, 1988)
 - and Cynthia D. Kaiser, "Theories of Lender Liability," presented in connection with Delaware State Bar Association CLE program entitled "Banking and Commercial Lending Law: Recent Developments" (February 13, 1987)
 - "Rights of Secured Creditors: An Overview," presented in connection with National Business Institute program entitled "Creditors' Rights and Protection of Security Interests in Bankruptcy in Delaware" (September 12, 1986)
 - "Nuts and Bolts of Mortgage Foreclosures," presented in connection with Delaware State Bar Association's CLE program entitled "Real Estate - Pitfalls and Innovations: A General Update" (October 9, 1985)
 - "Mortgage Foreclosure Proceedings," presented in connection with National Business Institute program entitled "Foreclosure and Repossession" (1985) and Professional Educational Systems program entitled "Delaware Mortgage Foreclosures" (1983)
 - "Creation and Attachment of Security Interests," presented in connection with the Delaware State Bar Association's CLE program entitled "Commercial Law Seminar" (March 25, 1983)
- **Please supply one copy of all published material not readily available to the Committee.**

Copies being supplied separately along with videotapes and audiotapes of presentations or programs that have been videotaped or audiotaped, respectively.

- **Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy.**

Not applicable.

- **If there were press reports about the speech, and they are readily available to you, please supply them.**

Not applicable.

13. **Health**: What is the present state of your health?

Excellent.

List the date of your last physical examination.

August 30, 1999.

14. **Judicial Office**: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. **Citations**: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable.

16. **Public Office**: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed.

Member, Governor's Commission on Major Commercial Litigation Reform (1993-1994)
– Appointed Position.

State (chronologically) any unsuccessful candidacies for elective public office.

Not applicable.

17. Legal Career:

a. Describe chronologically your law practice and experience after graduation from law school, including:

- 1. 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;**

Clerk to the Honorable Daniel L. Herrmann, Chief Justice of the Supreme Court of the State of Delaware (July 1975-June 1976)

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

Not applicable.

- 3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;**

Richards, Layton & Finger, P.A.
Associate (1976-1982)
Director, Officer and Shareholder in Firm (1982-Present)

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?**

Bankruptcy 1976 (and periodically thereafter through 1990)
Commercial law (including creditors' and debtors' rights) 1976-1990 (since 1990, commercial law, excluding debtors' and creditors' rights, has receded and since 1993 has been approximately 10-15% of practice)
Bankruptcy 1991-present (approximately 85-90% of practice since 1993)

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Typical clients or former clients include the following:

- (1) Corporations seeking financial restructuring (usually in the context of Chapter 11 reorganizations in bankruptcy);
- (2) Financial institutions acting as creditors in Chapter 11 bankruptcy cases and as lenders in commercial transactions;
- (3) Creditors' committees in Chapter 11 bankruptcy cases; and
- (4) Corporations whose chief executive offices are located in the State of Delaware.

I have specialized in my practice in bankruptcy, commercial transactions (including commercial loans and the buying and selling of businesses), and legal opinions.

c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I have appeared frequently since 1991 before the United States Bankruptcy Court for the District of Delaware, and since February 1997, before the United States District Court for the District of Delaware after it revoked the exclusive reference of bankruptcy cases to the United States Bankruptcy Court for the District of Delaware. Prior to 1991 my practice was primarily transactional, and thus I did not appear in court regularly other than frequent appearances before the United States Bankruptcy Court for the District of Delaware in 1976, and litigation before the Industrial Accident Board of the State of Delaware from approximately 1976 until the mid-1980s. I was counsel for a criminal defendant in 1976-77 before the Superior Court of the State of Delaware, and was co-counsel through trial and sentencing before the Family Court of the State of Delaware in approximately 1980-81 for a juvenile charged with nearly 40 offenses. During the period from 1977 through the 1980s I appeared occasionally in the Superior Court of the State of Delaware and was co-counsel in a trial before the United States District Court for the District of Delaware. I also appeared on occasion on appeals before the Delaware Supreme and Superior Courts and in 1991 before the United States Court of Appeals for the Third Circuit and the United States District Court for the District of Delaware.

2. What percentage of these appearances was in:

(a) federal courts

100% since 1991; varied from 1976-1990

(b) state courts of record

0% since 1991; varied from 1976-1990

(c) other courts

The Industrial Accident Board of the State of Delaware (1976-mid-1980s).

3. What percentage of your litigation was:

(a) civil

100%

(b) criminal

0%. I note that I was the counsel for a criminal defendant in 1976-77, and that in approximately 1980-81 I represented as co-counsel through trial and sentencing before the Family Court of the State of Delaware a juvenile charged with nearly 40 offenses.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

In bankruptcy cases there are many hearings, often contested, with direct testimony and cross-examination. I have since 1991 been sole, chief counsel or co-counsel on many such hearings which were tried to conclusion. I have also been the sole or principal counsel who has argued on appeal from the Bankruptcy Court to the United States District Court and to the United States Court of Appeals for the Third Circuit.

I have argued on appeal in civil cases to the Superior Court of the State of Delaware and to the Supreme Court of the State of Delaware.

From approximately 1976 through the mid-1980s I tried numerous cases to final judgment before the Industrial Accident Board of the State of Delaware.

In 1978 I participated as co-counsel on a five-day trial before the United States District Court for the District of Delaware in connection with a commercial contractual dispute.

In approximately 1980-81, I was co-counsel through trial and sentencing for a juvenile charged with nearly 40 offenses before the Family Court of the State of Delaware.

While a third-year student at Georgetown University Law Center, I was the principal counsel arguing two cases on appeal before the United States Court of Appeals for the D.C. Circuit. I was also primary or co-counsel on many other appeals to the United States Court of Appeals for the D.C. Circuit.

5. **What percentage of these trials was:**

(a) **jury;**
0%

(b) **non-jury**
100%

18. **Litigation:** Describe the ten most significant litigated matters which you personally handled. 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) **Continental Airlines, Inc.** (Case Nos. 90-932 through 90-980)

I represented aircraft financiers in the Bankruptcy Court, and on appeals to the United States District Court and Court of Appeals, on the issue of whether the financiers, who leased aircraft equipment by "sale-leaseback" transactions, were entitled to the increased

protections of §1110 of the United States Bankruptcy Code, 11 U.S.C. § 1110. I argued on appeal on behalf of the principal group of aircraft financiers before both the United States District Court and the Court of Appeals. The decisions, reported at 125 B.R. 399 (D. Del. 1991) for the District Court, and at 932 F.2d 282 (3d Cir. 1991) for the Court of Appeals, resulted in favorable rulings for the aircraft financier clients. These decisions were viewed among the most important court decisions affecting aircraft financiers, since "sale-leaseback" transactions were standard in the aircraft financing industry.

- (a) December 1990 - June 1991;
- (b) United States Bankruptcy Court for the District of Delaware -- The Honorable Helen S. Balick (retired);

United States District Court for the District of Delaware (C.A. No. 91-58) -- The Honorable Robert S. Gawthrop, III;

United States Court of Appeals for the Third Circuit (C.A. No. 91-3204) -- The Honorable Edward R. Becker, The Honorable Walter K. Stapleton and The Honorable Anthony J. Scirica;
- (c) Principal Co-Counsel:
 - M. O. (Mike) Sigal, Jr., Simpson Thacher & Bartlett, 425 Lexington Avenue, New York, NY 10017-3909, (212) 455-7140
 - Henry Weisburg, Shearman & Sterling, 153 E. 53rd Street, New York, NY 10022, (212) 848-4193
 - Michael J. Havers, Stokes Lawrence, P.S., 800 Fifth Avenue, Suite 4000, Seattle, WA 98104-3179, (206) 626-6000

Principal Counsel for Debtors:

- Zack A. Clement, Fulbright & Jaworski, L.L.P., 1301 McKinney, Suite 5100, Houston, TX 77010-3095, (713) 651-5151
- James L. Patton, Jr., Young, Conaway, Stargatt & Taylor, Rodney Square North, P.O. Box 391, Wilmington, DE 19899, (302) 571-6684.

(2) **Taren Holdings, Inc., et al.** (Case Nos. 93-965 through 93-968)

I represented the Debtors, companies in the swimwear industry, in the United States Bankruptcy Court for the District of Delaware. The cases involved sales of substantially all of the assets of the Debtors. These sales were conducted on an expedited basis through an auction process approved by the court, and resulted in significantly greater recoveries for creditors than initially anticipated. Several of the hearings were highly contested.

- (a) August 1993 - 1994;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Helen S. Balick (retired);
- (c) - Jesse H. Austin, III (counsel to secured lender), Paul, Hastings, Janofsky & Walker, NationsBank Plaza, Suite 2400, 600 Peachtree Street, Atlanta, GA 30308, 404-815-2208
- Scott L. Hazan (counsel to Unsecured Creditors' Committee), Otterbourg, Steindler, Houston & Rosen, P.C., 230 Park Avenue, New York, NY 10169, (212) 661-9100
- Jeffrey L. Tanenbaum (counsel to principal equity holder), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310-8276.

(3) **PHP Healthcare Corporation** (Case No. 98-2608 (MFW))

I represent in a Chapter 11 bankruptcy case a medical management company that managed medical and administrative risk through the acceptance of global capitation fees, fixed fee and/or "costs plus" arrangements, and administrative fees from health maintenance organizations ("HMOs") and other healthcare payors, state and federal government agencies and corporate employers. The Debtor also contracted with numerous hospitals and other healthcare providers to provide services under arrangements with payors. In effect, the Debtor, directly and through its subsidiaries, acted as an outsourcing option for both payors (e.g., insurers and HMOs) and providers (e.g., physicians and hospitals) who do not possess sufficient network management skills, capital and independence to develop and manage an integrated healthcare delivery network. When the case filed in November 1998, the Debtor, through its subsidiaries, had more than 9,000 physicians under contract and responsibility for providing healthcare to more than 250,000 individuals. Substantially all of the assets of the Debtor have been sold or will be distributed to creditors under a plan of liquidation. Many hearings have been contested.

- (a) November 1998 - present;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Mary F. Walrath;
- (c) - David S. Walls (counsel to NationsBank, N.A., now Bank of America, the principal secured lender), Moore & Van Allen, PLLC, 100 N. Tyron Street, 47th Floor, Charlotte, NC 28255, (704) 331-1058
- Gerald H. Gline (counsel to Unsecured Creditors' Committee), Cole Schotz Meisel Forman & Leonard, 25 Main Street, P.O. Box 800, Hackensack, NJ 07602-0800, (201) 525-6240

- Jeffrey L. Tanenbaum (special counsel to Debtor), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310-8276
- John D. McLaughlin, Jr., Office of United States Trustee, Curtis Center, Suite 950W, 601 Walnut Street, Philadelphia, PA 19106, (215) 597-2532.

(4) **Montgomery Ward Holding Corp., et al.** (Case No. 97-1409 (PJW))

I am co-counsel to Montgomery Ward Holding Corp. and 59 affiliates in reorganization cases under the United States Bankruptcy Code. Montgomery Ward is one of the largest retail merchandising organizations in the United States, and is among the nation's largest retailers of prominent name brand apparel, furniture and home furnishings, electronics, appliances, fine jewelry, and automotive parts and services. A plan of reorganization was confirmed in July 1999. I was more active during the first year of the case with respect to hearings, and continued throughout to advise on hearing issues.

- (a) July 1997 - present;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Peter J. Walsh;
- (c)
 - Richard A. Chesley (co-counsel), Jones, Day, Reavis & Pogue, 77 West Wacker, Chicago, IL 60601-1692, (312) 269-4095
 - David S. Kurtz (co-counsel), Skadden, Arps, Slate, Meagher & Flom, 333 West Wacker, Chicago, IL 60606-1285, (312) 407-0550
 - Spencer J. Heine, General Counsel, Montgomery Ward Holding Corporation, One Montgomery Plaza, Chicago, IL 60671, (312) 467-2220
 - Harvey R. Miller (counsel to General Electric Capital Corporation -- principal creditor), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310-8500
 - Chaim J. Fortgang (counsel to Unsecured Creditors' Committee), Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019, (212) 403-1203.

(5) **Senior Secured Noteholders of Anchor Resolution Corp.** (Case No. 96-1434 (PJW))

I was co-counsel to the senior secured noteholders in the bankruptcy case of Anchor Resolution Corp. The principal issue involved the claim of the Unsecured Creditors' Committee that the senior secured noteholders did not have a right to a "make-whole" (or yield protection) amount if the prepetition indebtedness owed to the senior secured noteholders was prepaid after the bankruptcy petition was filed. The ruling of the Court was favorable to the senior secured noteholders on substantially all issues relating to the make-whole amount. I represented my clients at several contested hearings.

- (a) September 1996 - mid-1998;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Peter J. Walsh;
- (c) - Evan D. Flaschen (co-counsel), Bingham Dana LLP, One State Street, Hartford, CT 06103-3178, (860) 240-2723
- Amy R. Wolf (counsel to Unsecured Creditors' Committee), Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019, (212) 403-1245
- Robin E. Keller (counsel to Debtor), Stroock & Stroock & Lavan, 7 Hanover Square, New York, NY 10004-2696, (212) 806-5400
- James L. Patton, Jr. (co-counsel to Debtor), Young, Conaway, Stargatt & Taylor, Rodney Square North, P.O. Box 391, Wilmington, DE 19899, (302) 571-6684.

(6) **United Financial Group, Inc.** (Case No. 97-054 (HSB))

I was the primary bankruptcy counsel to the Debtor, a former savings and loan holding company. I negotiated, prior to filing the chapter 11 petition, the plan of reorganization with counsel for the Office of Thrift Supervision and the Federal Deposit Insurance Corporation. The plan of reorganization was successfully confirmed.

- (a) January 1997 - present;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Helen S. Balick (retired);
- (c) - Richard Alexander (co-counsel), Arnold & Porter, 555 12th Street, N.W., Washington, DC 20004-1202, (202) 942-5728
- Thomas Manick (counsel to FDIC), Adorno & Zeder, P.A., 2601 S. Bayshore Drive, Suite 1600, Miami, FL 33133, (305) 860-7055.

(7) **DG Acquisition Corp./Dabah** (Case Nos. 92-1492 through 92-1496)

I represented the Unsecured Creditors' Committee and, subsequent to the effective date of the plan of reorganization, the liquidating trusts set up under the plan. The cases involved the Dabah family, which controlled the Gitano jeans business. Although the cases were begun in late 1992, they continue to the present day, both in the United States and internationally. The cases are in the process of being resolved. Over the years I participated in many contested hearings.

- (a) 1993-present;

- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Helen S. Balick (retired);
- (c) - Daniel H. Golden (co-counsel to Debtors), Akin, Gump, Strauss, Hauer & Feld, L.L.P., 590 Madison Avenue, New York, NY 10022, (212) 872-8010
- Henry Weisburg (counsel to principal creditor -- Republic National Bank of New York), Shearman & Sterling, 153 E. 53rd Street, New York, NY 10022, (212) 848-4193.

(8) **In re Bill's Dollar Stores Inc.** (Case No. 93-808 (PJW))

I was co-counsel to the Unsecured Creditors' Committee in a case in which there were competing plans of reorganization proposed by the Debtor (supported by its principal creditor) and the Unsecured Creditors' Committee. The case is of interest because the Court permitted the Committee to file, and solicit votes for, a competing plan after the Debtor had filed its plan. I participated in many contested hearings.

- (a) August 1993 - fall 1995;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Peter J. Walsh;
- (c) - Thomas R. Biron (co-counsel), Blank, Rome, Comisky & McCauley LLP, One Logan Square, Philadelphia, PA 19103-6998, (215) 569-5562
- Robert E. Gerber (counsel to Debtor), Fried, Frank, Harris, Shriver & Jacobson, One New York Plaza, New York, NY 10004, (212) 859-8000
- Richard P. Krasnow (counsel to principal creditor), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310-8493.

(9) **FoxMeyer Corporation, et al.** (Case No. 96-1329 (HSB))

I was co-counsel to FoxMeyer Corporation, then one of the largest wholesale pharmaceutical drug distributors in the United States. I worked with co-counsel with respect to a sale of substantially all of the assets of FoxMeyer Corporation and subsidiaries in order to preserve as much as possible the jobs of employees, and participated in numerous contested hearings.

- (a) August 1996 - March 1997;
- (b) United States Bankruptcy Court of the District of Delaware – The Honorable Helen S. Balick (retired);

- (c) - D.J. Baker (co-counsel to Debtors), Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193, (212) 351-4000
- Stuart Hirshfield (counsel to Unsecured Creditors' Committee), Dewey Ballantine LLP, 1301 Avenue of the Americas, New York, NY 10019-6092, (212) 259-8000.

(10) **Marvel Entertainment Group, Inc.** (Case No. 97-638 (RRM))

I was co-counsel to The Chase Manhattan Bank, as Agent for the secured lenders, in connection with the chapter 11 reorganization proceedings of Marvel Entertainment Group, Inc. and affiliates. These cases generated significant publicity involving, inter alia, corporate control, appointment of trustee and financing issues, and ultimately resulted in a favorable outcome to the secured lending group.

- (a) December 1996 - 1998;
- (b) United States Bankruptcy Court for the District of Delaware – The Honorable Roderick R. McKelvie, The Honorable Helen S. Balick (retired);
- (c) - Chaim J. Fortgang (co-counsel), Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019, (212) 403-1203
- Amy R. Wolf (co-counsel), Wachtell, Lipton, Rosen & Katz, 51 W. 52nd Street, New York, NY 10019, (212) 403-1245
- Harvey R. Miller (co-counsel to Debtors), Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, NY 10153, (212) 310-8500
- James L. Patton, Jr. (co-counsel to Debtors), Young, Conaway, Stargatt & Taylor, Rodney Square North, P.O. Box 391, Wilmington, DE 19899, (302) 571-6684
- Collins J. Seitz, Jr. (co-counsel to Trustee), Connolly, Bove, Lodge & Hutz, 1220 Market Street, Wilmington, DE 19801, (302) 888-6278
- Karen C. Bifferato (co-counsel to Trustee), Connolly, Bove, Lodge & Hutz, 1220 Market Street, Wilmington, DE 19801, (302) 888-6221
- David B. Stratton (co-counsel to Toy Biz, Inc.), Pepper Hamilton LLP, 1201 Market Street, Suite 1600, Wilmington, DE 19801-1163, (302) 777-6566.

19. **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. In describing the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

In addition to the legal activities described in my response to Question No. 18 above, I note the following:

- I am lead counsel to Townsends, Inc. in connection with its many activities, including the purchase of other poultry-related entities or assets in the States of North Carolina, Florida and Arkansas as well as the Commonwealth of Pennsylvania.
- I have represented Wilmington Trust Company in connection with many lending transactions, including as agent for a \$71,000,000 committed facility to various mutual funds in October 1987, loans in connection with the purchase of businesses in Delaware, and workouts for troubled loans.
- In the 1980s I was counsel (including acting as counsel to the issuing authority, counsel to borrowers in industrial development bond transactions, or bond counsel) in several hundred transactions involving public or private bonds issued by the State of Delaware, the Delaware Economic Development Authority, New Castle County, Delaware, and the City of Wilmington, Delaware.
- My active practice in legal opinions has involved me as counsel in hundreds of transactions in which I, through my firm, have given a legal opinion on various aspects of the transactions.
- I advise on various financial restructurings (both in and outside of bankruptcy) and business reorganizations in bankruptcy.
- My legal activities also include many Bar-related matters, including acting as an officer of the Section of Business Law of the American Bar Association, involvement in continuing legal education programs, and serving in several capacities with regard to the legal opinion practice area.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

Upon leaving my law firm, I understand that I will receive my monthly salary through the date I leave plus three months. I will receive a bonus (or, if applicable, bonuses) no later than at the end of the firm's then current fiscal year. In addition, the shares of stock in my law firm that I own will be mandatorily redeemed within 30 days following the determination of the purchase price by independent accountants. Finally, I intend to "roll over" my pension and profit sharing plans.

As a shareholder in Glasgow Professional Properties, Inc., I will derive a benefit from any sale of the company's assets and/or development of the project site. No dividends have been declared or, to my knowledge, contemplated.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

I will set up a monitoring system in order that matters assigned to me can be reviewed expeditiously for potential conflicts. In any event, I will abide by the Code of Judicial Conduct for United States Judges and its Commentary, as well as any applicable laws and regulations.

3. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court?**

No current plans to do so.

If so, explain.

Not applicable.

4. **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, patents, 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 Financial Disclosure Report attached hereto as Appendix A.

5. **Please complete the attached financial net worth statement in detail (add schedules as called for).**

See Net Worth Statement attached hereto as Appendix B.

6. **Have you ever held a position or played a role in a political campaign?**

Yes.

If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Chair, Finance Committee re: Campaign for Governor of The Honorable Ruth Ann Minner (1997- July 1999)

Chair, Finance Committee re: Campaign for Lieutenant Governor of The Honorable Ruth Ann Minner (1993-96)

Chair, Finance Committee re: Campaign for State Attorney General of Charles E. Butler (1994)

Co-Chair, New Castle County Finance Committee re: Campaign for Lieutenant Governor of The Honorable Ruth Ann Minner (1992)

Member, Finance Committee re: Campaigns for U.S. Senate of The Honorable Joseph R. Biden, Jr. (1994-July 1999)

Member, Finance Committee re: Campaigns for Governor of The Honorable Thomas R. Carper (1992 and 1996)

Member, Finance Committee for U.S. Senate of The Honorable Charles M. Oberly (1993-94)

Member, Finance Committee re: Campaign for Attorney General of The Honorable Charles M. Oberly (1990)

Member, Finance Committee re: Campaign for Mayor of The Honorable Jim Sills (1992 and 1996)

Chairperson, Issues Committee re: Campaign for Governor of The Honorable William T. Quillen (1983-84)

Worked on Campaign for U.S. Senate of The Honorable William V. Roth, Jr. (1976)

Employee, Republican National Finance Committee re 1972 Presidential Campaign (1972)

III. GENERAL (PUBLIC)

1. **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 1980 I have been a member of the Board of Directors of West End Neighborhood House, Inc., a social service agency in the inner city of Wilmington, Delaware. From 1983-85 I was the President and Chairman of the Board for this entity, which primarily serves economically disadvantaged youth.

In addition, I have performed pro bono work for civic associations, et al. (e.g., complete revisions of by-laws) and my church.

As noted in Part I above, I have appeared as counsel to indigent defendants in the mid-1970s through the early 1980s.

On numerous occasions I have not billed, written off or discounted statements to clients whose means have not permitted them to pay at normal billing rates.

One of the scholarships I jointly set up at Georgetown University has as its principal goal helping a student who is economically disadvantaged. Also, I have made numerous charitable contributions whose principal goal is to help the disadvantaged.

Finally, my Bar-related activity often focuses on aiding the disadvantaged.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies?**

No.

If so, list, with dates of membership.

Not applicable.

What you have done to try to change these policies?

Not applicable.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts?**

No.

If so, did it recommend your nomination?

Not applicable.

Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

In June 1999 I was asked by Senator Joseph R. Biden, Jr. if I would be interested in being considered for recommendation as a possible nominee to the United States Court of Appeals for the Third Circuit. I responded that I did have an interest. Shortly thereafter, I spoke informally with representatives of The White House and the Department of Justice. I have also spoken informally with members of the staff of Senator Biden, and a member of the staff of Senator William V. Roth, Jr. I have had formal interviews with a representative of the American Bar Association's Committee on the Federal Judiciary, and an agent for the Federal Bureau of Investigation.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question ?**

No.

If so, please explain fully.

Not applicable.

5. **Please discuss your view on the following criticism involving "judicial activism."**

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-resolution;**

- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;**
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

Federal judges should approach their work with a keen understanding of their role – to decide disputes that are ripe and in which the adversaries have standing. The decision-making process itself is limited, since judges must recognize both governing statutes and judicial precedent. Not to do so in the first instance is to ignore the very words of Article I, Section 1, of our Constitution: "All legislative Powers herein granted shall be vested in a Congress of the United States" To ignore judicial precedent is to abandon a bedrock of our legal system – the principle of *stare decisis*.

It is in this context that judicial decisions should more appropriately be addressed not by reference to "judicial activism," but instead by "judicial restraint." In interpreting the law federal judges are restrained to respect applicable statutes and prior decisions. They are also restrained by the very disputes before them, and thus should not decide those disputes more broadly than the questions presented require interpretation and, if applicable, remedies. (And even those remedies should not make the interpreters of law its administrators.) With these principles in mind, federal courts retain their legitimacy in a constitutional democracy.

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub L No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Ambro, Thomas L.	2. Court or Organization U.S. Court of Appeals, 3rd Cir	3. Date of Report 09/29/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. Circuit Judge - Nominee	5. Report Type (check type) X Nomination, Date 09/28/1999 Initial Annual Final	6. Reporting Period 01/01/1998 to 08/31/1999
7. Chambers or Office Address One Rodney Square Wilmington, DE 19803-4125	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
<i>IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.</i>		

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Director, Vice President and Shareholder	Richards, Layton & Finger, P.A.
2 Director	West End Neighborhood House, Inc.
3 Director, Secretary, Assistant Treasurer and Shareholder	Glasgow Professional Properties, Inc.

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1 96-Pres	Richards, Layton & Finger, P.A. Employment Agreement - General terms of employment. Upon leaving my law firm, I understand that (cont'd. Part VIII)
2 85-Pres	Richards, Layton & Finger, P.A. By-Laws - Upon leaving the firm, my shares of stock will be mandatorily redeemed within 30 days following (cont'd. Part VIII)
3 70s-Pres	Richards, Layton & Finger, P.A. Money Purchase Pension Plan. This is a defined contribution plan, in which the firm invests a predetermined (cont'd. Part VIII)

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1998	Richards, Layton & Finger, P.A., wages	\$ 1,218,409.00
2 1999	Richards, Layton & Finger, P.A., wages	\$ 592,125.00
3 1998-99	State of Delaware (S)	
4		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Ambro, Thomas L.	09/29/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of instructions.)

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1	Exempt		
2			
3			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Wilmington Trust	Mortgage on son's home - short-term loan to be repaid after bank makes direct loan to son	M
2			
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

Name of Person Reporting Ambro, Thomas L.		Date of Report 03/29/1999
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VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(0)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-F)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-F)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 Wilmington Trust (cash) (J)			K	T					
2 Wilmington Trust (cash) (J)	A	Interest	J	T					
3 Rodney Square Tax-Exempt (J)	B	Interest	M	T					
4 Mass Mutuel	A	Interest							
5 Gabelli Asset Fund (J)	B	Dividend	L	T	Exempt				Exempt
6 Ready Asset Trust (J)	A	Dividend	K	T	Exempt				Exempt
7 Illinois State Bond (J)	A	Interest			Exempt				Exempt
8 Delaware State HSG Auth Bond (J)	A	Interest	J	T	Exempt				Exempt
9 Delaware State Bond (J)	A	Interest			Exempt				Exempt
10 Delaware State Bond 7.0% (J)	A	Interest	J	T	Exempt				Exempt
11 Delaware State Bond 6.1% (J)	A	Interest	K	T	Exempt				Exempt
12 Fahnstock Prime Cash Series (J)	A	Dividend	J	T	Exempt				Exempt
13 Wilmington Trust Certificates of Deposit (DC)	A	Interest	K	T	Exempt				Exempt
14 Wilmington Trust Certificates of Deposit (DC)	A	Interest	J	T	Exempt				Exempt
15 Wilmington Savings Fund Society (cash) (DC)	A	Interest	J	T					
16 Commercial Properties 3 L.P. (1984) (J)	A	Rent	J	R	Exempt				Exempt
17 AGS/Country Club Village, LTD (1986)	F	Distribution			Exempt				Exempt
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$15,001-\$50,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P=\$1,000,001-\$5,000,000 Q=\$5,000,001-\$25,000,000 R=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 2 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-F)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-F)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18 Glasgow Professional Properties Inc		None	N	T	Exempt				Exempt
19 Longwood Corporate Center South L.P. (1989)		None	K	R	Exempt				Exempt
20 Lynhaven Partners (1983)	C	Rent	K	R	Exempt				Exempt
21 Nantucket Island Associates Partnership (1984)		None	K	R	Exempt				Exempt
22 EB/Fogelman Harbour Town Partnership (1988)	B	Rent	K	R	Exempt				Exempt
23 Salem Plaza Associates Partnership (1984)	E	Distribution	K	R	Exempt				Exempt
24 Assets of Irrev Trust FBO Children of Mary Lucia Ambro #1									
25 Air Products & Chemicals (S)			J	T	Exempt				Exempt
26 Alcatel Alstrom Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
27 Allied Zurich PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
28 Amer Greetings Corp CL A (S)	A	Dividend	J	T	Exempt				Exempt
29 Anglo American PLC (S)	A	Dividend	J	T	Exempt				Exempt
30 Archer Daniels Midland Co (S)	A	Dividend	J	T	Exempt				Exempt
31 BASF AG ADR (S)	A	Dividend	J	T	Exempt				Exempt
32 Boeing Co (S)	A	Dividend	J	T	Exempt				Exempt
33 British Amern TOB PLC (S)	A	Dividend	J	T	Exempt				Exempt
34 Case Corp (S)	A	Dividend	J	T	Exempt				Exempt
1 Inz/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 3 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month: Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
35 Centrais Electricas (S)	A	Dividend	J	T	Exempt				Exempt
36 Columbia/HCA Healthcare Corp (S)	A	Dividend	J	T	Exempt				Exempt
37 Deutsche Telekom AG Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
38 Diageo PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
39 ELP Aquitaine Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
40 Entergy Corp (S)	A	Dividend	J	T	Exempt				Exempt
41 Goodyear Tire & Rubber (S)	A	Dividend	J	T	Exempt				Exempt
42 Hitachi LTD ADR (S)	A	Dividend	J	T	Exempt				Exempt
43 HSBC Holdings PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
44 Hutchison Whampoa ADR (S)	A	Dividend	J	T	Exempt				Exempt
45 IBP Inc (S)	A	Dividend	J	T	Exempt				Exempt
46 ING Groep NV Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
47 Invensys PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
48 Lockheed Martin Corp (S)	A	Dividend	J	T	Exempt				Exempt
49 Loews Corporation (S)	A	Dividend	J	T	Exempt				Exempt
50 Lubrizol Corp (S)	A	Dividend	J	T	Exempt				Exempt
51 Marks & Spencer LTD Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000	B=\$1,001-\$2,500	G=\$100,001-\$1,000,000	C=\$2,501-\$5,000	H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000	E=\$15,001-\$50,000			
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000	P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000	P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000	N=\$250,001-\$500,000			
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other		S=Assessment W=Estimated		T=Cash/Market				

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VII. Page 4 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
			(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure		
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
52 Matsushita Electric Indus ADR (S)	A	Dividend	J	T	Exempt					Exempt
53 McKesson HBOC Inc (S)	A	Dividend	J	T	Exempt					Exempt
54 CRT Government Securities (cash equivalent) (S)	A	Dividend	J	T	Exempt					Exempt
55 Petroleo Brasileiro SA (S)	A	Dividend	J	T	Exempt					Exempt
56 Philip Morris Companies (S)	A	Dividend	J	T	Exempt					Exempt
57 Powergen PLC Spon ADR (S)		None	J	T	Exempt					Exempt
58 Raytheon Co CL B (S)	A	Dividend	J	T	Exempt					Exempt
59 Safeco Corp (S)	A	Dividend	J	T	Exempt					Exempt
60 Service Corp International (S)	A	Dividend	J	T	Exempt					Exempt
61 SIM Hldg Corp (S)	A	Dividend	J	T	Exempt					Exempt
62 St Paul Co Inc (S)	A	Dividend	J	T	Exempt					Exempt
63 Swire Pac Ltd Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
64 Tele Centro Sul Participacoes (S)	A	Dividend	J	T	Exempt					Exempt
65 Telecomunicacoes Brasileiras SA Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
66 Telefonica de Argentina SA Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
67 Telefonos de Mexico SA Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
68 Tokio MRN & Fire Ins ADR (S)	A	Dividend	J	T	Exempt					Exempt
1 Inz/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

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VII. Page 5 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(0)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
69 Toys R US Inc (S)		None	J	T	Exempt				Exempt
70 UST Inc (S)	A	Dividend	J	T	Exempt				Exempt
71 Waste Mgmt Inc Del (S)	A	Dividend	J	T	Exempt				Exempt
72 Assets of Irrev Trust FBO Children of Mary Lucia Ambro #2									
73 4Front Technologies Inc (S)		None	J	T	Exempt				Exempt
74 Action Performance Cos (S)		None	J	T	Exempt				Exempt
75 Acxion Corp (S)		None	J	T	Exempt				Exempt
76 Aeroflex Inc (S)		None	J	T	Exempt				Exempt
77 Artesyn Technologies Inc (S)		None	J	T	Exempt				Exempt
78 Astropower Inc (S)		None	J	T	Exempt				Exempt
79 Atmel Corp (S)		None	J	T	Exempt				Exempt
80 Bard C R Inc (S)	A	Dividend	J	T	Exempt				Exempt
81 Carey Intl Inc		None	J	T	Exempt				Exempt
82 Comascope Inc (S)		None	J	T	Exempt				Exempt
83 Convergys Corp (S)		None	J	T	Exempt				Exempt
84 Correctional Svcs Corp (S)		None	J	T	Exempt				Exempt
85 Cost Plus Inc Calif (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 6 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(Q)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
86 DLI Group Inc (S)		None	J	T	Exempt				Exempt
87 Equinox Systems Inc (S)		None	J	T	Exempt				Exempt
88 Foodmaker Inc New (S)		None	J	T	Exempt				Exempt
89 Group Maintenance (S)		None	J	T	Exempt				Exempt
90 Infocure Corp (S)		None	J	T	Exempt				Exempt
91 Jabil Circuit Inc (S)		None	J	T	Exempt				Exempt
92 Jakks PAC Inc (S)		None	J	T	Exempt				Exempt
93 Kenneth Cole Prodtms CL A (S)		None	J	T	Exempt				Exempt
94 Maxwell Technologies Inc (S)		None	J	T	Exempt				Exempt
95 Metro One (S)		None	J	T	Exempt				Exempt
96 Mettler Toledo Intl Inc (S)		None	J	T	Exempt				Exempt
97 Mobile Mini Inc (S)		None	J	T	Exempt				Exempt
98 Money Market Fund (cash equivalent) (S)	A	Dividend	J	T	Exempt				Exempt
99 Natl Computer Systems Inc (S)	A	Dividend	J	T	Exempt				Exempt
100 Nova Corporation (S)		None	J	T	Exempt				Exempt
101 Pericom Smicndctr Corp (S)		None	J	T	Exempt				Exempt
102 Point of Sale LTD (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

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VII. Page 7 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
103 Progress Software Corp (S)		None	J	T	Exempt				Exempt
104 QRS Corp (S)		None	J	T	Exempt				Exempt
105 Remedy Corp (S)		None	J	T	Exempt				Exempt
106 Rent Way Inc (S)		None	J	T	Exempt				Exempt
107 Rogue Wave Software Inc (S)		None	J	T	Exempt				Exempt
108 SFX Corp (S)		None	J	T	Exempt				Exempt
109 Synopsys Corp (S)		None	J	T	Exempt				Exempt
110 Titan Corp (S)		None	J	T	Exempt				Exempt
111 Trans World Entertainment (S)		None	J	T	Exempt				Exempt
112 Transaction Network Serv (S)		None	J	T	Exempt				Exempt
113 Transwitch Corp Com (S)		None	J	T	Exempt				Exempt
114 US Oncology Inc (S)		None	J	T	Exempt				Exempt
115 Waters Corporation (S)		None	J	T	Exempt				Exempt
116 Westpoint Stevens Inc (S)	A	Dividend	J	T	Exempt				Exempt
117 Assets of Irrev Trust FBO Children of Mary Lucia Ambro #3									
118 3Com Corp (S)		None	J	T	Exempt				Exempt
119 Adaptec Inc (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

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VII. Page 8 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-4)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
120 American Express Company (S)	A	Dividend	J	T	Exempt				Exempt
121 American Intl Group Inc (S)	A	Dividend	J	T	Exempt				Exempt
122 At&T Corp (S)	A	Dividend	J	T	Exempt				Exempt
123 Bank One Corp (S)	A	Dividend	J	T	Exempt				Exempt
124 Bell & Howell Co (S)		None	J	T	Exempt				Exempt
125 Bristol Myers Squibb Co (S)	A	Dividend	J	T	Exempt				Exempt
126 Caterpillar Inc (S)	A	Dividend	J	T	Exempt				Exempt
127 Chevron Corp (S)	A	Dividend	J	T	Exempt				Exempt
128 Clayton Homes Inc (S)	A	Dividend	J	T	Exempt				Exempt
129 Coca-Cola Company (S)	A	Dividend	J	T	Exempt				Exempt
130 Computer Sciences Corp (S)		None	J	T	Exempt				Exempt
131 Conesco Inc (S)	A	Dividend	J	T	Exempt				Exempt
132 CSX Corp (S)	A	Dividend	J	T	Exempt				Exempt
133 Diamond Multimedia Sys (S)		None	J	T	Exempt				Exempt
134 Disney Walt Company (S)	A	Dividend	J	T	Exempt				Exempt
135 Ecolab Inc (S)	A	Dividend	J	T	Exempt				Exempt
136 Elan PLC ADR (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 HZ=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 9 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
137 Enron Corp (S)	A	Dividend	J	T	Exempt				Exempt
138 Exxon Corp (S)	A	Dividend	J	T	Exempt				Exempt
139 Franklin Resources Inc (S)	A	Dividend	J	T	Exempt				Exempt
140 General Electric Company (S)	A	Dividend	J	T	Exempt				Exempt
141 General Motors Corp (S)	A	Dividend	J	T	Exempt				Exempt
142 Gillette Co (S)	A	Dividend	J	T	Exempt				Exempt
143 International Business Machine Corp (S)	A	Dividend	J	T	Exempt				Exempt
144 Kaydon Corp (S)	A	Dividend	J	T	Exempt				Exempt
145 Lehman Brothers Holdings Inc (S)	A	Dividend	J	T	Exempt				Exempt
146 Lucent Technologies Inc (S)	A	Dividend	J	T	Exempt				Exempt
147 Mattel Incorporated (S)	A	Dividend	J	T	Exempt				Exempt
148 McDonalds Corp (S)	A	Dividend	J	T	Exempt				Exempt
149 Medtronic Inc (S)	A	Dividend	J	T	Exempt				Exempt
150 Merck & Co Inc (S)	A	Dividend	J	T	Exempt				Exempt
151 Microsoft Corp (S)		None	J	T	Exempt				Exempt
152 CRT Government Securities (cash equivalent) (S)	A	Dividend	K	T	Exempt				Exempt
153 Nestle SA Reg ADR (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Meth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	name of Person Reporting	Date of Report
	Ambro, Thomas L.	09/29/1999

VII. Page 10 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
154 Monsanto Co (S)	A	Dividend	J	T	Exempt					Exempt
155 Proctor & Gamble Co (S)	A	Dividend	J	T	Exempt					Exempt
156 Qwest Communications (S)		None	J	T	Exempt					Exempt
157 Royal Dutch Pete Co NY (S)	A	Dividend	J	T	Exempt					Exempt
158 Staples Inc (S)		None	J	T	Exempt					Exempt
159 Sun Microsystems Inc (S)		None	J	T	Exempt					Exempt
160 United Technologies Corp (S)	A	Dividend	J	T	Exempt					Exempt
161 Warner Lambert Co (S)	A	Dividend	K	T	Exempt					Exempt
162 Assets of Irrev Trust FBO Children of Mary Lucia Ambro #4										
163 Daimler Benz AG Spon ADR (S)	A	Dividend			Exempt					Exempt
164 CRT Government Securities (cash equivalent) (S)	C	Dividend	K	T	Exempt					Exempt
165 Wilmington Trust Corp (S)	A	Dividend	J	T	Exempt					Exempt
166 Assets of RLF Pension Account										
167 ADAC Laboratoria Common		None	J	T	Exempt					Exempt
168 Andrew Corp Common		None	K	T	Exempt					Exempt
169 Bedford Property Investors Inc Common	A	Dividend	K	T	Exempt					Exempt
170 Bergen Brunswig Corp CL A Common		None	K	T	Exempt					Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 11 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-I)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
171 Bervetly Enterprises Inc		None	K	T	Exempt					Exempt
172 Cabot Corporation Common	A	Dividend	K	T	Exempt					Exempt
173 Brunswick Corporation Common	A	Dividend			Exempt					Exempt
174 Cabot Oil & Gas Corp CL A Common	A	Dividend	J	T	Exempt					Exempt
175 Cadence Design Systems Common		None	J	T	Exempt					Exempt
176 Calgon Carbon Corp Common	A	Dividend	J	T	Exempt					Exempt
177 Charming Shoppes Common		None	K	T	Exempt					Exempt
178 Coherent Common		None	K	T	Exempt					Exempt
179 Crescent Real Estate Equities Trust Common	A	Dividend	J	T	Exempt					Exempt
180 EB Short Term MM FD F/Directed Accts	D	Interest	M	T	Exempt					Exempt
181 Engelhard Corp Common	A	Dividend			Exempt					Exempt
182 Essex Property Trust Inc Common	A	Dividend	K	T	Exempt					Exempt
183 First Indi Realty Inc Common	A	Dividend	J	T	Exempt					Exempt
184 Harland John H Co Common	A	Dividend	J	T	Exempt					Exempt
185 Harman International Industries Common	A	Dividend	K	T	Exempt					Exempt
186 Harnischfeger Industries Common	A	Dividend			Exempt					Exempt
187 Helig-Meyers Co Common	A	Dividend			Exempt					Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/23/1993
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VII. Page 12 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
			(1) Value Code (J-P)	(2) Value Method Code (Q-W)						
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure						
	(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)						
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
188 Hologic Inc Common		None	J	T	Exempt					Exempt
189 Idacorp Inc Common	A	Dividend	K	T	Exempt					Exempt
190 Input/Output Common		None	J	T	Exempt					Exempt
191 Interface CL A Common	A	Dividend	J	T	Exempt					Exempt
192 International Rectifier Corp Common		None	K	T	Exempt					Exempt
193 Justin Industries Inc Common	A	Dividend	J	T	Exempt					Exempt
194 K2 Inc Common	A	Dividend	J	T	Exempt					Exempt
195 Magnetek Common		None	J	T	Exempt					Exempt
196 McDermott Intl Common	A	Dividend	J	T	Exempt					Exempt
197 Michaels Stores Common		None	K	T	Exempt					Exempt
198 Milacron Inc Common	A	Dividend	K	T	Exempt					Exempt
199 Morrison Knudsen Corp New Common		None	J	T	Exempt					Exempt
200 Nabors Industries Common		None	K	T	Exempt					Exempt
201 Officemax Inc Common		None	J	T	Exempt					Exempt
202 Pennzoil-Quaker State Co New Common	A	Dividend	J	T	Exempt					Exempt
203 Pier 1 Imports Common	A	Dividend	J	T	Exempt					Exempt
204 Petco Animal Supplies Inc Common		None	K	T	Exempt					Exempt

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 13 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
205 Quaker State Corp Common	A	Dividend			Exempt				Exempt
206 R&B Falcon Corp Common		None	K	T	Exempt				Exempt
207 Recision Castparts Common		None	J	T	Exempt				Exempt
208 RTI International Metals Inc Common		None	J	T	Exempt				Exempt
209 St Jude Medical Common		None	K	T	Exempt				Exempt
210 Sunrise Medical Common		None	J	T	Exempt				Exempt
211 Titanium Metals Corporation Common	A	Dividend	J	T	Exempt				Exempt
212 US Oncology Inc Common		None	K	T	Exempt				Exempt
213 TJ International Common	A	Dividend	J	T	Exempt				Exempt
214 Vishay Intertechnology Common		None	K	T	Exempt				Exempt
215 Wyman Gordon Common		None	K	T	Exempt				Exempt
216 Assets of RLF Thomas Ambro Retirement Plan									
217 At&T Corp Common	A	Dividend	J	T	Exempt				Exempt
218 Bell & Howell Company New Common		None	J	T	Exempt				Exempt
219 EB Short Term MM FD F/Directed Accts	B	Interest	J	T	Exempt				Exempt
220 FDX Corp Common		None	J	T	Exempt				Exempt
221 Nabors Industries Common		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

Name of Person Reporting Ambro, Thomas L.		Date of Report 09/29/1999
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VII. Page 14 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
222 Officemax Inc Common		None	J	T	Exempt				Exempt
223 Philip Morris Companies Common	A	Dividend	J	T	Exempt				Exempt
224 Sovereign Bancorp Common	A	Dividend	J	T	Exempt				Exempt
225 Time Warner Common	A	Dividend	J	T	Exempt				Exempt
226 Assets of RLF Profit Sharing Plan									
227 Adobe Systems Common	A	Dividend	J	T	Exempt				Exempt
228 Amgen Common		None	J	T	Exempt				Exempt
229 Atlantic Richfield Co Common	A	Dividend	J	T	Exempt				Exempt
230 Chase Manhattan Corp New Common	A	Dividend	J	T	Exempt				Exempt
231 Chevron Corp Common	A	Dividend	J	T	Exempt				Exempt
232 Coca-Cola Enterprises Common	A	Dividend	J	T	Exempt				Exempt
233 Comcast Corp Cl A Special Common		None	J	T	Exempt				Exempt
234 Compter Sciences Corp Common		None	J	T	Exempt				Exempt
235 BB Short Term MM FD F/Directed Accts	B	Interest	K	T	Exempt				Exempt
236 Enron Corp Common	A	Dividend	J	T	Exempt				Exempt
237 Exxon Corp Common	A	Dividend	J	T	Exempt				Exempt
238 Fannie Mae Common	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 15 INVESTMENTS and TRUSTS - income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(Q)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
										(1) Amount Code (A-H)
	(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)						
NONE (No reportable income, assets, or transactions.)										
239 Fleet Financial Group New Common	A	Dividend						Exempt		Exempt
240 Gannett Co Common	A	Dividend	J	T				Exempt		Exempt
241 General Dynamics Corp Common	A	Dividend	J	T				Exempt		Exempt
242 General Mills Incorporated Common	A	Dividend	J	T				Exempt		Exempt
243 Harley Davidson Common	A	Dividend	J	T				Exempt		Exempt
244 Hewlett-Packard Co Common	A	Dividend	J	T				Exempt		Exempt
245 Intel Corp Common	A	Dividend	J	T				Exempt		Exempt
246 Kimberly Clark Corp Common	A	Dividend	J	T				Exempt		Exempt
247 Marsh & McLennan Companies Common	A	Dividend	J	T				Exempt		Exempt
248 MBNA Corp Common	A	Dividend	J	T				Exempt		Exempt
249 MCI Worldcom Inc Common		None	J	T				Exempt		Exempt
250 Merck & Company Common	A	Dividend	J	T				Exempt		Exempt
251 NipSCO Industries Common	A	Dividend						Exempt		Exempt
252 Pitney Bowes Common	A	Dividend	J	T				Exempt		Exempt
253 PNC Bank Corporation Common	A	Dividend	J	T				Exempt		Exempt
254 Proctor & Gamble Co Common	A	Dividend	J	T				Exempt		Exempt
255 SBC Communications Inc Common	A	Dividend	J	T				Exempt		Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 16 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
256 Southwest Airlines Common	A	Dividend	J	T	Exempt					Exempt
257 Staples Common		None	J	T	Exempt					Exempt
258 Sun Microsystems Common		None	K	T	Exempt					Exempt
259 Time Warner Common	A	Dividend	J	T	Exempt					Exempt
260 US West Inc New	A	Dividend	J	T	Exempt					Exempt
261 Viacom CL B Common		None	J	T	Exempt					Exempt
262 Washington Mutual Inc Common	A	Dividend	J	T	Exempt					Exempt
263 Wellpoint Health Networks Inc New Common		None	J	T	Exempt					Exempt
264 Assets of Peter J. Olivere Trust										
265 DEL HSG MFM Quaker Hill 7.55% (S)	A	Interest	J	T	Exempt					Exempt
266 DELA ST GO'S 4.7% (S)	A	Interest			Exempt					Exempt
267 DELA Trans AU 7.5% (S)	A	Interest			Exempt					Exempt
268 DELA Trans AU 7.75% (S)	A	Interest			Exempt					Exempt
269 Delaware EDA Pollutn Cntl (S)	A	Interest	J	T	Exempt					Exempt
270 Delaware Riv & Bay Auth 4.9% (S)	C	Interest	K	T	Exempt					Exempt
271 Delaware ST GO's Rfdg 4.6% (S)	B	Interest	K	T	Exempt					Exempt
272 Delaware ST HSG Auth 7.125% (S)	A	Dividend	J	T	Exempt					Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Aabco, Thomas L.	Date of Report 09/29/1999
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VII. Page 17 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
273 Delaware Transn Auth 5.10% (S)	B	Interest	K	T	Exempt				Exempt
274 Delaware Transn Auth 9% (S)	A	Interest	J	T	Exempt				Exempt
275 Delaware Transn Auth 5.2% (S)	B	Interest	K	T	Exempt				Exempt
276 Ecolab Inc (S)	A	Interest	J	T	Exempt				Exempt
277 CRT Government Securities (cash equivalent) (S)	D	Interest	L	T	Exempt				Exempt
278 New Castle Cnty Del 6.5%	A	Interest	J	T	Exempt				Exempt
279 Pitney Bowes Inc (S)	A	Interest	J	T	Exempt				Exempt
280 Wilmington Del Single Family Mtg 7.25% (S)	A	Interest	J	T	Exempt				Exempt
281 Assets of Olivere Residuary Trust #1									
282 Wyman Gordon Co (S)		None	J	T	Exempt				Exempt
283 ABC-Naco Inc (S)		None	J	T	Exempt				Exempt
284 Bedford PFFY Invs Inc Par (S)	A	Dividend	J	T	Exempt				Exempt
285 Beverly Enterprises Inc (S)		None	J	T	Exempt				Exempt
286 Cabot Corporation (S)	A	Dividend	J	T	Exempt				Exempt
287 Cabot Oil & Gas Corp CL A (S)	A	Dividend	J	T	Exempt				Exempt
288 Calgon Carbon Corp (S)	A	Dividend	J	T	Exempt				Exempt
289 Cascade Corporation (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 I=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 18 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
290 Charming Shoppes Inc (S)		None	J	T	Exempt				Exempt
291 Flow International Corp (S)		None	J	T	Exempt				Exempt
292 Forest Oil Corp New (S)		None	J	T	Exempt				Exempt
293 Interface Inc Class A (S)	A	Dividend	J	T	Exempt				Exempt
294 Intl Rectifier Corp (S)		None	J	T	Exempt				Exempt
295 K2 Inc (S)		None	J	T	Exempt				Exempt
296 Remet Corp (S)		None	J	T	Exempt				Exempt
297 Kopin Corp (S)		None	J	T	Exempt				Exempt
298 Lucent Technologies Inc (S)	A	Dividend	J	T	Exempt				Exempt
299 Magnetek Inc (S)		None	J	T	Exempt				Exempt
300 McDermott Intl Inc (S)	A	Dividend	J	T	Exempt				Exempt
301 Michaels Stores Inc (S)		None	J	T	Exempt				Exempt
302 Milacron Inc (S)	A	Dividend	J	T	Exempt				Exempt
303 CRT Government Securities (cash equivalent) (S)	A	Dividend	K	T	Exempt				Exempt
304 Nabors Industries Inc (S)		None	J	T	Exempt				Exempt
305 Pennzoil-Quaker St Co (S)	A	Dividend	J	T	Exempt				Exempt
306 Petco Animal Supplies (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 19 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
307	Precision Castparts Corp (S)	A	Dividend	J	T	Exempt			Exempt
308	Regis Corp Minn (S)	A	Dividend	J	T	Exempt			Exempt
309	Rollins Truck Leasing Corp (S)	A	Dividend	J	T	Exempt			Exempt
310	Sunrise Medical Inc (S)		None	J	T	Exempt			Exempt
311	Titanium Metals Corp (S)	A	Dividend	J	T	Exempt			Exempt
312	US Oncology Inc (S)		None	J	T	Exempt			Exempt
313	Veterinary Ctre Amer Inc (S)		None	J	T	Exempt			Exempt
314	Vishay Intertechnology (S)		None	J	T	Exempt			Exempt
315	Weatherford Intl Inc (S)		None	J	T	Exempt			Exempt
316	Windmere-Durable Hldgs (S)		None	J	T	Exempt			Exempt
317	Assets of Olivere Residuary Trust #2								
318	Alicatel SA (S)	A	Dividend	J	T	Exempt			Exempt
319	Allied Zurich PLC (S)		None	J	T	Exempt			Exempt
320	Anglo American PLC Spon ADR (S)	A	Dividend	J	T	Exempt			Exempt
321	Archer-Daniels Midland Co (S)	A	Dividend	J	T	Exempt			Exempt
322	BASF AG ADR (S)	A	Dividend	J	T	Exempt			Exempt
323	Boeing Co (S)	A	Dividend	J	T	Exempt			Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

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VII. Page 20 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
324 British Amern TOB PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
325 Case Corp (S)	A	Dividend	J	T	Exempt				Exempt
326 Catskill Finl Corp (S)	A	Dividend	J	T	Exempt				Exempt
327 Centrais Electricas Spons ADR (S)	A	Dividend	J	T	Exempt				Exempt
328 Columbia/HCA Healthcare Corp (S)	A	Dividend	J	T	Exempt				Exempt
329 Community Svgs Bkshrs Inc New (S)	A	Dividend	J	T	Exempt				Exempt
330 Companhia Cervejaris Brahma Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
331 Daimler Benz AG Spon ADR (S)	A	Dividend			Exempt				Exempt
332 Deutsche Telekom AG Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
333 Diageo PLC Sponsored ADR (S)	A	Dividend	J	T	Exempt				Exempt
334 ELF Aquitaine Sponsored ADR (S)	A	Dividend	J	T	Exempt				Exempt
335 Entergy Corp New (S)	A	Dividend	J	T	Exempt				Exempt
336 Firstfeed Amer Bancorp (S)	A	Dividend	J	T	Exempt				Exempt
337 Great Lakes Chem Corp (S)	A	Dividend	J	T	Exempt				Exempt
338 Hitachi LTD ADR 10 Com (S)	A	Dividend	J	T	Exempt				Exempt
339 HSBC Holdings PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
340 Hutchison Whampoa ADR (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 21 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
341 IBP Inc (S)	A	Dividend	J	T	Exempt				Exempt
342 ING Groep NV Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
343 Invensys PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
344 Lockheed Martin Corp (S)	A	Dividend	J	T	Exempt				Exempt
345 Loews Corporation (S)	A	Dividend	J	T	Exempt				Exempt
346 Lubrizol Corp (S)	A	Dividend	J	T	Exempt				Exempt
347 Marks & Spencer LTD Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
348 McKesson HBOC Inc (S)	A	Dividend	J	T	Exempt				Exempt
349 CMT Government Securities (cash equivalent) (S)	A	Dividend	J	T	Exempt				Exempt
350 PG&E Corporation (S)	A	Dividend			Exempt				Exempt
351 Petroleo Brasileiro SA Petrobras (S)	A	Dividend	J	T	Exempt				Exempt
352 Philip Morris Companies (S)	A	Dividend	J	T	Exempt				Exempt
353 Raytheon CO CL B (S)	A	Dividend	J	T	Exempt				Exempt
354 Reebok International LTD (S)		None	J	T	Exempt				Exempt
355 Safeco Corp (S)	A	Dividend	J	T	Exempt				Exempt
356 Service Corp International (S)	A	Dividend	J	T	Exempt				Exempt
357 SLM Hldg Corp (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 I=\$50,001 or more H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 22 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
358 St Paul Co Inc (S)	A	Dividend	J	T	Exempt				Exempt
359 State Finl Services Corp CL A (S)	A	Dividend	J	T	Exempt				Exempt
360 Swire PAC LTD Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
361 Tele Centro SUL Participacoes (S)	A	Dividend	J	T	Exempt				Exempt
362 Telecommunicacoes Brasileiras Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
363 Telefonica de Argentina Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
364 Telefonos de Mexico Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
365 Tokio Mzn&Fire Ins ADR (S)	A	Dividend	J	T	Exempt				Exempt
366 Toys R US Inc (S)		None	J	T	Exempt				Exempt
367 Unicom Corp (S)	A	Dividend	J	T	Exempt				Exempt
368 UST Inc (S)	A	Dividend	J	T	Exempt				Exempt
369 Waste Mgmt Inc Del (S)	A	Dividend	J	T	Exempt				Exempt
370 Assets of Olivere Residuary Trust #3									
371 CRT Government Securities (cash equivalent (S)	B	Dividend	M	T	Exempt				Exempt
372 Wilmington Trust Corp (S)	B	Dividend	K	T	Exempt				Exempt
373 Xerox Corp (S)	A	Dividend	J	T	Exempt				Exempt
374 Assets of Mary Lucia Ambro Rev Trust #1									
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 23 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
375 CRT Government Securities (cash equivalent) (S)	A	Dividend	J	T	Exempt				Exempt
376 Wilmington Trust Corp (S)	A	Dividend	J	T	Exempt				Exempt
377 Assets of Mary Lucia Ambro Rev Trust #2									
378 3Com Corp (S)		None	J	T	Exempt				Exempt
379 Adaptec Inc (S)		None	J	T	Exempt				Exempt
380 American Express Company (S)	A	Dividend	J	T	Exempt				Exempt
381 American Intl Group Inc (S)	A	Dividend	J	T	Exempt				Exempt
382 AT&T Corp (S)	A	Dividend	J	T	Exempt				Exempt
383 Banc One Corp (S)	A	Dividend	J	T	Exempt				Exempt
384 Bell & Howell Co (S)		None	J	T	Exempt				Exempt
385 Bristol Myers Squibb Co (S)	A	Dividend	J	T	Exempt				Exempt
386 Caterpillar Inc (S)	A	Dividend	J	T	Exempt				Exempt
387 Chevron Corp (S)	A	Dividend	J	T	Exempt				Exempt
388 Clayton Homes Inc (S)	A	Dividend	J	T	Exempt				Exempt
389 Coca-Cola Company (S)	A	Dividend	J	T	Exempt				Exempt
390 Computer Sciences Corp (S)	A	Dividend	J	T	Exempt				Exempt
391 Conseco Inc (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 24 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-I)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
392 CSX Corp (S)	A	Dividend	J	T	Exempt				Exempt
393 Diamond Multimedia (S)		None	J	T	Exempt				Exempt
394 Disney Walt Company (S)	A	Dividend	J	T	Exempt				Exempt
395 Ecolab Inc (S)	A	Dividend	J	T	Exempt				Exempt
396 Elan PLC ADR (S)		None	J	T	Exempt				Exempt
397 Enron Corp (S)	A	Dividend	J	T	Exempt				Exempt
398 Exxon Corp (S)	A	Dividend	J	T	Exempt				Exempt
399 Franklin Resources Inc (S)	A	Dividend	J	T	Exempt				Exempt
400 General Electric Company GE (S)	A	Dividend	J	T	Exempt				Exempt
401 General Motors Corp (S)	A	Dividend	J	T	Exempt				Exempt
402 Gillette Co (S)	A	Dividend	J	T	Exempt				Exempt
403 International Business (S)	A	Dividend	J	T	Exempt				Exempt
404 Kaydon Corp (S)	A	Dividend	J	T	Exempt				Exempt
405 Lehman Brothers Holdings Inc (S)	A	Dividend	J	T	Exempt				Exempt
406 Lucent Technologies Inc (S)	A	Dividend	J	T	Exempt				Exempt
407 Mattel Incorporated (S)	A	Dividend	J	T	Exempt				Exempt
408 McDonalds Corp (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

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VII. Page 25 INVESTMENTS and TRUSTS - income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-I)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
409 Medtronic Inc (S)	A	Dividend	J	T	Exempt				Exempt
410 Merck & Co Inc (S)	A	Dividend	J	T	Exempt				Exempt
411 Microsoft Corp (S)		None	J	T	Exempt				Exempt
412 CRT Government Securities (S)	A	Dividend	K	T	Exempt				Exempt
413 Monsanto Co (S)	A	Dividend	J	T	Exempt				Exempt
414 Nestle SA Reg ADR (S)	A	Dividend	J	T	Exempt				Exempt
415 Proctor & Gamble CO (S)	A	Dividend	J	T	Exempt				Exempt
416 Qwest Communications (S)	A	Dividend	J	T	Exempt				Exempt
417 Royal Dutch Pete Co (S)	A	Dividend	J	T	Exempt				Exempt
418 Staples Inc (S)	A	Dividend	J	T	Exempt				Exempt
419 Sun Microsystems Inc (S)		None	J	T	Exempt				Exempt
420 Warner Lambert CO (S)	A	Dividend	K	T	Exempt				Exempt
421 United Technologies Corp (S)	A	Dividend	J	T	Exempt				Exempt
422 Assets of Mary Lucia Ambro IRA									
423 Alliance Prem Growth (S)	A	Dividend	K	T	Exempt				Exempt
424 CRT Government Securities (cash equivalent) (S)	B	Dividend	K	T	Exempt				Exempt
425 Franklin Small Cap CL (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 26 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (I-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
426 Northstar TR Intl Value FD CL C (S)	B	Dividend	K	T	Exempt				Exempt
427 Oppenheimer Quest Opportunity Value Fund (S)	B	Dividend	K	T	Exempt				Exempt
428 Pimco Small Cap Value Fund CL C (S)	A	Dividend	K	T	Exempt				Exempt
429 Assets of Mary Lucia Ambro Rev Trust #3									
430 Adobe Systems Inc (S)	A	Dividend	J	T	Exempt				Exempt
431 Amgen Inc (S)		None	K	T	Exempt				Exempt
432 Atlantic Richfield Co (S)	A	Dividend	J	T	Exempt				Exempt
433 Assets of Mary Lucia Ambro Rev Trust #4									
434 Banc One Corp Ohio (S)	A	Dividend			Exempt				Exempt
435 Chase Manhattan Corp New (S)	A	Dividend	J	T	Exempt				Exempt
436 Chevron Corp (S)	A	Dividend	K	T	Exempt				Exempt
437 Chrysler Corp (S)	A	Dividend			Exempt				Exempt
438 Cinergy Corp (S)	A	Dividend			Exempt				Exempt
439 Comcast Corp CL A (S)	A	Dividend	J	T	Exempt				Exempt
440 Computer Sciences Corp (S)	A	Dividend	K	T	Exempt				Exempt
441 Enron Corp (S)	A	Dividend	K	T	Exempt				Exempt
442 Exxon Corp (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 I=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 27 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(Q)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
443 Federal National MT Assn (S)	A	Dividend	K	T	Exempt				Exempt
444 Fleet Finl Group Inc (S)	A	Dividend			Exempt				Exempt
445 Gannett Co Inc Del (S)	A	Dividend	J	T	Exempt				Exempt
446 General Mills Inc (S)	A	Dividend	J	T	Exempt				Exempt
447 Genl Dynamics Corp Com (S)	A	Dividend	J	T	Exempt				Exempt
448 Harley Davidson Inc (S)	A	Dividend	J	T	Exempt				Exempt
449 Hewlett-Packard Company (S)	A	Dividend	K	T	Exempt				Exempt
450 Intel Corp (S)	A	Dividend	J	T	Exempt				Exempt
451 Kimberly-Clark Corp (S)	A	Dividend	J	T	Exempt				Exempt
452 Marsh & McLennan Coa Inc (S)	A	Dividend	K	T	Exempt				Exempt
453 MBNA Corp (S)	A	Dividend	J	T	Exempt				Exempt
454 Merck & Co Inc (S)	A	Dividend	K	T	Exempt				Exempt
455 MCI Worldcom (S)		None	K	T	Exempt				Exempt
456 CRT Government Securities (cash equivalent) (S)	C	Dividend	K	T	Exempt				Exempt
457 Nipco Ind Inc (S)	A	Dividend			Exempt				Exempt
458 Pitney Bowes Inc (S)	A	Dividend	K	T	Exempt				Exempt
459 PNC Bank Corp (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 28 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
460 Proctor & Gamble Co (S)	A	Dividend	K	T	Exempt				Exempt
461 SBC Communications Corp Inc (S)	A	Dividend	J	T	Exempt				Exempt
462 Southwest Airlines Co (S)	A	Dividend	K	T	Exempt				Exempt
463 Staples Inc (S)	A	Dividend	J	T	Exempt				Exempt
464 Sun Microsystems Inc (S)		None	K	T	Exempt				Exempt
465 Texaco Incorporated (S)	A	Dividend			Exempt				Exempt
466 Time Warner Inc (S)	A	Dividend	J	T	Exempt				Exempt
467 US West Inc New (S)	A	Dividend	J	T	Exempt				Exempt
468 Viacom Inc CL B (S)		None	K	T	Exempt				Exempt
469 US West Incorporated (S)	A	Dividend			Exempt				Exempt
470 Washington Mut Inc (S)	A	Dividend	J	T	Exempt				Exempt
471 Wellpoint Bith Networks (S)		None	J	T	Exempt				Exempt
472 Assets of Mary Lucia Rev Trust #5									
473 4Front Technologies Inc (S)		None	J	T	Exempt				Exempt
474 Able Telcom Hldg New (S)		None	J	T	Exempt				Exempt
475 Action Performance Cos (S)		None	J	T	Exempt				Exempt
476 Acxiom Corp (S)		None	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 29 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
477 Aeroflex Inc (S)		None	J	T	Exempt				Exempt
478 Artesyn Technologies Inc (S)		None	J	T	Exempt				Exempt
479 Astropower Inc (S)		None	J	T	Exempt				Exempt
480 Atmel Corp (S)		None	J	T	Exempt				Exempt
481 Bard CR Inc (S)	A	Dividend	J	T	Exempt				Exempt
482 Blue Rhino Corp (S)		None	J	T	Exempt				Exempt
483 Carey Intl Inc (S)		None	J	T	Exempt				Exempt
484 Comascope Inc (S)		None	J	T	Exempt				Exempt
485 Convergys Corp (S)		None	J	T	Exempt				Exempt
486 Correctional Svcs Corp (S)		None	J	T	Exempt				Exempt
487 Cost Plus Inc Calif (S)		None	J	T	Exempt				Exempt
488 DII Group Inc (S)		None	J	T	Exempt				Exempt
489 Dollar Thrifty (S)		None	J	T	Exempt				Exempt
490 Equinox Systems Inc (S)		None	J	T	Exempt				Exempt
491 Foodmaker Inc New (S)		None	J	T	Exempt				Exempt
492 Fundtech Ltd (S)		None	J	T	Exempt				Exempt
493 Group Maintenance (S)		None	J	T	Exempt				Exempt

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

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VII. Page 30 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
										(1) Amount Code (A-I)
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
494 ICB Med Inc (S)		None	J	T	Exempt					Exempt
495 Infocure Corp (S)		None	J	T	Exempt					Exempt
496 Jabil Circuit Inc (S)		None	J	T	Exempt					Exempt
497 Jakks Pac Inc (S)		None	J	T	Exempt					Exempt
498 Kenneth Cold Prodtms CL (S)		None	J	T	Exempt					Exempt
499 Maxwell Technologies Inc (S)		None	J	T	Exempt					Exempt
500 Metro One (S)		None	J	T	Exempt					Exempt
501 Mettler-Toledo Intl Inc (S)		None	J	T	Exempt					Exempt
502 Mobile Mini Inc (S)		None	J	T	Exempt					Exempt
503 CRT Government Securities (cash equivalent) (S)	B	Dividend	J	T	Exempt					Exempt
504 Natl Computer Systems Inc (S)	A	Dividend	J	T	Exempt					Exempt
505 Nova Corporation (S)		None	J	T	Exempt					Exempt
506 Outback Steakhouse Inc (S)		None	J	T	Exempt					Exempt
507 Pericom Smicndctr Corp (S)		None	J	T	Exempt					Exempt
508 Point of Sal LTD (S)		None	J	T	Exempt					Exempt
509 Progress Software Corp (S)		None	J	T	Exempt					Exempt
510 QRS Corp (S)	A	Dividend	J	T	Exempt					Exempt
1 Ine/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

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VII. Page 31 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(Q)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
511 Remedy Corp (S)		None	J	T	Exempt				Exempt
512 Rent Way Inc (S)		None	J	T	Exempt				Exempt
513 Rogue Wave Software Inc (S)		None	J	T	Exempt				Exempt
514 Smith Gardner & Assoc (S)		None	J	T	Exempt				Exempt
515 SPX Corp (S)		None	J	T	Exempt				Exempt
516 Synopsys Corp (S)		None	J	T	Exempt				Exempt
517 Taco Cabana Inc CL (S)		None	J	T	Exempt				Exempt
518 Titan Corp (S)		None	J	T	Exempt				Exempt
519 Trans World Entertainment (S)		None	J	T	Exempt				Exempt
520 Transaction Network Serv (S)		None	J	T	Exempt				Exempt
521 Transwitch Corp Com (S)		None	J	T	Exempt				Exempt
522 US Oncology Inc (S)		None	J	T	Exempt				Exempt
523 Waters Corporation (S)		None	J	T	Exempt				Exempt
524 Westpoint Stevens Inc (S)	A	Dividend	J	T	Exempt				Exempt
525 Assets of Mary Lucia Ambro Rev Trust #6									
526 Alcatel Alstrom Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
527 Allied Zurich PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000	B=\$1,001-\$2,500	G=\$100,001-\$1,000,000	C=\$2,501-\$5,000	H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000	I2=\$5,000,001 or more			
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000	P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000	P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more			
3 Val Meth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other		S=Assessment W=Estimated		T=Cash/Market				

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VII. Page 32 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(A)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
528 Anglo American PLC Spons ADR (S)	A	Dividend	J	T	Exempt				Exempt
529 Argentaria Caja Postal Y Hipotecario (S)	A	Dividend	J	T	Exempt				Exempt
530 BASF AG ADR (S)	A	Dividend	J	T	Exempt				Exempt
531 Bayerische Motoren Werke AG ORD German (S)	A	Dividend	J	T	Exempt				Exempt
532 Branco Bradesco Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
533 British Amern TOB PLC Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
534 British STL PLC ADR Final (S)	A	Dividend	J	T	Exempt				Exempt
535 Canon Inc ADR Rep (S)	A	Dividend	J	T	Exempt				Exempt
536 Centrais Electricas Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
537 CIA Anonima Telef de Ven-ADR (S)	A	Dividend	J	T	Exempt				Exempt
538 Companhia Cervejaria Brahma Spon ADR (S)	A	Dividend	J	T	Exempt				Exempt
539 Daimler-Benz AG Spon ADR (S)	A	Dividend			Exempt				Exempt
540 Den danske BK AF Aktiesel Skab ADR (S)	A	Dividend	J	T	Exempt				Exempt
541 Deutsche Telkom AG Spon ADR (S)	A	Interest	J	T	Exempt				Exempt
542 Development Bank Singapore LTD Spon (S)	A	Dividend	J	T	Exempt				Exempt
543 Diageo PLC Spons ADR (S)	A	Dividend	J	T	Exempt				Exempt
544 ELF Aquitaine Sponsored ADR (S)	A	Dividend	J	T	Exempt				Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

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VII. Page 33 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
					(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure
	(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)						
NONE (No reportable income, assets, or transactions)										
545 ENI SFA Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
546 Hitachi LTD ADR (S)	A	Dividend	J	T	Exempt					Exempt
547 HSBC Holdings PLC Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
548 Hutchison Whampoa ADR (S)	A	Dividend	J	T	Exempt					Exempt
549 INC Groep NV Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
550 Invensys PLC Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
551 Koninklijke RFN (S)	A	Dividend	J	T	Exempt					Exempt
552 Korea Elec Pwr Corp (S)	A	Dividend	J	T	Exempt					Exempt
553 Ryocera Corp (S)	A	Dividend	J	T	Exempt					Exempt
554 Marks & Spencer Ltd Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
555 Matsushita Electric Industries ADR (S)	A	Dividend	J	T	Exempt					Exempt
556 Michelin CL B (S)	A	Dividend	J	T	Exempt					Exempt
557 Mitsubishi Heavy INDS (S)	A	Dividend	J	T	Exempt					Exempt
558 CRT Government Securities (cash equivalent) (S)	A	Dividend	J	T	Exempt					Exempt
559 National Pwr Spon ADR Final (S)	A	Dividend	J	T	Exempt					Exempt
560 Petroleo Brasileiro Petrobras (S)	A	Dividend	J	T	Exempt					Exempt
561 Portugal Telecom Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

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VII. Page 34 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
			(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Date Month- Day	(2) Value Code (J-P)	(3) Gain Code (A-H)	(4) Identity of buyer/seller (if private transaction)	(5)	(6)	(7)	(8)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
562 Reckitt & Coleman (S)		None	J	T	Exempt					Exempt
563 Royal & Sun Alliance Ins RSANN GRP PLC (S)	A	Dividend	J	T	Exempt					Exempt
564 Swire PAC Ltd Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
565 Swisscom AG Sponsored ADR (S)	A	Dividend	J	T	Exempt					Exempt
566 Telecom Corp NZ Spon ADR (S)		None	J	T	Exempt					Exempt
567 Telefonos de Mexico Spon ADR (S)	A	Dividend	J	T	Exempt					Exempt
568 Tokio Mtn & Fire Ins ADR (S)	A	Dividend	J	T	Exempt					Exempt
569 Assets of Joint Account										
570 AT&T Corp (J)	A	Dividend	J	T	Exempt					Exempt
571 Hopewell Hldgs LTD Spon ADR (J)	A	Dividend	J	T	Exempt					Exempt
572 Markel Corp (J)		None	K	T	Exempt					Exempt
573 Assets of Thomas L. Ambro IRA										
574 Alliance Prem Growth	A	Dividend	K	T	Exempt					Exempt
575 Franklin Small Cap	A	Dividend	J	T	Exempt					Exempt
576 CRT Government Securities (cash equivalent)	C	Dividend	K	T	Exempt					Exempt
577 Northstar TR Intl Value FD CL C	B	Dividend	K	T	Exempt					Exempt
578 Oppenheimer Quest Opportunity Value Fund	B	Dividend	K	T	Exempt					Exempt
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

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VII. Page 35 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
579 Pimco Small Cap Value Fund CL C	A	Dividend	K	T	Exempt					Exempt
580 Assets of Thomas L. Ambro Rev Trust #1										
581 Alcatel SA	A	Dividend	K	T	Exempt					Exempt
582 Allied Zurich PLC Spon ADR	A	Dividend	K	T	Exempt					Exempt
583 Angelo American PLC Spon ADR	A	Dividend	K	T	Exempt					Exempt
584 Argentaria Caja Postal Y Hipotecario	A	Dividend	J	T	Exempt					Exempt
585 B A T Inds PLC	A	Dividend			Exempt					Exempt
586 BASF AG (NEW) ADR	A	Dividend	K	T	Exempt					Exempt
587 Bayerische Motoren Werke AG ORD German	A	Dividend	K	T	Exempt					Exempt
588 Branco Bradesco SA	A	Dividend			Exempt					Exempt
589 British Amer'n TOB PLC Spon ADR	A	Dividend	J	T	Exempt					Exempt
590 British Stl PLC ADR Final	A	Dividend	K	T	Exempt					Exempt
591 BTR PLC ADR	A	Dividend			Exempt					Exempt
592 Canon Inc ADR Rep	A	Dividend	K	T	Exempt					Exempt
593 Centrais Electricas Spon ADR	A	Dividend	K	T	Exempt					Exempt
594 CIA Anonima Telef de Ven ADR	A	Dividend	J	T	Exempt					Exempt
595 Companhia Cervejaria Brahma Spon ADR	A	Dividend	J	T	Exempt					Exempt
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

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VII. Page 36 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
596 Daimler-Benz AG Spon ADR	B	Dividend							Exempt
597 Den Danske BK AF Aktieselskab ADR	A	Dividend	K	T					Exempt
598 De Beers Cons Mines ADR	A	Dividend							Exempt
599 Deutsche Telekom AG Spon ADR	A	Dividend	K	T					Exempt
600 Development Bank Singapore Ltd Spon	A	Dividend	K	T					Exempt
601 Diageo PLC Spon ADR New	C	Dividend	K	T					Exempt
602 ELF Aquitaine Spon ADR	A	Dividend	K	T					Exempt
603 ENI SPA Spon ADR	A	Dividend	K	T					Exempt
604 EVN Energie-Versorgung Niederosterreich	A	Dividend	J	T					Exempt
605 Groupe Danone Spons ADR	A	Dividend							Exempt
606 Hitachi Ltd ADR	A	Dividend	K	T					Exempt
607 HSBC Holdings PLC Spon ADR	A	Dividend	K	T					Exempt
608 Hutchison Wharpoa ADR	A	Dividend	K	T					Exempt
609 IMP Chem Ind PLC ADR NEW	A	Dividend							Exempt
610 ING Groep NV Spon ADR	A	Dividend	K	T					Exempt
611 Invensys PLC Spon ADR	A	Dividend	K	T					Exempt
612 Jardine Matheson Hldgs	A	Dividend							Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 37 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
613 Komatsu Ltd Spon ADR New	A	Dividend	K	T	Exempt			Exempt	
614 Koninklijke Ptt Nederlnd	A	Dividend			Exempt			Exempt	
615 Koninklijke KPN NV	A	Dividend	J	T	Exempt			Exempt	
616 Korea Elec Pwr Corp Spon ADR	A	Dividend	J	T	Exempt			Exempt	
617 Kyocera Corp	A	Dividend	K	T	Exempt			Exempt	
618 Marks & Spencer Ltd Spon ADR	A	Dividend	K	T	Exempt			Exempt	
619 Matsushita Electric Industries ADR	A	Dividend	K	T	Exempt			Exempt	
620 Michelin CL B	A	Dividend	K	T	Exempt			Exempt	
621 Mitsubishi Heavy Inds	A	Dividend	K	T	Exempt			Exempt	
622 CRT Government Securities (cash equivalent)	C	Dividend	J	T	Exempt			Exempt	
623 Muenchener Ruckver AG		None	J	T	Exempt			Exempt	
624 National Pwr Spon ADR Final	A	Dividend	K	T	Exempt			Exempt	
625 Nestle SA Reg ADR	A	Dividend			Exempt			Exempt	
626 Petroleo Brasileiro SA Petrobras Spon	A	Dividend	K	T	Exempt			Exempt	
627 Portugal Telecom SA Spon ADR	A	Dividend	K	T	Exempt			Exempt	
628 Reckitt & Coleman		None	K	T	Exempt			Exempt	
629 Royal & Sun Alliance Ins GRP PLC	A	Dividend	J	T	Exempt			Exempt	
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000	B=\$1,001-\$2,500 G=\$100,001-\$1,000,000	C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000 I2=\$5,000,001 or more	E=\$15,001-\$50,000					
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more					
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market						

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VII. Page 38 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
630 Swire PAC Ltd Spon ADR	A	Dividend	K	T	Exempt				Exempt
631 Swisscom AG Spon ADR	A	Dividend	J	T	Exempt				Exempt
632 Tele Danmark A/S Spon ADR	B	Dividend			Exempt				Exempt
633 Telecom Corp NZ Spon ADR		None	K	T	Exempt				Exempt
634 Telecom Italia SPA	A	Dividend			Exempt				Exempt
635 Telecomunicacoes Brasileiras Spon ADR	A	Dividend	J	T	Exempt				Exempt
636 Telefonos de Mexico SA Spon ADR	A	Dividend	K	T	Exempt				Exempt
637 Tokio M&N & Fire Ins ADR	A	Dividend	K	T	Exempt				Exempt
638 YPF Sociedad Anonima	A	Dividend			Exempt				Exempt
639 Assets of Thomas L. Ambro Rev Trust #2									
640 Wyman Gordon Co		None	J	T	Exempt				Exempt
641 ABC-Naco Inc		None	J	T	Exempt				Exempt
642 Bedford EFTY Invs Inc Par	A	Dividend	J	T	Exempt				Exempt
643 Berzverly Enterprises Inc		None	J	T	Exempt				Exempt
644 Cabot Corporation	A	Dividend	J	T	Exempt				Exempt
645 Cabot Oil & Gas Corp CL A	A	Dividend	J	T	Exempt				Exempt
646 Calgon Carbon Corp	A	Dividend	J	T	Exempt				Exempt
1 Ine/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

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VII. Page 39 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(O)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
			(1) Value Code (J-P)	(2) Value Method Code (Q-W)						
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure						
					(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)		
NONE (No reportable income, assets, or transactions.)										
647 Cascade Corporation	A	Dividend	J	T						Exempt
648 Charming Shoppes Inc		None	J	T						Exempt
649 Coherent Inc		None	J	T						Exempt
650 Flow International Corp		Dividend	J	T						Exempt
651 Forest Oil Corp New		None	J	T						Exempt
652 Interface Inc Class A	A	Dividend	J	T						Exempt
653 Intl Rectifier Corp		None	J	T						Exempt
654 K2 Inc		None	J	T						Exempt
655 Kemet Corp		None	J	T						Exempt
656 Kopin Corp		None	J	T						Exempt
657 Lucent Technologies Inc	A	Dividend	J	T						Exempt
658 Magnetek Inc		None	J	T						Exempt
659 McDermott Intl Inc	A	Dividend	J	T						Exempt
660 Michaels Stores Inc		None	J	T						Exempt
661 Milacron Inc	A	Dividend	J	T						Exempt
662 CRT Government Securities (cash equivalent)	B	Dividend	K	T						Exempt
663 Nabors Industries Inc		None	J	T						Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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VII. Page 40 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(A)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-F)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
664	Pennzoil-Quaker St Co	A	Dividend	J	T	Exempt			Exempt
665	Petco Animal Supplies		None	J	T	Exempt			Exempt
666	Precision Castparts Corp	A	Dividend	J	T	Exempt			Exempt
667	Regis Corp Minn	A	Dividend	J	T	Exempt			Exempt
668	Rollins Truck Leasing Corp	A	Dividend	J	T	Exempt			Exempt
669	RTI Intl Metals Inc		None	J	T	Exempt			Exempt
670	Sunrise Medical Inc		None	J	T	Exempt			Exempt
671	TJ International Inc	A	Dividend	J	T	Exempt			Exempt
672	Titanium Metal Corp	A	Dividend	J	T	Exempt			Exempt
673	US Oncology Inc		None	J	T	Exempt			Exempt
674	Veterinary Ctrs Amer Inc		None	J	T	Exempt			Exempt
675	Vishay Intertechnology		None	J	T	Exempt			Exempt
676	Weatherford Intl Inc		None	J	T	Exempt			Exempt
677	Windmere Durable Hldgs		None	J	T	Exempt			Exempt
678	Note receivable from Louis P. Olivere, Jr.		None	L	T	Exempt			Exempt
679	Richards, Layton and Finger, P.A.		None	L	U	Exempt			Exempt
680	RLEF Defined Benefit Pension Plan (method-actuarial value)		None	L	V	Exempt			Exempt
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	of Person Reporting	Date of Report
	Ambro, Thomas L.	09/29/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

PART II (No. 1): Parties and Terms re: Richards, , cont'd ...I will receive my monthly salary through the date I leave plus three months. I will receive a bonus (or, if applicable, bonuses) no later than at the end of the firm's then current fiscal year.

PART II (No. 2): Parties and Terms re: Richards, , cont'd ...determination of their purchase price by the firm of independent accountants then employed by my firm to prepare its financial statements at the end of my firm's fiscal year.

PART II (No. 3): Parties and Terms re: Richards, , cont'd ...sum of money on my behalf. The amount of benefit that I will eventually receive depends upon the investment gain or loss in that fund, which is self-directed. I intend to roll over this fund.

PART II (No. 4): Parties and Terms re: Richards, , cont'd ...The firm invests a predetermined sum of money on my behalf and the amount of the benefit that I will eventually receive depends upon the investment gain or loss in that fund, which is self-directed. I intend to roll over this fund.

PART II (No. 5): Parties and Terms re: Richards, , cont'd ...invests a predetermined sum of money on my behalf and the amount of the benefit that I will eventually receive depends upon the investment gain or loss in that fund, which is self-directed. I intend to roll over this fund.

PART II (No. 6): Parties and Terms re: Richards, , cont'd ...contribution) is predetermined and the firm puts in an amount sufficient to pay that benefit. I have no control over this plan. I intend to roll over this fund.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Ambro, Thomas L.	Date of Report 09/29/1999
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SECTION HEADING. (Indicate part of report.)

Information continued from Parts I through VI, inclusive.

PART 1. POSITIONS (cont'd.)

Line	Position	Name of Organization/Entity
4	Secretary	Kawasaki Professional Properties, Inc.
5	Trustee	Irrevocable Life Insurance Trust U/A with Bernard A. Polin dated 7/17/91
6	Trustee	Trust Indenture, dated February 28, 1991, between P. Coleman Townsend, Jr. and Thomas L. Ambro (life insurance)
7	Trustee	Irrevocable Life Insurance Trust U/A with P. Coleman Townsend, Jr. dated May 31, 1995
8	Trustee	Thomas L. Ambro Revocable Trust

PART 2. AGREEMENTS (cont'd.)

Line	Date	Parties and Terms
4	70s-Pres	Richards, Layton & Finger, P.A. Profit Sharing Plan. This plan includes a 401(k) feature and is a defined contribution plan. (cont'd. Part VIII)
5	97-Pres	Richards, Layton & Finger, P.A. Retirement Plan. This plan is a type of profit sharing plan and is a defined contribution plan. The firm (cont'd. Part VIII)
6	83-Pres	Richards, Layton & Finger, P.A. Defined Benefit Pension Plan. This is a defined benefit plan. In this case the benefit (rather than the (cont'd. Part VIII)
7	90-Pres	Agreement Relating to Subchapter S Status and Transfers of Stock of Glasgow Professional Properties, Inc., as amended.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Ambro, Thomas L.	09/29/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Thomas L. Ambro Date 9/29/99

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

Thomas L. and Mary Lucia Ambro
NET WORTH
 (As of August 31, 1999)

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 (includes money market accts.)		881	800	Notes payable to banks-secured			
U.S. Government securities-add schedule		218	400	Notes payable to banks- unsecured (1)		164	500
Listed securities-add schedule	4	146	800	Notes payable to relatives			
Unlisted securities-add schedule		445	400	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends		102	000	Unpaid income tax			
Due from others				Other unpaid tax and interest			
Doubtful				Real estate mortgage payable- add schedule		17	000
Real estate owned-add schedule		310	000	Chattel mortgages and other liens payable			
Real estate mortgage receivable				Other debts-itemize:			
Autos and other personal property		150	000				
Cash value-life insurance		32	500				
Other assets-itemize:							
RL&F Defined Benefit Pension Plan (2)		59	900				
				Total liabilities		181	500
				Net Worth	6	165	300
Total Assets	6	346	800	Total liabilities and net worth	6	346	800

(1) TLA signed note for up to \$175,000 in favor of Wilmington Trust Company for initial purchase of home for our son prior to his beginning work as medical intern. This short-term loan, of which \$164,500 of principal is outstanding, is being replaced by the note of our son to Wilmington Trust Company.

(2) Assets in Money Purchase Pension Plan, Profit Sharing Plan and Retirement Plan are listed elsewhere in this net worth statement.

CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, comaker or guarantor	None		Are any assets pledged? (Add schedule)	Mortgage on home	
On leases or contracts	None		Are you defendant in any suits or legal actions?	No	
Legal Claims	No		Have you ever taken bankruptcy?	No	
Provision for Federal Income Tax	None				
Other special debt	(3)				

(3) Owe approximately \$41,000 each year for the next five years on three insurance policies -two to endow a chair in History Department at Georgetown University and one for the benefit of our children. After five years no further payments will be due on two policies, and thereafter the amount owed will be \$13,936 each year until December 2008.

AMBRO ASSETS A/O AUGUST 31, 1999

	CASH/MM	GOVT. SECS.	TRADABLE SECS.	TOTAL
Gabelli Asset Fund		\$	68,446.17	\$ 68,446.17
Ready Asset Trust			15,220.48	15,220.48
Delaware State Bonds		\$ 32,972.95		32,972.95
M. Ambro TTEE Irrev Trust FBO Children	\$ 2,063.25		115,575.29	117,638.54
M. Ambro TTEE Irrev Trust FBO Children	5,302.28		99,742.45	105,044.73
M. Ambro TTEE Irrev Trust FBO Children	24,779.67		196,919.83	221,699.50
M. Ambro TTEE Irrev Trust FBO Children	44,320.01		5,000.00	49,320.01
RL&F Pension @ Wilim Trust	100,781.67		608,100.90	708,882.57
RL&F Age-Weighted @ Wilim Trust	11,610.62		26,757.70	38,368.32
RL&F PSP @ Wilim Trust	40,504.63		342,021.36	382,525.99
Peter Olivere Trust FBO Mary, Peter, and Christi	96,428.00	185,446.53	6,706.25	288,580.78
Olivere Res Trust FBO Mary Lucia Ambro	23,398.15		94,128.86	117,527.01
Olivere Res Trust FBO Mary Lucia Ambro	1,671.72		199,270.81	200,942.53
Olivere Res Trust FBO Mary Lucia Ambro	112,283.80		29,587.50	141,871.30
Mary Lucia Ambro Rev Trust	2,410.93		5,000.00	7,410.93
Mary Lucia Ambro Rev Trust	24,867.20		195,698.36	220,565.56
Mary Lucia Ambro IRA	27,577.82		90,969.81	118,547.63
Mary Lucia Ambro Rev Trust	45,780.90		444,229.35	490,010.25
Mary Lucia Ambro Rev Trust	9,660.02		296,582.63	306,242.65
Mary Lucia Ambro Rev Trust	3,302.17		114,322.32	117,624.49
Thomas L. Ambro & Mary Lucia Ambro	149.01		59,824.75	59,973.76
Thomas L. Ambro IRA	33,955.32		118,496.21	152,451.53
Thomas L. Ambro Rev Trust	9,178.17		861,712.88	870,891.05
Thomas L. Ambro Rev Trust	27,083.31		152,514.42	179,597.73
Wilmington Trust (checking, savings, etc.)	63,125.91		63,125.91	63,125.91
WSFS (savings)	9,150.86			9,150.86
Rodney Square Tax-Exempt Fund	155,106.61			155,106.61
Fahnestock Prime Cash Series	7,328.00			7,328.00
TOTALS	\$881,820.03	\$ 218,419.48	\$ 4,146,828.33	\$5,247,067.84

AMBRO ASSETS A/O AUGUST 31, 1999
ATTACHMENT TO NET WORTH STATEMENT

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
GABELLI ASSET FUND		68,446.17
READY ASSET TRUST		15,220.48
DELAWARE STATE BONDS		
DELAWARE ST HSG AUTH REV	3,970.65	
DELAWARE ST	12,959.20	
DELAWARE ST	16,043.10	
	<u>32,972.95</u>	
M. AMBRO TTEE IRREV TRUST FBO CHILDREN		
CENTRAIS GERADORAS DO		18.10
LIFEPOINT HOSPS INC		48.12
TRIAD HOSPS INC		78.31
AIR PRODUCTS & CHEMICALS	2,380.00	
ALCATEL ALSTROM SPON ADR	3,403.12	
ALLIED ZURICH PLC SPON ADR	1,739.08	
AMER GREETINGS CORP CL A	2,215.00	
ANGLO AMERICAN PLC SPONS ADR	3,259.75	
ARCHER-DANIELS-MIDLAND CO	2,288.00	
BASF AG ADR (NEW) ADR	1,787.12	
BOEING CO	3,171.87	
BRITISH AMERN TOB PLC SPON ADR	2,242.50	
CASE CORP	3,456.25	
CENTRAIS ELECTRICAS	1,860.48	
COLUMBIA/HCA HEALTHCARE CORP	3,693.75	
COMPANHIA CERVEJARIA BRAHMA SPON ADR	781.62	
DEUTSCHE TELEKOM AG SPON ADR	4,881.25	
DIAGEO PLC SPONSORED ADR NEW	2,071.87	
ELF AQUITAINE SPONSORED ADR	2,994.12	
ENTERGY CORP NEW	3,875.62	
GOODYEAR TIRE & RUBBER	2,245.00	
HITACHI LTD ADR 10 COM	4,055.00	
HSBC HOLDINGS PLC-SPON ADR	1,867.50	
HUTCHISON WHAMPOA ADR	1,951.08	
IBP INC	3,211.25	
ING GROEP N V SPON ADR	1,646.25	
INVENSYS PLC-SPON ADR	1,956.41	
LOCKHEED MARTIN CORP	4,440.00	
LOEWS CORPORATION	2,355.00	
LUBRIZOL CORP	1,522.50	
MARKS & SPENCER LTD SPONSORED ADR	2,012.80	
MATSUSHITA ELECTRIC INDUSTRIES ADR	2,010.62	
MCKESSON HBOC INC	2,500.00	
PETROLEO BRASILEIRO SA PETROBRAS SPONSORED ADR	2,005.80	
PHILIP MORRIS COMPANIES	2,433.43	
POWERGEN PLC SPON ADR	2,475.00	
RAYTHEON CO CL B	2,725.00	
SAFECO CORP	2,137.50	
SERVICE CORP INTERNATL	1,657.56	
SLM HLDG CORP	3,535.00	
ST PAUL CO INC	2,885.62	
SWIRE PAC LTD SPONSORED ADR HONG KONG	1,910.68	
TELE CENTRO SUL PARTICIPACOES S A SPONSORED ADR REPSTG PFD	1,640.62	
TELECOMMUNICACOES BRASILEIRAS S A SPON ADR REP ADR FOR PFD	1,483.75	
TELEFONICA DE ARGENTINA S A SPONSORED ADR REPSTG 10 CL B SHS	1,785.00	
TELEFONOS DE MEXICO SA SPON ADR REPSTG SH ORD L	2,454.37	
TOKIO MRN&FIRE INS ADR	2,006.00	
TOYS R US INC	1,381.25	
UST INC	2,851.87	
WASTE MGMT INC DEL	2,187.50	
		<u>115,575.29</u>

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
M. AMBRO TTEE IRREV TRUST FBO CHILDREN		
ABLE TELCOM HLDG NEW		881.25
BLUE RHINO CORP		984.37
DOLLAR THRIFTY		940.62
FUNDTECH LTD		578.12
ICU MED INC		806.25
OUTBACK STEAKHOUSE INC		740.62
PRIME HOSPITALITY CORP		698.43
SMITH-GARDNER&ASSOCIATES		400.00
TACO CABANA INC CL A		851.00
4FRONT TECHNOLOGIES INC		1,218.75
ACTION PERFORMANCE COS		1,234.37
ACXIOM CORP		2,634.37
AEROFLEX INC		1,228.12
ARTESYN TECHNOLOGIES INC		2,829.93
ASTROPOWER INC		1,450.00
ATMEL CORP		1,965.62
BARD C R INC		3,496.87
CAREY INTL INC		1,087.50
COMMSCOPE INC		3,443.75
CONVERGY'S CORP		2,062.50
CORRECTIONAL SVCS CORP		1,301.56
COST PLUS INC CALIF		3,337.50
DII GROUP INC		3,543.75
EQUINOX SYSTEMS INC		1,581.00
FOODMAKER INC NEW		3,459.37
GROUP MAINTENANCE		1,231.25
INFOCURE CORP		1,925.00
JABIL CIRCUIT INC		2,240.62
JAKKS PAC INC		1,512.50
KENNTH COLE PRODTNS CL A		1,709.37
MAXWELL TECHNOLOGIES INC		1,659.37
METRO ONE		1,400.00
METTLER-TOLEDO INTL INC		2,662.50
MOBILE MINI INC		2,737.50
NATL COMPUTER SYSTEMS INC		1,950.00
NOVA CORPORATION		2,600.00
PERICOM SMICNDCTR CORP		1,600.00
POINT OF SALE LTD		1,162.50
PROGRESS SOFTWARE CORP		2,296.87
QRS CORP		1,780.62
REMEDY CORP		1,225.00
RENT WAY INC		1,031.25
ROGUE WAVE SOFTWARE INC		1,781.25
SPX CORP		2,118.75
SYNOPSIS CORP		2,796.87
TITAN CORP		2,546.87
TRANS WORLD ENTERTAINMENT		1,200.00
TRANSACTION NETWORK SERV		2,193.75
TRANSWITCH CORP COM		5,863.12
US ONCOLOGY INC		1,537.50
WATERS CORPORATION		3,824.37
WESTPOINT STEVENS INC		2,400.00
		99,742.45
M. AMBRO TTEE IRREV TRUST FBO CHILDREN		
NCR CORP NEW		131.25
3COM CORP		1,637.62
ADAPTEC INC		6,669.00
AMERICAN EXPRESS COMPANY		4,537.50
AMERICAN INTL GROUP INC		6,580.81
AT&T CORP		5,040.00
BANK ONE CORP		4,614.37
BELL & HOWELL CO		3,350.00
BRISTOL MYERS SQUIBB CO		9,430.25

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
CATERPILLAR INC		2,831.25
CHEVRON CORP		7,292.68
CLAYTON HOMES INC		1,187.50
COCA-COLA COMPANY		2,990.62
COMPUTER SCIENCES CORP		3,459.37
CONSECO INC		3,270.87
CSX CORP		1,092.18
DIAMOND MULTIMEDIA SYS		1,234.37
DISNEY WALT COMPANY		3,413.25
ECOLAB INC		1,878.12
ELAN PLC ADR		4,809.37
ENRON CORP		3,517.50
EXXON CORP		2,602.87
FRANKLIN RESOURCES INC		1,796.87
GENERAL ELECTRIC COMPANY		6,514.12
GENERAL MOTORS CORP		4,968.75
GILLETTE CO		3,823.25
INTERNATIONAL BUSINESS MACHINE CORP		4,982.50
KAYDON CORP		3,068.75
LEHMAN BROTHERS HOLDINGS INC		3,601.25
LUCENT TECHNOLOGIES INC		8,456.25
MATTEL INCORPORATED		1,774.12
MC DONALDS CORP		5,171.87
MEDTRONICS INC		6,492.15
MERCK & CO INC		3,359.37
MICROSOFT CORP		7,405.00
MONSANTO CO		5,140.62
NESTLE S A REG ADR		4,933.85
PROCTOR & GAMBLE CO		5,756.50
QWEST COMMUNICATIONS		4,600.00
ROYAL DUTCH PETE CO NY REGISTRY SH PAR N GLDR 1.25		7,239.37
STAPLES INC		4,241.25
SUN MICROSYSTEMS INC		3,975.00
UNITED TECHNOLOGIES CORP		1,520.87
WARNER LAMBERT CO		16,527.37
		<hr/>
		196,919.83
M. AMBRO TTEE IRREV TRUST FBO CHILDREN		
WILMINGTON TRUST CORP		5,000.00
RL&F PENSION @ WILM TRUST		
PIER 1 IMPORTS COMMON		2,719.00
ADAC LABORATORIES COMMON NEW		7,637.50
ANDREW CORP COMMON		17,500.00
BEDFORD PROPERTY INVESTORS INC COMMON		17,750.00
BERGEN BRUNSWIG CORP CL A COMMON		18,450.00
BEVERLY ENTERPRISES INC NEW		16,000.00
CABOT CORPORATION COMMON		16,144.10
CABOT OIL & GAS CORP CL A COMMON		11,437.80
CADENCE DESIGN SYSTEMS COMMON		13,625.00
CALGON CARBON CORP COMMON		14,713.60
CHARMING SHOPPES COMMON		23,920.90
COHERENT COMMON		17,044.20
CRESCENT REAL ESTATE EQUITIES TRUST COMMON		8,300.00
ESSEX PROPERTY TRUST INC COMMON		17,312.50
FIRST INDL REALTY INC COMMON		10,250.00
HARLAND JOHN H CO COMMON		9,937.50
HARMAN INTERNATIONAL INDUSTRIES COMMON		21,250.00
HOLOGIC INC COMMON		13,332.60
IDACORP INC COMMON		15,656.50
INPUT/OUTPUT COMMON		14,012.50
INTERFACE CL A COMMON		12,163.20
INTERNATIONAL RECTIFIER CORP COMMON		19,350.00
JUSTIN INDUSTRIES INC COMMON		11,424.80
K2 INC COMMON		12,775.00

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
MAGNETEK COMMON		11,562.50
MCDERMOTT INTL COMMON		11,281.50
MICHAELS STORES COMMON		16,878.40
MILACRON INC COMMON		18,000.00
MORRISON KNUDSEN CORP NEW COMMON		10,750.00
NABORS INDUSTRIES COMMON		16,200.00
OFFICEMAX INC COMMON		14,369.70
PENNZOIL-QUAKER STATE CO NEW COMMON		7,964.25
PETCO ANIMAL SUPPLIES INC COMMON		18,750.00
R&B FALCON CORP COMMON		19,219.50
RECISSION CASTPARTS COMMON		10,650.00
RTI INTERNATIONAL METALS INC COMMON		6,519.10
ST JUDE MEDICAL COMMON		16,312.50
SUNRISE MEDICAL COMMON		9,100.00
TITANIUM METALS CORPORATION COMMON		5,950.00
TJ INTERNATIONAL COMMON		10,193.75
US ONCOLOGY INC COMMON		17,425.00
VISHAY INTERTECHNOLOGY COMMON		18,543.00
WYMAN GORDON COMMON		25,725.00
		<hr/>
		608,100.90
RL&F AGE-WEIGHTED @ WILM TRUST		
AT&T CORP COMMON		3,375.00
BELL & HOWELL COMPANY NEW COMMON		3,350.00
FDX CORP COMMON		4,243.80
NABORS INDUSTRIES COMMON		2,700.00
OFFICEMAX INC COMMON		2,268.90
PHILIP MORRIS COMPANIES COMMON		1,871.90
SOVEREIGN BANCORP COMMON		3,009.30
US DOLLARS		7.50
TIME WARNER COMMON		5,931.30
		<hr/>
		26,757.70
RL&F PSP @ WILM TRUST		
TELECOMMUNICACOES BRASILEIRAS S A SPONSORED ADR FOR PREFERRED	1.41	
ADOBE SYSTEMS COMMON		9,962.50
AMGEN COMMON		14,557.90
ATLANTIC RICHFIELD CO COMMON		7,914.42
CHASE MANHATTAN CORP NEW COMMON		10,879.44
CHEVRON CORP COMMON		12,923.82
COCA-COLA ENTERPRISES COMMON		9,668.92
COMCAST CORP CL A SPECIAL COMMON		4,893.75
COMPUTER SCINCES CORP COMMON		14,183.54
ENRON CORP COMMON		13,818.75
EXXON CORP COMMON		9,465.00
FANNIE MAE COMMON		12,735.63
GANNETT CO COMMON		5,095.35
GENERAL DYNAMICS CORP COMMON		4,725.00
GENERAL MILLS INCORPORATED COMMON		10,887.50
HARLEY DAVIDSON COMMON		8,720.00
HEWLETT-PACKARD CO COMMON		13,171.88
INTEL CORP COMMON		7,396.92
KIMBERLY CLARK CORP COMMON		5,693.80
MARSH & MCLENNAN COMPANIES COMMON		11,650.08
MBNA CORP COMMON		5,554.80
MCI WORLDCOM INC COMMON		12,498.75
MERCK & COMPANY COMMON		13,101.66
PITNEY BOWES COMMON		12,095.00
PNC BANK CORPORATION COMMON		11,247.30
PROCTOR & GAMBLE CO COMMON		13,398.75
SBC COMMUNICATIONS INC COMMON		5,286.93
SOUTHWEST AIRLINES COMMON		13,634.10
STAPLES COMMON		1,631.25
SUN MICROSYSTEMS COMMON		16,297.50
TIME WARNER COMMON		10,083.21
U S WEST INC NEW		8,621.25

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
VIACOM CL B COMMON		12,618.90
WASHINGTON MUTUAL INC COMMON		10,318.75
WELLPOINT HEALTH NETWORKS INC NEW COMMON		7,287.50
		<u>342,021.26</u>
PETER J. OLIVERE TRUST FBO MARY, PETER AND CHRISTINE		
GOVERNMENT SECURITIES:		
DEL HSG MFM QUAKER HILL CORP TERRY APTS	5,222.85	
DELAWARE EDA POLLUTION CNTL RFD	5,019.95	
DELAWARE RIV & BAY AUTH DEL AUTH REV RFDG MBIA	49,305.00	
DELAWARE ST GO'S RFDG BDS SER 93-B BK/ENTRY	33,563.33	
DELAWARE ST HSG AUTH HSG DEV REV SUBJ TO AMT SERIES A	6,761.00	
DELAWARE TRANSN AUTH TRANS SYS REV JUNIOR- BOND	34,152.33	
DELAWARE TRANSN AUTH TRANSN & DEL TPK REV - BOND	7,055.60	
DELAWARE TRANSN AUTH TRANSN SYS REV SR-RFDG	33,928.33	
NEW CASTLE CNTY DEL RFDG BDS SER 91 GO'S	7,070.33	
WILMINGTON DEL SINGLE FAMILY MTG REV SER A VEREX MTG INS	3,367.80	
		<u>185,446.53</u>
ECOLAB INC		3,756.25
PITNEY BOWES INC		2,950.00
		<u>6,706.25</u>
OLIVERE RESIDUARY TRUST FBO MARY LUCIA AMBRO		
RTI INTL METALS INC		931.25
SONOSITE INC		444.00
8WYMAN GORDON CO		1,837.50
ABC-NACO INC		1,418.75
BEDFORD PPTY INVS INC PAR \$0.02		3,550.00
BEVERLY ENTERPRISES INC		1,500.00
CABOT CORPORATION		2,306.25
CABOT OIL & GAS CORP CL A		1,906.25
CALGON CARBON CORP		2,006.25
CASCADE CORPORATION		2,150.00
CHARMING SHOPPES INC		3,615.62
FLOW INTERNATIONAL CORP		1,075.00
FOREST OIL CORP NEW		1,493.75
INTERFACE INC CLASS A		1,737.50
INTL RECTIFIER CORP		6,450.00
K2 INC		2,737.50
KEMET CORP		2,581.25
KOPIN CORP		3,606.25
LUCENT TECHNOLOGIES INC		2,434.37
MAGNETEK INC		1,850.00
MCDERMOTT INTL INC		3,384.37
MICHAELS STORES INC		6,137.50
MILACRON INC		1,800.00
NABORS INDUSTRIES INC		5,400.00
PENNZOIL-QUAKER ST CO		2,275.50
PETCO ANIMAL SUPPLIES		3,750.00
PRECISION CASTPARTS CORP		1,775.00
REGIS CORP MINN		1,912.50
ROLLINS TRUCK LEASING CORP		3,112.50
SUNRISE MEDICAL INC		1,400.00
TITANIUM METALS CORP		2,550.00
US ONCOLOGY INC		1,025.00
VETERINARY CTRS AMER INC		1,112.50
VISHAY INTERTECHNOLOGY		3,150.00
WEATHERFORD INTL INC		5,343.75
WINDMERE-DURABLE HLDGS		4,368.75
		<u>94,128.86</u>
OLIVERE RESIDUARY TRUST FBO MARY LUCIA AMBRO		
CENTRAIS GERADORAS DO		72.43
LIFEPOINT HOSPS INC		89.37
OCTEL CORP		193.37

SECURITY NAME	GOVT. SECS. TRADABLE SECS.
TRIAD HOSPS INC	145.43
ALCATEL SA	5,878.12
ALLIED ZURICH PLC	2,981.28
ANGLO AMERICAN PLC SPON ADR	5,967.00
ARCHER-DANIELS-MIDLAND CO	4,576.00
BASF AG ADR (NEW) ADR	2,680.68
BOEING CO	6,796.87
BRITISH AMERN TOB PLC SPON ADR	3,277.50
CASE CORP	7,406.25
CATSKILL FINL CORP	2,857.50
CENTRAIS ELECTRICAS SPONS ADR	3,100.80
COLUMBIA/HCA LEALTHCARE CORP	6,402.50
COMMUNITY SVGS BKSHRIS INC NEW	3,844.12
COMPANHIA CERVEJARIA BRAHMA SPON ADR	1,795.62
DEUTSCHE TELEKOM AG SPON ADR	8,431.25
DIAGEO PLC SPONSORED ADR NEW	3,315.00
ELF AQUITAINE SPONSORED ADR	5,283.75
ENERGY CORP NEW	3,279.37
FIRSTFEED AMER BANCORP	3,133.75
GREAT LAKES CHEM CORP	2,883.12
HITACHI LTD ADR 10 COM	6,082.50
HSBC HOLDINGS PLC-SPON ADR	4,357.50
HUTCHISON WHAMPOA ADR	5,853.24
IBP INC	2,752.50
ING GROEP N V SPON ADR	3,292.50
INVENSYS PLC-SPON ADR	3,492.86
LOCKHEED MARTIN CORP	6,660.00
LOEWS CORPORATION	2,355.00
LUBRIZOL CORP	1,776.25
MARKS & SPENCER LTD SPONSORED ADR	3,220.48
MCKESSON HBOC INC	4,375.00
PETROLEO BRASILEIRO SA PETROBRAS SPONSORED ADR	3,343.00
PHILIP MORRIS COMPANIES	3,369.37
RAYTHEON CO CL B	4,087.50
REEBOK INTERNATIONAL LTD	1,535.62
SAFECO CORP	4,275.00
SERVICE CORP INTERNATL	2,900.73
SLM HLDG CORP	6,186.25
ST PAUL CO INC	5,130.00
STATE FINL SERVICES CORP CL A	3,833.25
SWIRE PAC LTD SPONSORED ADR HONG KONG	4,957.44
TELE CENTRO SUL PARTICIPACOES S A SPONSORED ADR REPSTG PFD	3,281.25
TELECOMMUNICACOES BRASILEIRAS S A SPON ADR REP ADR FOR PFD	2,967.50
TELEFONICA DE ARGENTINA S A SPONSORED ADR REPSTG 10 CL B SHS	2,975.00
TELEFONOS DE MEXICO SA SPON ADR REPSTG SH ORD L	5,950.00
TOKIO MRN&FIRE INS ADR	2,950.00
TOYS R US INC	2,071.87
UNICOM CORP	2,703.75
UST INC	4,119.37
WASTE MGMT INC DEL	4,025.00
	199,270.81
OLIVERE RESIDUARY TRUST FBO MARY LUCIA AMBRO	
WILMINGTON TRUST CORP	20,000.00
XEROX CORP	9,587.50
	29,587.50
MARY LUCIA AMBRO REV TRUST	
WILMINGTON TRUST CORP	5,000.00
MARY LUCIA AMBRO REV TRUST	
NCR CORP NEW	131.25
3COM CORP	1,662.43
ADAPTEC INC	6,669.00
AMERICAN EXPRESS COMPANY	4,675.00
AMERICAN INTL GROUP INC	5,097.81

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
AT&T CORP		5,040.00
BANC ONE CORP		4,574.25
BELL & HOWELL CO		3,350.00
BRISTON MYERS SQUIBB CO		9,430.25
CATERPILLAR INC		2,831.25
CHEVRON CORP		7,385.00
CLAYTON HOMES INC		1,187.50
COCA-COLA COMPANY		2,990.62
COMPUTER SCIENCES CORP		3,459.37
CONSECO INC		3,270.87
CSX CORP		1,092.18
DIAMOND MULTIMEDIA		1,234.37
DISNEY WALT COMPANY		3,413.25
ECOLAB INC		1,878.12
ELAN PLC ADR		4,809.37
ENRON CORP		3,433.75
EXXON CORP		2,681.75
FRANKLIN RESOURCES INC		1,796.87
GENERAL ELECTRIC COMPANY GE		6,514.12
GENERAL MOTORS CORP		4,968.75
GILLETTE CO		3,916.50
INTERNATIONAL BUSINESS		4,982.50
KAYDON CORP		3,068.75
LEHMAN BROTHERS HOLDINGS INC		3,601.25
LUCENT TECHNOLOGIES INC		8,456.25
MATTEL INCORPORATED		1,795.50
MC DONALDS CORP		5,171.87
MEDTRONIC INC		6,492.15
MERCK & CO INC		3,359.37
MICROSOFT CORP		7,405.00
MONSANTO CO		5,140.62
NESTLE S A REG ADR		4,933.85
PROCTOR & GAMBLE CO		5,756.50
QWEST COMMUNICATIONS		4,600.00
ROYAL DUTCH PETE CO		7,177.50
STAPLES INC		4,306.50
SUN MICROSYSTEMS INC		3,975.00
UNITED TECHNOLOGIES CORP		1,454.75
WARNER LAMBERT CO		16,527.37
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		195,698.36
MARY LUCIA AMBRO IRA		
ALLIANCE PREM GROWTH		15,110.89
FRANKLIN SMALL CAP CL		11,222.54
NORTHSTAR TR INTL VALUE FD CL C		19,072.24
OPPENHEIMER QUEST OPPORTUNITY VALUE FUND		23,089.89
PIMCO SMALL CAP VALUE FUND CL C		22,474.25
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		90,969.81
MARY LUCIA AMBRO REV TRUST		
ADOBE SYSTEMS INC		13,449.37
AMGEN INC		19,549.06
ATLANTIC RICHFIELD CO		10,992.18
CHASE MANHATTAN CORP NEW		14,645.31
CHEVRON CORP		16,154.68
COMCAST CORP CL A SPL		6,525.00
COMPUTER SCIENCES CORP		19,026.56
ENRON CORP		18,843.75
EXXON CORP		13,093.25
FEDERAL NATIONAL MTG ASSN		17,084.37
GANNETT CO INC DEL		6,793.75
GENERAL MILLS INC		14,656.25
GENL DYNAMICS CORP COM		7,875.00
HARLEY DAVIDSON INC		11,445.00
HEWLETT-PACKARD COMPANY		17,386.87
INTEL CORP		9,862.50

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
KIMBERLY-CLARK CORP		7,117.18
MARSH AND MC LENNAN COMPANIES INC		15,290.62
MBNA CORP		8,023.43
MCI WORLDCOM		16,286.25
MERCK & CO INC		16,796.87
PITNEY BOWES INC		15,930.00
PNC BANK CORP		14,909.06
PROCTOR & GAMBLE CO		17,368.75
SBC COMMUNICATIONS CORP INC		7,209.37
SOUTHWEST AIRLINES CO		18,139.31
STAPLES INC		3,262.50
SUN MICROSYSTEMS INC		21,465.00
TIME WARNER INC		13,345.31
U S WEST INC NEW		11,756.25
VIACOM INC CL B		16,614.68
WASHINGTON MUT INC		13,493.75
WELLPOINT HLTH NETWORKS		9,838.12
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		444,229.35
MARY LUCIA AMBRO REV TRUST		
PRIME HOSPITALITY CORP		698.43
4FRONT TECHNOLOGIES INC		3,960.93
ABLE TELCOM HLDG NEW		2,203.12
ACTION PERFORMANCE COS		5,554.68
ACXIOM CORP		7,464.06
AEROFLEX INC		4,093.75
ARTESYN TECHNOLOGIES INC		8,862.75
ASTROPOWER INC		3,987.50
ATMEL CORP		7,862.50
BARD C R INC		10,490.62
BLUE RHINO CORP		2,756.25
CAREY INTL INC		2,718.75
COMMSCOPE NC		10,331.25
CONVERGYS CORP		6,703.12
CORRECTIONAL SVCS CORP		4,276.56
COST PLUS INC CALIF		10,012.50
DII GROUP INC		10,631.25
DOLLAR THRIFTY		2,351.56
EQUINOX SYSTEMS INC		4,921.50
FOODMAKER INC NEW		10,954.68
FUNDTECH LTD		2,890.62
GROUP MAINTENANCE		3,385.93
ICU MED INC		2,821.87
INFOCURE CORP		5,775.00
JABIL CIRCUIT INC		6,721.87
JAKKS PAC INC		4,537.50
KENNETH COLE PRODTNS CL		5,982.81
MAXWELL TECHNOLOGIES INC		4,425.00
METRO ONE		4,200.00
METTLER-TOLEDO INTL INC		9,318.75
MOBILE MINI INC		7,756.25
NATL COMPUTER SYSTEMS INC		5,850.00
NOVA CORPORATION		7,800.00
OUTBACK STEAKHOUSE INC		2,221.87
PERICOM SMCNDCR CORP		4,800.00
POINT OF SALE LTD		4,650.00
PROGRESS SOFTWARE CORP		7,656.25
QRS CORP		7,170.62
REMEDY CORP		3,675.00
RENT WAY INC		3,609.37
ROGUE WAVE SOFTWARE INC		2,375.00
SMITH-GARDNER&ASSOCIATES		1,600.00
SPX CORP		6,356.25
SYNOPSIS CORP		6,992.18
TACO CABANA INC CL		2,238.50

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
TITAN CORP		8,659.37
TRANS WORLD ENTERTAINMENT		4,200.00
TRANSACTION NETWORK SERV		5,484.37
TRANSWITCH CORP COM		13,018.12
US ONCOLOGY INC		4,356.25
WATERS CORPORATION		10,418.12
WESTPOINT STEVENS INC		4,800.00
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		296,582.63
MARY LUCIA AMBRO REV TRUST		
CENTRAIS GERADORAS		18.10
ALCATEL ALSTROM SPON ADR		3,712.50
ALLIED ZURICH PLC SPON ADR		1,739.08
ANGLO AMERICAN PLC SPONS ADR		3,259.75
ARGENTARIA, CAJA POSTAL Y HIPOTECARIO		1,365.00
BASF AG ADR (NEW) ADR		1,787.12
BAYERISCHE MOTOREN WERKE A G ORD GERMANY		2,324.40
BRANCO BRADESCO S A SPON ADR REPSTG PFD SHS		1,383.90
BRITISH AMERN TOB PLC SPON ADR		1,725.00
BRITISH STL PLC ADR FINAL INSTLMNT		2,334.37
CANON INC ADR REF 5SHS		1,195.00
CENTRAIS ELECTRICAS SPONS ADR		2,403.12
CIA ANONIMA TELEF DE VEN-ADR		1,395.62
COMPANHIA CERVEJARIA BRAHMA SPON ADR		1,616.06
DEN DANSKE BK AF 1871 AKTIESELSKAB ADR		1,936.96
DEUTSCHE TELKOM AG SPON ADR		5,768.75
DEVELOPMENT BANK SINGAPORE LTD SPONSORED		4,986.75
DIAGEO PLC SPONSORED ADR NEW		1,906.12
ELF AQUITAINE SPONSORED ADR		3,786.68
ENI S P A SPON ADR		3,025.00
HITACHI LTD ADR 10 COM		9,123.75
HSBC HOLDINGS PLC-SPON ADR		3,735.00
HUTCHISON WHAMPOA ADR		2,438.85
INC GROEP N V SPON ADR		2,579.12
INVENSYS PLC-SPON ADR		1,741.31
KONINKLIJKE KPN NV		3,274.87
KOREA ELEC PWR CORP		1,872.00
KYOCERA CORP		3,334.37
MARKS & SPENCER LTD SPONSORED ADR		4,025.60
MATSUSHITA ELECTRIC INDUSTRIES ADR		2,010.62
MICHELIN CL B		1,760.00
MITSUBISHI HEAVY INDS		4,425.70
NATIONAL PWR SPON ADR FINAL INSTALLMENT		2,030.00
PETROLEO BRASILEIRO SA PETROBRAS SPONSORED ADR		1,738.36
PORTUGAL TELECOM S.A SPONSORED ADR		2,493.75
RECKITT & COLEMAN		2,664.08
ROYAL & SUN ALLIANCE INS RSANF GRP PLC		1,569.80
SWIRE PAC LTD SPONSORED ADR		3,408.24
SWISSCOM AG SPONSORED ADR		1,659.37
TELECOM CORP NZ SPON ADR		2,137.50
TELEFONOS DE MEXICO SA SPON ADR REPSTG SH ORD L		5,503.75
TOKIO MRN&FIRE INS ADR		3,127.00
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		114,322.32
THOMAS L. AMBRO & MARY LUCIA AMBRO		
TELS CORPORATION		472.50
AT&T CORP		13,500.00
HOPEWELL HLDGS LTD SPONSORED ADR		1,946.00
MARKEL CORP		43,906.25
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		59,824.75
THOMAS L. AMBRO IRA		
ALLIANCE PREM GROWTH		22,296.98
FRANKLIN SMALL CAP		14,028.17
NORTHSTAR TR INTL VALUE FD CL C		21,897.55
OPPENHEIMER QUEST OPPORTUNITY VALUE FUND		31,785.23
PIMCO SMALL CAP VALUE FUND CL C		28,488.28
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SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
		118,496.21
THOMAS L. AMBRO REV TRUST		
CENTRAIS GERADORAS DO		193.15
ALCATEL SA		30,937.50
ALLIED ZURICH PLC SPON ADR		16,893.92
ANGELO AMERICAN PLC SPON ADR		26,630.50
ARGENTARIA, CAJA POSTAL Y HIPOTECARIO		10,010.00
BASF AG ADR (NEW) ADR		15,637.30
BAYERISCHE MOTOREN WERKE A G ORD GERMANY		19,370.00
BRITISH AMERN TOB PLC SPON ADR		12,592.50
BRITISH STL PLC ADR FINAL INSTLMNT		22,565.62
CANON INC ADR REP 5SHS		19,418.75
CENTRAIS ELECTRICAS SPONS ADR		17,829.60
CIA ANONIMA TELEF DE VEN-ADR		14,953.12
COMPANHIA CERVEJARIA BRAHMA SPON ADR		13,731.25
DEN DANSKE BK AF 1871 AKTIESELSKAB ADR		17,660.54
DEUTSCHE TELEKOM AG SPON ADR		32,837.50
DEVELOPMENT BANK SINGAPORE LTD SPONSORED ADR		28,593.75
DIAGEO PLC SPONSORED ADR NEW		19,185.56
ELF AQUITAINE SPONSORED ADR		29,060.62
ENI S P A SPON ADR		24,805.00
EVN ENERGIE-VERSORGUNG NIEDEROSTERREICH AG SPON ADR		3,374.04
HITACHI LTD ADR 10 COM		30,412.50
HSBC HOLDINGS PLC-SPON ADR		26,145.00
HUTCHISON WHAMPOA ADR		19,998.57
ING GROEP N V SPON ADR		22,718.25
INVENSYS PLC-SPON ADR		18,130.11
KOMATSU LTD SPON ADR NEW		17,621.22
KONINKLIJKE KPN NV		9,824.62
KOREA ELEC PWR CORP SPONSORED ADR		10,620.00
KYOCERA CORP		27,341.87
MARKS & SPENCER LTD SPONSORED ADR		29,789.44
MATSUSHITA ELECTRIC INDUSTRIES ADR		18,095.62
MICHELIN CL B		19,360.00
MITSUBISHI HEAVY INDS		22,128.50
MUENCHENER RUECKVER AG		11,545.86
NATIONAL PWR SPON ADR FINAL INSTALLMENT		16,820.00
PETROLEO BRASILEIRO SA PETROBRAS SPONSORED ADR		22,197.52
PORTUGAL TELECOM S.A SPONSORED ADR		18,287.50
RECKITT & COLEMAN		16,745.65
ROYAL & SUN ALLIANCE INS GRP PLC		11,857.00
SWIRE PAC LTD SPONSORED ADR HONG KONG		19,571.56
SWISSCOM AG SPONSORED ADR		13,275.00
TELECOM CORP NZ SPON ADR		16,387.50
TELECOMMUNICACOES BRASILEIRAS S A SPON ADR REP ADR FOR PFD		9,644.37
TELEFONOS DE MEXICO SA SPON ADR REPSTG SH ORD L		32,725.00
TOKIO MRN & FIRE INS ADR		24,190.00
		861,712.88
THOMAS L. AMBRO REV TRUST		
SONOSITE INC		915.75
8WYMAN GORDON CO		3,675.00
ABC-NACO INC		2,837.50
BEDFORD PPTY INVS INC PAR \$0.02		3,550.00
BEVERLY ENTERPRISES INC		2,000.00
CABOT CORPORATION		4,612.50
CABOT OIL & GAS CORP CL A		3,812.50
CALGON CARBON CORP		2,675.00
CASCADE CORPORATION		3,225.00
CHARMING SHOPS INC		5,284.37
COHERENT INC		3,787.50
FLOW INTERNATIONAL CORP		2,150.00
FOREST OIL CORP NEW		2,987.50
INTERFACE INC CLASS A		2,606.25
INTL RECTIFIER CORP		6,450.00

SECURITY NAME	GOVT. SECS.	TRADABLE SECS.
K2 INC		3,650.00
KEMET CORP		5,162.50
KOPIN CORP		3,606.25
LUCENT TECHNOLOGIES INC		4,932.81
MAGNETEK INC		3,700.00
MCDERMOTT INTL INC		3,384.37
MICHAELS STORES INC		7,671.87
MILACRON INC		1,800.00
NABORS INDUSTRIES INC		8,586.00
PENNZOIL-QUAKER ST CO		3,413.25
PETCO ANIMAL SUPPLIES		6,250.00
PRECISION CASTPARTS CORP		3,550.00
REGIS CORP MINN		3,825.00
ROLLINS TRUCK LEASING CORP		4,668.75
RTI INTL METALS INC		1,862.50
SUNRISE MEDICAL INC		2,800.00
T J INTERNATIONAL INC		2,912.50
TITANIUM METAL CORP		2,550.00
US ONCOLOGY INC		2,050.00
VETERINARY CTRS AMER INC		2,225.00
VISHAY INTERTECHNOLOGY		5,376.00
WEATHERFORD INTL INC		10,687.50
WINDMERE-DURABLE HLDGS		7,281.25
		<u>152,514.42</u>
	\$ 218,419.48	\$ 4,146,828.23

Unlisted Securities

<u>Name</u>	<u>Estimated Value</u>
Prudential-Bache/Fogelman Harbour Town Properties, L.P.	7,500
Commercial Properties 3, L.P.	9,500
Longwood Corporate Center South Building "A", L.P.	25,000
Lynnhaven Partners	25,000
Nantucket Island Associates, L.P.	17,000
Salem Plaza Associates	0
Glasgow Professional Properties, Inc.	308,100
Richards, Layton & Finger, P.A.	<u>53,357</u>
	\$ 445,457

**ADDITIONAL SUPPLEMENT TO
SENATE JUDICIARY COMMITTEE
QUESTIONNAIRE FOR JUDICIAL NOMINEES**

VIDEOTAPES AND AUDIOTAPES OF PROGRAMS

**THOMAS L. AMBRO
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IV. CONFIDENTIAL

1. **Full name (include any former names used).**

Thomas Lee Ambro

2. **Address: List current place of residence and office address(es). List all office and home telephone numbers where you may be reached.**

Residence

1215 Norbee Drive
Wilmington, DE 19803
(302) 762-6616

Office

Richards, Layton & Finger, P.A.
One Rodney Square
Wilmington, DE 19801
(302) 651-7612

3. **Have you ever been discharged from employment for any reason or have you ever resigned after being informed that your employer intended to discharge you?**

No.

4. **Have you and your spouse filed and paid all taxes (federal, state and local) as of the date of your nomination?**

Yes.

Please indicate if you filed "married filing separately".

Not applicable.

Did you make any back tax payments prior to your nomination? If so, give full details.

Yes. My wife and I filed in 1999 Forms 942, Employer's Quarterly Tax Return for Household Employees, for the years 1983 through 1993. The aggregate tax paid was \$1,272.26.

5. **Has a tax lien or other collection procedure (to include receipt of computer balance due notice) ever been instituted against you by federal, state, or local authorities?**

No.

If so, give full details.

Not applicable.

6. **Have you or your spouse ever been the subject of any audit, investigation or inquiry for either federal, state, or local taxes?**

Not to our knowledge.

If so, give full details.

Not applicable.

7. **Have you or your spouse ever declared bankruptcy?**

No.

If so, give particulars.

Not applicable.

8. **Have you to your knowledge ever been under federal, state, or local investigation for a possible violation of either a civil or criminal statute or administrative agency regulation?**

No.

If so, give full details.

Not applicable.

Has any organization of which you were an officer, director, or active participant ever been the subject of such an investigation with respect to activities within your responsibility?

Not to my knowledge.

If so, give full details.

Not applicable.

9. **Have you ever been the subject of a complaint to any court, administrative agency, bar association, disciplinary committee, or other professional group for a breach of ethics, unprofessional conduct or a violation of any rule of practice?**

No.

If so, give particulars.

Not applicable.

10. **Have you ever been a party (whether plaintiff, defendant or in any other capacity) to any litigation?**

No, though I note that I was an expert witness in 1997 on the subject of whether the Debtors' initial counsel unethically failed to disclose a conflict of interest as a prelude to his firm's retention at the outset of the cases.

11. **Please advise the Committee of any unfavorable information that may affect your nomination.**

Nothing of which I am aware.

AFFIDAVIT

I, Thomas L. Ambro, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

September 30, 1999
(DATE)

Thomas L. Ambro
Thomas L. Ambro

Kimberly K. Lake
(NOTARY) / NOTARIAL SEAL
KIMBERLEY K. LAKE NOTARY PUBLIC
STATE OF DELAWARE
Date of Appointment: 5-15-98
My Commission Expires: May 15, 2000

UNITED STATES SENATE
QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full Name (include any former names used)

Maryanne Trump Barry
Maryanne Trump Desmond (10/10/59 - 12/26/82)
Maryanne Trump (4/5/37 - 10/10/59)

2. Address: List current place of residence and office address(es).

United States Courthouse & Post Office Building (office)
P.O. Box 999, Newark, New Jersey 07101-0999

Sparta, New Jersey 07871 (home)

New York, New York 10028 (home)

3. Date and Place of Birth.

April 5, 1937 -- Jamaica, New York

4. Marital status (include husband's name). List spouse's occupation, employer's name and business address(es).

Married to John J. Barry, Esq.
Tompkins, McGuire, Wachenfeld, & Barry
Gateway Four
Newark, New Jersey 07102

5. Education: List each college and law school you have attended, including dates of attendance, degrees received and dates degrees were granted.

Mount Holyoke College -- September 1954-June 1958;
B.A. cum laude -- 1958
Columbia University -- September 1958-June 1962; M.A. -- 1962
Hofstra University School of Law -- September 1971-June 1974;
J.D. -- 1974

6. List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Shore Haven Management Corp. (employee) 1958-1960 (part-time office work)
 Trump Management, Inc. (employee) - 1959-1970 (part-time office work)

Affiliations with closely held entities

Trump Management, Inc. (shareholder) - 1959-present
 Clyde Hall, Inc. (shareholder) - 1962-present
 Midland Associates, L.L.C. (member) - 1968-present
 Park Briar Associates, L.L.C. (member) - 1971-present
 Highlander Hall, Inc. (shareholder) - 1986-present
 Coronet Hall, Inc. (shareholder) - 1986-present
 All County Building Supply & Maintenance Corp. (shareholder) - 1992-present
 Apartment Management Assoc., Inc. (shareholder) - 1994-present
 Beach Haven Apartments 3, L.L.C. (member) - 1995-present
 Beach Haven Shopping Center, L.L.C. (member) - 1995-present
 Chelsea Hall, L.L.C. (member) - 1995-present
 Fontainebleau Apartments, L.L.C. (member) - 1995-present
 Lawrence Towers Apartments, L.L.C. (member) - 1995-present
 Shore Haven Shopping Center, L.L.C. (member) - 1995-present
 Wilshire Hall, L.L.C. (member) - 1995-present
 Sussex Hall, Inc. (shareholder) - 1995-present
 Wexford Hall, Inc. (shareholder) - 1995-present
 Trump Village Construction Corp. (shareholder) - 1995-present
 Beach Haven Apartments #1, Inc. (shareholder) - 1995-present
 Shore Haven Apartments #1, Inc. (shareholder) - 1995-present
 Country Apartments, L.L.C. (member) - 1997-present
 Country Properties, L.L.C. (member) - 1997-present
 Oakdale Investors, L.L.C. (member) - 1998-present
 Tysens Park Apartments, L.L.C. (member) - 1998-present
 Sinclair Farms Investors, L.L.C. (member) - 1998-present
 Ocean Air Investors, L.L.C. (member) - 1998-present

United States Attorney's Office for the District of New Jersey (employee) -
1974-1983 (Assistant U.S. Attorney)
Administrative Office of the U.S. Courts (employee) - 1983-present
(United States District Judge - District of New Jersey)

7. Military Service: Have you had any military service?

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Doctor of Laws, Hofstra University
Doctor of Laws, Seton Hall University
Doctor of Laws, Kean College
Doctor of Humane Letters, Caldwell College

9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

Chair, Committee on Criminal Law of the Judicial Conference of the United States -- 1993-96, appointed by the Chief Justice.

Member, Committee on Criminal Law of the Judicial Conference of the United States -- 1990-93, appointed by the Chief Justice.

Commissioner, Judicial Fellows Commission -- 1998-present, appointed by the Chief Justice.

Member, Committee for District Judge Education, appointed by the Chief Justice.

Co-Chair, Judiciary-Department of Justice Criminal Justice Working Group -- 1994-96.

Chair, Criminal Law Committee, United States District Court for the District of New Jersey-- 1995-present, appointed by the Chief Judge.

Board of Directors, American Judicature Society -- 1987-91.

Vice-Chair (New Jersey) -- Fellows of the American Bar Foundation -- 1996-present

Co-Chair, National Conference, American Inns of Court -- 1997.

Chair, Root Tilden Selection Committee, New York University Law School -- 1991

Member, Judicial Advisory Group, United States Sentencing Commission.

Member, Lawyers Advisory Committee of the United States Court of Appeals for the Third Circuit, appointed by the Chief Judge

Member, Lawyers Advisory Committee of the United States District Court for the District of New Jersey, appointed by the Chief Judge

President, Association of the Federal Bar of the District of New Jersey -- 1983

Vice-President, Association of the Federal Bar of the District of New Jersey -- 1980-82

Member, Committee on Certification and Specialization of Attorneys in the Federal Courts, appointed by the United States District Court for the District of New Jersey

Member, American Bar Association

Member, New Jersey State Bar Association

Member, Federal Judges Association

10. Other Memberships

- (a) List all organizations to which you belong that are active in lobbying before public bodies.

American Bar Association
New Jersey State Bar Association
Federal Judges Association

- (b) List all other organizations to which you belong.

Member, WNET and WLIW (N.Y.) -- Public Television

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Supreme Court of the United States -- Admitted March 26, 1979 under name of Maryanne Trump Desmond

United States Court of Appeals for the Third Circuit -- Admitted June 23, 1975 under name of Maryanne Trump Desmond

Supreme Court of the State of New York -- Admitted March 1975 under name of Maryanne Trump Desmond

United States District Court for the District of New Jersey -- Admitted December 10, 1974 under name of Maryanne Trump Desmond

Supreme Court of the State of New Jersey -- Admitted December 10, 1974 under name of Maryanne Trump Desmond

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

I have not written any books and the only article I can recall writing is an Op-Ed piece, written in my capacity as Chair of the Committee on Criminal Law of the Judicial Conference, entitled "Don't Make a Federal Case of It," which appeared in the New York Times on March 11, 1994 (copy supplied). Also while Chair of the Criminal Law Committee, and because the Committee supervises the more than 6000 federal probation and pretrial services officers, I was interviewed on the importance of supervision, an interview which appeared in the December 1994 issue of The Third Branch ("Judge Maryanne Trump Barry: An Advocate for Effective Supervision") (copy supplied).

As Chair, I wrote numerous letters to Congressional committees with reference to the impact that certain pieces of proposed criminal legislation would have on the federal courts and testified before the Committee on the Judiciary of the United States Senate with reference to mandatory restitution (copies supplied). Numerous letters and memoranda were also written to the United States Sentencing Commission recommending, among other matters, amendments to the Sentencing Guidelines (copies supplied) and to Judges of the United States District Courts and Courts of Appeals concerning various issues of importance in the criminal area (copies supplied).

The following is as complete a list of the aforementioned letters and memoranda as was possible to compile:

- A. Letters to and testimony before Congressional committees:
1. November 8, 1995 – Testimony before the Committee on the Judiciary, United States Senate, with reference to S.173 (the "Crime Victims Restitution Act of 1995").

2. July 16, 1996 - Letter to the Hon. Joseph R. Biden, Jr., Ranking Member, Committee on the Judiciary, United States Senate, re: S.J. Res. 52 (the "Victims of Crime Constitutional Amendment").
3. July 8, 1996 - Letter to the Hon. Bill McCollum, Chairman, Subcommittee on Crime, Committee on the Judiciary, United States House of Representatives, re: H.R. 3565 (the "Violent Youth Predator Act of 1996") and H.R. 3445 (the "Balanced Juvenile Justice and Crime Prevention Act of 1996").
4. April 22, 1996 - Letter to Manus Cooney, Esq., Staff Director/Senior Counsel, Committee on the Judiciary, United States Senate, re: Section 206 of S. 735 (mandatory restitution provisions of the "Antiterrorism and Effective Death Penalty Act of 1996").
5. November 2, 1995 - Letter to the Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, United States Senate, urging extension of the tenure of the United States Parole Commission.
6. May 19, 1995 - Letter to the Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, United States Senate, re: Section 506 of S.3 and Section 10 of S.38 (mandatory restitution).
7. May 15, 1995 - Letter to the Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, United States Senate, enclosing a fact sheet entitled "Effectiveness of Crime Bill Jeopardized Without New Judicial Resources."
8. March 28, 1995 - Letter to the Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, United States Senate, with reference to matters discussed at a meeting.
9. February 17, 1995 - Letter to the Hon. Orrin G. Hatch, Chairman, Committee on the Judiciary, United States Senate, with reference to a hearing on federalism.

10. November 5, 1993 – Letter to the Hon. Joseph R. Biden, Jr., Committee on the Judiciary, United States Senate, commenting on the proposed "D'Amato Amendment" to S. 1607 (death penalty for certain homicides involving firearms and mandatory minimum sentences for the use of firearms in connection with state crimes of violence or drug trafficking crimes).
11. October 21, 1993 – Letter to the Hon. Charles Schumer, Chairman, Subcommittee on Crime and Criminal Justice, United States House of Representatives, commenting on a draft of his "safety valve" proposal.
12. October 19, 1993 – Letter to all Members of Congress urging the repeal of mandatory minimum sentences or, failing that, a meaningful "safety valve."

B. Letters to the United States Sentencing Commission

1. August 28, 1996 – Letter requesting the Sentencing Commission to make its retroactivity decisions at the same time it determines which amendments to submit to Congress.
2. February 2, 1996 – Letter proposing that the Sentencing Commission literally interpret the "25% rule."
3. January 3, 1996 – Letter addressing retroactivity of the "safety valve."
4. December 6, 1995 – Letter forwarding a package of long-term proposals for the Sentencing Commission's consideration.
5. December 5, 1995 – Letter proposing a revision of U.S.S.G. § 3E1.1 and exempting Class A misdemeanors from the Sentencing Guidelines.
6. July 27, 1995 – Letters to the Sentencing Commission and Attorney General Reno concerning the "25% rule."

7. July 10, 1995 – Letter proposing a modification of U.S.S.G. § 5G1.3.
 8. April 7, 1995 – Letter addressing implementation of the "Crack Report" and a proposed amendment to U.S.S.G. § 5G1.3.
 9. March 6, 1995 – Letter responding to the proposed amendments and issues for comment published by the Sentencing Commission for consideration in the 1995 guideline amendment cycle.
 10. February 15, 1995 – Letter requesting resolution of a circuit split as to whether the career offender guideline applies to drug conspiracy offenders.
 11. October 25, 1993 – Letter proposing an amendment to the Sentencing Guidelines permitting a departure when "characteristics and circumstances are present to an unusual degree and are combined in ways that are important to sentencing purposes."
- C. Letters and memoranda to United States District and Courts of Appeals Judges:
1. July 30, 1996 – Memorandum to all United States District Judges (and Chief U.S. Probation Officers) recommending specific advice to a defendant with reference to waivers of appeal and collateral review, advice to a defendant with reference to the right to appeal, and notification of increased flexibility in the imposition of supervised release.
 2. April 16, 1996 – Letter forwarding a survey concerning the Sentencing Guidelines to all United States District and Courts of Appeals Judges.
 3. November 14, 1995 – Memorandum to all United States District and Courts of Appeals Judges advising them of the pending mandatory restitution legislation.

4. February 14, 1995 – Memorandum to all Chief Judges of the United States District Courts addressing suggested procedures for the management by federal probation and pretrial services officers of defendants and offenders who are confidential informants.
5. January 23, 1995 – Memorandum to all United States District and Courts of Appeals Judges addressing recommendations for potential changes to the Sentencing Guidelines.
6. August 15, 1994 – Memorandum to all Chief Judges of the United States District Courts with reference to communications with represented persons.

I have given a number of speeches over the years and am supplying copies of all speeches for which I have a printed text or notes (some of the notes are rough), and some press reports about one of the speeches. I have additionally given numerous short speeches at such things as commencements, high school debating finals, Law Day observances, award ceremonies, and to groups of young people. While I have no written record of those speeches because on such occasions I speak without notes, the theme is always the same -- hard work, determination, a positive attitude.

Copies of the following speeches are being supplied:

1. April 29, 1997 – "Crime and Punishment" – Montclair, New Jersey, School for Adult Education.
2. June 27, 1996 – "Leading Probation and Pretrial Services into the 21st Century" – National Chief's Conference.
3. May 10, 1996 – Untitled – Association of Criminal Defense Lawyers (New Jersey)
4. May 9, 1996 – Untitled – Commencement, Kean College.
5. October 15, 1993 – "The Safety Valve" – Criminal Justice Working Group.

6. November 19, 1992 - Untitled - Women in Federal Law Enforcement Training Conference (sponsored by the F.B.I.) (media accounts also supplied).
7. April 19, 1990 - Untitled - Ironbound Manufacturers Association.
8. June 22, 1988 - "Law Enforcement: Is it Only for the Young?" -- Keynote Speech, Northwestern University Traffic Institute, Graduate Retraining Seminar (New Jersey State Police, host agency).
9. 1986 - "The Comprehensive Crime Control Act of 1984" - Association of Criminal Defense Lawyers (New Jersey).
10. November 20, 1984 - Untitled - Foundation for Christian Living.
11. June 1984 - Untitled - Commencement, Caldwell College.
12. January 15, 1984 - "The Ethical Obligations of Attorneys" - Commencement, Hofstra University School of Law.
13. Untitled - Law Day Speech
14. "Trial Problems in Criminal Cases" - Outline of presentation given on various dates in the late 1980's and early 1990's at the Orientation Seminar for Newly Appointed District Judges sponsored by the Federal Judicial Center.
15. "The Trial of a Criminal Case" - Given on various dates to the law clerks and interns serving in the United States District Court for the District of New Jersey.

Finally, some years ago, at the request of the Federal Judicial Center, I made an hour long videotape -- "How to Try a Complex Criminal Case"-- which tape is played for all new District Judges to this day at the Orientation Seminar for Newly Appointed District Judges.

13. Health: What is the present state of your health? List the date of your last physical examination.

Excellent
April 21, 1999

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed a United States District Judge for the District of New Jersey in 1983, the only judicial office I have held, and presently serve in that capacity. The United States District Court is a court of general subject matter jurisdiction. Its jurisdiction over civil matters is detailed more fully in 28 U.S.C. §§ 1330-1368, and includes civil actions arising under the Constitution, laws or treaties of the United States; matters in which there is diversity of citizenship and the amount in controversy exceeds \$75,000; interpleader actions; and admiralty actions. The Court also has jurisdiction over criminal matters involving violations of the laws of the United States as set forth in 18 U.S.C. § 3231.

15. Citations.

If you are or have been a judge, provide:

- (1) citations for the ten most significant opinions you have written
- a. Velasquez v. Reno, 37 F.Supp.2d 663 (D.N.J. 1999)
 - b. New Jersey Carpenters Health Fund v. Philip Morris, Inc., 17 F.Supp.2d 324 (D.N.J. 1998)
 - c. Greenhut v. Hand, 996 F.Supp. 372 (D.N.J. 1998)
 - d. Massieu v. Reno, 915 F.Supp. 681 (D.N.J. 1996), rev'd, 91 F.3d 416 (3d Cir. 1996).
 - e. United States v. Koreh, 856 F.Supp. 891 (D.N.J. 1994), aff'd, 59 F.3d 431 (3d Cir. 1995)

- f. United States v. Board of Education of Township of Piscataway, 832 F.Supp. 836 (D.N.J. 1993), aff'd Taxman v. Board of Education of Township of Piscataway, 91 F.3d 1547 (3d Cir. 1996) (en banc), cert. granted, 117 S.Ct. 2506 (June 27, 1997), cert. dismissed, 118 S.Ct. 595 (Dec. 12, 1997).
 - g. Rollo by Rollo v. Blue Cross/Blue Shield of New Jersey, 1990 WL 312647 (D.N.J. 1990)
 - h. Ernst v. Borough of Fort Lee, 739 F.Supp. 220 (D.N.J. 1990)
 - i. E.E.O.C. v. State of New Jersey, 620 F.Supp. 977 (D.N.J. 1985); see also 631 F.Supp. 1506 (D.N.J. 1986), aff'd, 815 F.2d 694 (3d Cir. 1987).
 - j. Tustin v. Heckler, 591 F.Supp. 1049 (D.N.J. 1984), vacated in part, 749 F.2d 1055 (3d Cir. 1984).
2. a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings.

I do not believe that there was any appellate opinion "with significant criticism of [my] substantive or procedural rulings."

With reference to the reversals, some background will place the list which follows into some context. Over my fifteen and one-half years on the bench, I have written 121 opinions which were published, hundreds of opinions which were not published, rendered oral opinions from the bench in hundreds of other cases, and have imposed sentence on hundreds of criminal defendants without the necessity for an opinion. From that body of work, appeals from approximately 280 cases have been decided by the United States Court of Appeals for the Third Circuit in published opinions and numerous others in unpublished opinions or judgment orders, the number which, while certainly large, is impossible even to estimate. Forty-two of those hundreds of cases were reversed in whole or in part.¹ Those reversals,

¹ Until March 30, 1999, the total was forty-three. In United States v. Palma-Ruedas, the Third Circuit, while otherwise affirming the convictions of all defendants as to all counts, reversed one count as to one defendant, holding that venue in New Jersey was improper. 121 F.3d 841 (3d Cir. 1997). The United States petitioned for a writ of certiorari, which was granted, and the Supreme Court reversed the Third

briefly summarized, are as follows:

Reversals of Reported Decisions

- (1) Liberty Lincoln-Mercury, Inc. v. Ford Motor Co., 8 F.Supp.2d 450 (D.N.J. 1998), vacated and remanded, 171 F.3d 818 (3d Cir. 1999)

On summary judgment, I held that Ford's Extended Service Plans ("ESP") were not warranties but service contracts and, therefore, did not fall within the New Jersey Franchise Practices Act ("FPA"). The Court of Appeals disagreed, and concluded that an ESP may include warranty provisions that fall under the FPA because at least some of the ESPs cover defects in factory-supplied parts or workmanship, as in standard warranties. The Court then found that because provisions of the ESPs may or may not have formed part of the basis of the bargain for sales of vehicles, there was a genuine issue of material fact. The case was remanded for trial.

- (2) Ramadan v. Chase Manhattan Corp., 973 F.Supp. 456 (D.N.J. 1997), rev'd, 156 F.3d 499 (3d Cir. 1998).

A car buyer sued lenders under the Truth in Lending Act ("TILA") and state law, alleging that she was given false financing disclosures when she purchased an automobile. I granted the lenders' motion to dismiss for lack of subject matter jurisdiction. The Court of Appeals held that TILA's one-year statute of limitations is not jurisdictional and is, therefore, subject to equitable tolling. Reversed and remanded.

Circuit, 7-2, holding as I had, that venue was proper in New Jersey. United States v. Rodriguez-Moreno, ___ U.S. ___, 119 S.Ct. 1239 (1999).

- (3) Massieu v. Reno, 915 F.Supp. 681 (D.N.J.), rev'd, 91 F.3d 416 (3d Cir. 1996).

I granted an alien, who was in this country lawfully, declaratory and injunctive relief against being deported pursuant to the Secretary of State's determination that he was deportable based on adverse foreign policy consequences for the United States. On the government's appeal, the Court of Appeals held that: (1) the alien was precluded from initially asserting his constitutional claims in District Court before exhausting his administrative remedies and then petitioning for review in the Court of Appeals, and (2) the exception to the exhaustion doctrine for claims considered wholly collateral to the administrative review process did not apply to the alien who was challenging the constitutionality of the statute under which his deportation was being sought. Reversed and remanded with directions that the complaint be dismissed.

- (4) Sidali v. I.N.S., 914 F.Supp. 1104 (D.N.J. 1996), rev'd, 107 F.3d 191 (3d Cir. 1997).

The accused petitioned for a writ of habeas corpus to review the Magistrate Judge's finding of probable cause that he committed rape and murder in Turkey twenty-five years earlier for purposes of his extradition to Turkey. I granted the petition and the government appealed. The Court of Appeals held that: (1) by remanding the case to the trial court and overturning the accused's second acquittal on the rape and murder charges, the Turkish Court of Appeals' General Board of Criminal Appeals convicted the accused of rape and murder, which was sufficient to support a finding of probable cause for extradition purposes, and (2) even without a conviction, competent evidence in the record supported the Magistrate Judge's finding of probable cause. Reversed and remanded with directions to deny petition.

- (5) Matter of Billing, 150 B.R. 563 (D.N.J. 1993), rev'd, 22 F.3d 1242 (3d Cir.), cert. denied, 513 U.S. 999 (1994).

Chapter 11 debtors sued bankruptcy counsel alleging legal malpractice, misrepresentation, breach of fiduciary duty, and breach of contract arising from counsel's allegedly substandard representation in the course of Chapter 11 proceedings. Counsel moved to dismiss or for referral to the Bankruptcy Court. I held that the debtors were entitled to a jury trial, that the Bankruptcy Court did not have authority to conduct jury trials, and that the proceeding could not be referred to the Bankruptcy Court. On counsel's appeal, the Court of Appeals held that the debtors did not have the right to a jury trial. Reversed and remanded for referral of the case to the Bankruptcy Court.

- (6) Coar v. Kazimir, 792 F.Supp. 345 (D.N.J. 1992), rev'd and remanded, 990 F.2d 1413 (3d Cir.), cert. denied, 510 U.S. 862 (1993).

A former trustee of a pension fund, who was also a beneficiary of the fund, filed an action against the fund after the fund advised him that it would set off against his benefits his liability to the fund arising from his breach of fiduciary duty. He claimed that the withholding of benefits as a set off to damages the fund suffered violated the nonforfeiture and antialienation provisions of the Employee Retirement Income Security Act ("ERISA"). I held that the antialienation provision prohibited the equitable set off by the fund of its damages against the trustee. The fund defendants appealed. The Court of Appeals held that the antialienation provision did not preclude the equitable set off of benefits to a beneficiary who breached a fiduciary duty, as that provision shields the beneficiary only from third-party creditors. Reversed and remanded for entry of judgment in favor of the fund defendants.

- (7) Matter of Velis, 123 B.R. 497 (D.N.J.), aff'd in part and rev'd in part, 949 F.2d 78 (3d Cir. 1991).

A Chapter 11 debtor claimed that his qualified pension plans, KEOGH plans and IRA accounts were not part of his bankruptcy estate. I affirmed the Bankruptcy Court's finding that such assets were part of the bankruptcy estate, and an appeal was taken. The Court of Appeals held that the exclusion of property from the estate to the extent that a restriction on its transfer is enforceable under "applicable nonbankruptcy law" embraces federal law as well as state spendthrift trust law. Therefore, to the extent of distributions made from the pension plans to the debtor or for his benefit, there are no enforceable restrictions which preclude treating those distributions as part of the estate of the debtor. To the extent that my order denied the debtor's claim of exemption under § 522(d)(10)(E), the order was affirmed. To the extent that the order held that pension plan assets (including postpetition contributions and accretions) were not excludable from the debtor's estate pursuant to § 541(c)(2), the order was reversed and the matter remanded for further proceedings.

- (8) San Filippo v. Bongiovanni, 743 F.Supp. 327 (D.N.J. 1990), rev'd, 961 F.2d 1125 (3d Cir.), cert. denied, 506 U.S. 908 (1992).

A tenured professor who was dismissed by a university brought an action under 42 U.S.C. § 1983. I determined that the grounds set forth in the university's regulations for dismissing tenured professors were void for vagueness and certified an interlocutory appeal. The Court of Appeals held that the regulations were not unconstitutionally vague, vacated my order granting, in part, the professor's motion for summary judgment, and remanded the case for further proceedings.

- (9) Opticians Ass'n. of America v. Independent Opticians of America, Inc., 734 F.Supp. 1171 (D.N.J.), rev'd, 920 F.2d 187 (3d Cir. 1990).

An association of opticians brought an action against former members and an organization formed by former members alleging the infringement of guild marks and unfair competition. I denied the association's motion for a preliminary injunction, and the association appealed. The Court of Appeals reversed and remanded with instructions that I enter an order preliminarily enjoining the defendants from using the association's marks in the advertising, distribution, promotion or sale of goods or services.

- (10) Schering Corp. v. Vitarine Pharmaceuticals, Inc., 124 F.R.D. 580 (D.N.J.), rev'd, 889 F.2d 490 (3d Cir. 1989).

Pharmaceutical companies brought an action against competitors to recover for violations of the Lanham Act and state law in connection with the competitors' advertising, promoting, and labeling of theophylline drugs. The companies voluntarily dismissed the case, and the competitors sought Rule 11 sanctions, which I imposed. The Court of Appeals held that: (1) I had jurisdiction to entertain and decide the motion for Rule 11 sanctions after plaintiffs voluntarily dismissed the action, but that (2) Rule 11 sanctions were not warranted.

- (11) Kramer v. Monogram Models, Inc., 700 F.Supp. 1348 (D.N.J. 1988), rev'd sub. nom., Palestri v. Monogram Models, Inc., 875 F.2d 66 (3d Cir. 1989).

In a libel action, I granted summary judgment to defendants based upon the statute of limitations. The Court of Appeals held that in the case of a single mailing of an allegedly defamatory press release, publication took place no earlier than receipt for limitations purposes, and reversed my grant of summary judgment, remanding for further proceedings.

- (12) United States v. Nelson, 672 F.Supp. 812 (D.N.J. 1987), aff'd in part and rev'd in part, 852 F.2d 706 (3d Cir.), cert. denied, 488 U.S. 909 (1988).

Defendants were convicted of obstruction of justice and conspiracy to obstruct justice, and they appealed. The Court of Appeals held that because the cross-examination of one witness as to the pendency of judicial proceedings was unreasonably limited, the convictions for obstruction of justice could not stand. The Court, however, affirmed the convictions for conspiracy to obstruct justice, and remanded for further proceedings.

- (13) Sebastian Inter., Inc. v. Consumer Contact (PTY) Ltd., 664 F.Supp. 909 (D.N.J. 1987), vacated and remanded, 847 F.2d 1093 (3d Cir. 1988).

A manufacturer of hair care products with copyrighted labels brought a copyright infringement action against a foreign purchaser of products who reshipped the products to the United States for resale. I granted a preliminary injunction in favor of the manufacturer. The Court of Appeals held that the manufacturer was barred by the first sale doctrine from establishing the infringement of its copyright by the unauthorized importation of goods back into the United States. The order granting a preliminary injunction was vacated, and the case was remanded for disposition of the remaining issues.

- (14) Cohen v. Board of Trustees of University of Medicine and Dentistry of New Jersey, 1986 WL 20639 (D.N.J. 1986), rev'd, 867 F.2d 1455 (3d Cir. 1989).

A medical school professor brought a civil rights action against the university and faculty members challenging the denial of tenure. On cross motions for partial summary judgment, I found for the professor on the tenure issue and ordered that she be retained until such time as she is removed for cause in the same manner that tenured faculty are removable. Finding the order granting partial summary judgment and ordering

retention to be appealable, the Court of Appeals held that the professor had not, in fact, been granted tenure and remanded for entry of a Rule 56(d) order in favor of the defendants on the professor's § 1983 due process claims.

- (15) Tustin v. Heckler, 591 F.Supp. 1049 (D.N.J.), vacated in part and remanded, 749 F.2d 1055 (3d Cir. 1984).

The Secretary of Health and Human Services had suspended period review of disability determinations and restored benefits to individuals whose periodic review cases had not received final administrative action. She did not, however, restore benefits to individuals whose benefits had been terminated pursuant to the review procedure and whose appeals were pending in federal courts. I granted a preliminary injunction requiring the Secretary to restore benefits to a nationwide class of the latter group. While agreeing with the Secretary's concession that her classification resulted in "some inequity," the Court of Appeals held that the classification was neither invidious nor irrational and, thus, not violative of the Equal Protection Clause because individuals with final administrative decisions had the right to appeal those decisions in federal court off well-developed records. The Court vacated the preliminary injunction and remanded for reconsideration of the certification of the nationwide class.

Reversals of Unreported Decisions (copies of my opinions supplied unless otherwise noted)

- (1) United States v. Palma-Ruedas, aff'd in part and rev'd in part, 121 F.3d 841 (3d Cir. 1997), cert. denied (as to affirmances), 524 U.S. ___, 118 S.Ct. 725, 894, 1110, 1327 (1998), cert. granted (as to reversal) sub nom., United States v. Rodriguez-Moreno, 524 U.S. ___, 118 S.Ct. 2296 (1998), rev'd, ___ U.S. ___, 119 S.Ct. 1239 (1999).

Following a jury trial, five defendants were convicted of various offenses relating to a drug conspiracy and kidnapping scheme. The Court of Appeals affirmed the convictions of all

defendants, save one count as to one defendant which it reversed, holding that venue over the charge of using or carrying a firearm during and in relation to a crime of violence was not proper in a state in which the defendant did not use or carry the weapon. Certiorari was granted as to the reversal. The Supreme Court reversed the Court of Appeals, holding that venue in a prosecution for using or carrying a firearm during and in relation to a crime of violence is proper in any district in which the crime of violence was committed, thus effectively reinstating my oral ruling, which is not available.

- (2) Bray v. Marriott Hotels, rev'd and remanded, 110 F.3d 986 (3d Cir. 1997).

Plaintiff brought an action against her employer under Title VII and the New Jersey Law Against Discrimination alleging racial discrimination. I granted summary judgment in favor of the employer and the employee appealed. The Court of Appeals held, over Judge Alito's dissent, that a genuine issue of material fact existed as to whether the employer's asserted legitimate nondiscriminatory reason for promoting the white employee was a pretext for race discrimination, precluding summary judgment.

- (3) Matteson v. Ryder System, Inc., rev'd and remanded, 99 F.3d 108 (3d Cir. 1996), aff'd after remand, 168 F.3d 479 (3d Cir. 1998).

Truck owner-operators brought an action to set aside an arbitration award alleging that the arbitrators exceeded their authority. I disagreed, and granted summary judgment for the carriers. The Court of Appeals reversed, finding that the arbitrators decided issues beyond the issue submitted to them.

- (4) Sterling Nat. Mortg. Co., Inc. v. Mortgage Corner, Inc., aff'd in part, rev'd in part and remanded, 97 F.3d 39 (3d Cir. 1996).

A mortgage lender brought an action against a multilender

mortgage loan network and its corporate parent for breach of contract, breach of the covenant of good faith and fair dealing, and tortious interference with prospective economic relationship. I granted summary judgment for the defendants, and the lender appealed. The Court of Appeals reversed in part, holding that fact issues existed as to the breach of contract and breach of the covenant of good faith and fair dealing claims, and affirmed in part, holding that neither the loan network nor its parent was liable for tortious interference. The case was subsequently tried and no appeal was taken.

- (5) Varallo v. Hammond, Inc., aff'd in part, rev'd in part and remanded, 94 F.3d 842 (3d Cir. 1996).

A former employee brought an action against his employer and his supervisor alleging breach of employment contract and tortious interference with prospective economic advantage. I granted defendants' motion for summary judgment and the employee appealed. The Court of Appeals affirmed with respect to the employer but reversed with respect to the supervisor, finding that genuine issues of material fact existed as to the tortious interference claim against him.

- (6) Subbe-Hirt v. Baccigalupi, rev'd and remanded, 94 F.3d 111 (3d Cir. 1996).

A former employee sued her employer for the intentional infliction of emotional distress. I granted the employer's motion for summary judgment. On the employee's appeal, and over Judge Cowen's dissent, the Court of Appeals reversed, holding that, one, the record contained sufficient evidence of the manager's direct intent to injure the employee to avoid the bar of the exclusive remedy provision of the New Jersey Workers' Compensation Act and, two, material questions of fact existed as to the intentional infliction of emotional distress claim.

- (7) NY Life Distributors, Inc. v. Adherence Group, Inc., vacated and remanded, 72 F.3d 371 (3d Cir. 1995).

The administrator of a mutual fund filed a complaint in interpleader against his employer and several former employees, asserting conflicting demands from defendants for monies he was holding. While the case was pending, the employer commenced an action in state court against certain former employees, alleging that they had wrongfully appropriated monies deposited in the mutual fund. I granted the administrator's motion for judgment in interpleader, and dismissed the administrator from the case. Thereafter, the employer filed a motion seeking dismissal of the cross-claims asserted against it by the former employees and transfer of the interpleaded fund to state court, or retention of the fund while the parties litigated their entitlement to the money in the state action. I dismissed the cross-claims and, believing that all federal claims had been eliminated, terminated the action, while retaining jurisdiction over the impleaded fund pending the outcome of the state litigation. The former employees appealed. The Court of Appeals held that my conclusion that all federal claims had been dismissed by virtue of the order dismissing the cross-claims was in error as was, therefore, the decision to terminate the case in favor of the pending state action. The case was remanded for a determination of whether the interpleader action should be dismissed during the pendency of the state proceeding.

- (8) Cooper Distributing Co., Inc. v. Amana Refrigeration, Inc., aff'd in part, rev'd in part and remanded, 63 F.3d 262 (3d Cir. 1995), appeal following remand pending.

A distributor brought an action against a manufacturer of home appliances, alleging violations of the New Jersey Franchise Practices Act (NJFPA), breach of contract, breach of the implied obligation of good faith and fair dealing, and tortious interference with prospective business advantage in connection with the manufacturer's termination of the parties' relationship. Following a five week jury trial, judgment was

rendered in favor of the distributor and various post-trial motions were decided. The Court of Appeals affirmed my denial of the manufacturer's motions for judgment as a matter of law and a new trial as to liability and the distributor's motion for prejudgment interest on the NJFPA claim. It reversed my denial of the manufacturer's motion for a new trial on NJFPA damages and, over Judge Sloviter's dissent, my denial of the manufacturer's motion for judgment as a matter of law on the contract claim. It also reversed the award of punitive damages on the tortious interference claim. The case was remanded for a new trial on NJFPA damages. Trial was held with the judgment now on appeal.

- (9) United States v. Felton, order vacated and remanded, 55 F.3d 861 (3d Cir. 1995).

Defendant was sentenced on his plea of guilty and appealed. The Court of Appeals affirmed my finding that the defendant was an organizer, leader, manager, or supervisor and that a one-level upward departure was appropriate. The Court remanded for resentencing, however, because in computing the offense level, I (and probation and the attorneys) added incorrectly. My oral opinion is not available.

- (10) United States v. Hunter, aff'd in part, rev'd in part and remanded, 52 F.3d 489 (3d Cir. 1995).

Defendant was sentenced on her plea of guilty to credit card fraud and appealed the two-level increase in her offense level based on her role as manager/supervisor as well as the \$75,000 in restitution imposed. The Court of Appeals affirmed the manager/supervisor role enhancement but reversed and remanded for more specific factual findings as to restitution. My oral opinion is not available.

- (11) Torre v. Casio, rev'd and remanded, 42 F.3d 825 (3d Cir. 1994).

A former employee sued his employer under the Age

Discrimination in Employment Act after the employee was transferred and then terminated during a reduction in force. I granted summary judgment for the employer, and the employee appealed. Recognizing that I decided this case prior to the Court's decision in a case which changed the legal standard, and recognizing as well that there is "substantial support in the record for each step in Casio's explanation of the transfer and termination decisions" and "unrefuted evidence" that the employee's superiors were dissatisfied with his performance and wanted him fired, the Court of Appeals reversed, holding that, one, even without evidence of replacement, the employee established a prima facie case of age discrimination and, two, summary judgment was precluded by evidence from which a jury could infer that the employer's reasons for the transfer and termination were pretextual. The case was tried to a defendant's verdict.

- (12) San Filippo v. Bongiovanni, aff'd in part, vacated in part and remanded, 30 F.3d 424 (3d Cir. 1994), cert. denied, 513 U.S. 1082 (1995).

A former tenured professor at the state university brought a 42 U.S.C. § 1983 action against the university and its board of governors arising out of his dismissal. I granted summary judgment in favor of the defendants and the professor appealed. The Court of Appeals affirmed as to the professor's due process claim, but vacated the denial of his motion for a continuance for purposes of further discovery and the grant of summary judgment as to his first amendment claim, holding that, one, the denial of the continuance was an abuse of discretion; two, a public employee is protected under the petition clause from retaliation for having filed a petition in the nature of a lawsuit or grievance, even if the lawsuit or grievance addresses a matter of purely private concern, as long as petition is not a sham; and, three, genuine issues of material fact exist as to whether the professor's protected conduct was a substantial factor in the illegal retaliatory action, precluding summary judgment. Judge Becker dissented from that part of the holding which concluded that a public employee is

protected under the petition clause even as to a matter of purely private concern. The case was tried to a verdict in favor of defendants.

- (13) Komninos by Komninos v. Upper Saddle River Bd. of Education, vacated and remanded, 13 F.3d 775 (3d Cir. 1994).

Parents sought a preliminary injunction under the Individuals with Disabilities Education Act requesting that the school board be directed to place their son, a severely retarded student, in a specific school and pay for his schooling while the administrative hearings were proceeding. Finding that I did not have jurisdiction because administrative remedies had not been exhausted, I dismissed the complaint and the parents appealed. The Court of Appeals held, one, that exhaustion is not necessary in an emergency situation if it would cause irreparable harm; two, the parents, who had not yet made any such showing, must show that their son will suffer serious and irreversible mental or physical damage such as irremediable intellectual regression before the administrative process may be circumvented under the emergency exception; and, three, remand was necessary so that the parents could attempt to make a sufficient showing of irreparable harm.

- (14) United States v. Schweitzer, rev'd and remanded, 5 F.3d 44 (3d Cir. 1993).

Defendant pleaded guilty to conspiring to bribe a public official in order to obtain confidential information held by the Social Security Administration. He appealed my upward departure from the guideline range. The Court of Appeals held that the upward departure was appropriate for all of the reasons I found but one. That one -- media appearances by the defendant immediately prior to his sentencing in which he detailed his scheme and huge income and insisted that he could still obtain confidential information -- was described by the Court of Appeals as "call[ing] attention to ... a matter of public concern." The case was remanded for resentencing,

including a sentence of the magnitude originally imposed. My oral opinion is not available.

- (15) Pascale v. United States, vacated and remanded, 998 F.2d 186 (3d Cir. 1993).

A motorist injured in a collision with a vehicle driven by a Secret Service agent filed suit after the agency's inaction was deemed a final denial of his claim. The government moved to dismiss on the ground that the action was time-barred under the Federal Tort Claims Act. I granted the government's motion and the motorist appealed. The Court of Appeals held that the six-month statute of limitations for filing suit after final agency denial did not apply to a complaint filed after six months of agency inaction, and thus the complaint was not time-barred.

- (16) United States v. Contents of Accounts Numbers 3034504504 and 144-07143 at Merrill Lynch, Pierce, Fenner and Smith, Inc., aff'd in part, vacated in part and remanded, 971 F.2d 974 (3d Cir. 1992).

A corporation filed an objection to the forfeiture of seized accounts. I struck the corporation's claim and an appeal was taken. The Court of Appeals, among other things, affirmed my finding that the corporation lacked standing to contest forfeiture as it was a nominal party -- a "straw man" -- for the true owner of the accounts, and vacated in part, holding that there was no in rem jurisdiction over the res which was not located in the district.

- (17) Agathos v. Starlite Motel, vacated and remanded, 977 F.2d 1500 (3d Cir. 1992), following remand, aff'd in part and rev'd in part and remanded, 60 F.3d 143 (3d Cir. 1995).

Trustees of jointly administered union welfare and pension funds brought an action under the Employee Retirement Income Security Act (ERISA), claiming entitlement to welfare and pension fund contributions for unreported employees and

seeking reimbursement for medical claims paid to a former employee who was ineligible to receive benefits. The union also brought an action against the employer, seeking membership dues for unreported nonunion employees. I entered judgment in favor of the employer and the trustees appealed. The Court of Appeals vacated and remanded for an evidentiary hearing and for findings of fact and conclusions of law as to each claim. Following remand, the Court of Appeals affirmed my conclusion that the welfare fund was not entitled to recover benefits paid to the ineligible employee but reversed and remanded as to three other issues.

- (18) United States v. Casper, *rev'd*, 956 F.2d 416 (3d Cir. 1992).

Defendant was convicted by a jury and he appealed. While affirming my determination that the defendant failed to make a prima facie showing of discrimination under Batson, the Court found the evidence insufficient to support the verdict. The case was remanded for dismissal of the indictment. My oral opinion is not available.

- (19) Pascarella for and on Behalf of N.L.R.B. v. Vibra Screw, Inc., *rev'd and remanded*, 904 F.2d 874 (3d Cir. 1990).

The National Labor Relations Board applied for interim injunctive relief against an employer pending the Board's determination as to whether the employer had committed unfair labor practices. I denied the request on the ground that an injunction would not be "just and proper." The Board appealed. The Court of Appeals remanded the case with the direction to enter an order granting the injunction. My opinion is not available.

- (20) Siegel v. Alpha Wire Corp., *rev'd and remanded*, 894 F.2d 50 (3d Cir.), *cert. denied*, 496 U.S. 906 (1990).

A former employee brought suit against her employer and its president under the Age Discrimination in Employment Act and raised various state law claims. On defendants' motion,

I granted summary judgment in defendants' favor on the federal claim, and dismissed the pendent claims and counterclaims. The employee appealed. The Court of Appeals held that the employee produced enough evidence to create a jury issue as to whether the reasons articulated by her employer for her discharge were pretextual.

- (21) Lac D'Amiante du Quebec, Ltee v. American Home Assur. Co., vacated and remanded, 864 F.2d 1033 (3d cir. 1988).

An asbestos seller brought an action against its insurers seeking indemnity for monies it had paid out for asbestos claims. One insurer moved to dismiss or to stay the action against it in favor of New York liquidation proceedings then pending. I declined to abstain and an appeal was taken. The Court of Appeals held that Burford abstention was required. The case was remanded for dismissal of the action against the insurer.

- (22) Vujosavic v. Rafferty, rev'd and remanded, 844 F.2d 1023 (3d Cir. 1988).

Defendant was convicted in state court of aggravated manslaughter and his conviction was affirmed. He filed a habeas petition in federal court, which I denied, and he appealed. The Court of Appeals disagreed with the state courts and me, holding that the trial court's failure to instruct on aggravated assault as a lesser included offense to murder was reversible and not mere harmless error and that the police officers who questioned defendant after he had previously invoked his right to remain silent did not "scrupulously honor" that right. The case was remanded so that the writ could issue.

- (23) Ingersoll-Rand Financial Corp. v. Collison, aff'd in part, rev'd in part, 844 F.2d 133 (3d Cir. 1988).

A debtor in an action on a promissory note moved for a stay or dismissal of the case pending resolution of a state court rescission action. I dismissed the case, and an appeal was

taken. The Court of Appeals affirmed my finding that, as in Colorado River, clear federal policy counsels against concurrent federal proceedings. However, the Court reversed my decision to dismiss rather than stay the federal case pending the outcome of the state case. I was directed to determine on remand the current status of the state case to ascertain whether it was then appropriate to proceed with the federal action or to continue the stay.

- (24) Pollock v. American Tel. & Tel. Long Lines, rev'd and remanded, 794 F.2d 860 (3d Cir. 1986).

An employee brought an action against her former employer for alleged racial discrimination. I granted the employer's motion for summary judgment, and the employee appealed. The Court of Appeals held that whether the employer's action vis-a-vis the employee was evidence of racial discrimination against which the employer could only offer justifications which were pretextual was a question of fact. Finding sufficient evidence to put the employer's motivation in issue, the Court remanded for trial.

- (25) Lieb v. Topstone Industries, Inc., remanded, 788 F.2d 151 (3d Cir. 1986).

Plaintiff brought suit alleging copyright infringement and state law claims for breach of contract and bad faith. I granted summary judgment for defendants but denied statutory counsel fees and defendants appealed. The Court of Appeals held that because it could not be determined whether I properly exercised my discretion in denying counsel fees, remand was required for an articulation of reasons.

- (26) Herber v. Johns-Manville Corp., et al., vacated and remanded, 785 F.2d 79 (3d Cir. 1986).

A worker brought an asbestosis suit against several suppliers of asbestos. I entered judgment on a jury verdict which found the suppliers liable but awarded the worker no damages. The

worker (and one supplier, whose claims the Court of Appeals rejected) appealed claiming that I erred in excluding evidence of three elements of his alleged damage: present increased risk of possible future cancer, future cost of medical monitoring to detect the presence of cancer, and emotional anxiety resulting from fear of cancer. The Court of Appeals held that while evidence of present increased risk of a possible future cancer was properly excluded, evidence of the future cost of medical monitoring to detect cancer and present emotional anxiety resulting from fear of cancer should not have been excluded. Finding that I properly denied a new trial on damages, the Court nonetheless vacated the judgment and remanded for a new trial to focus on whether plaintiff suffers from present emotional distress caused by exposure to the defendants' products and whether he requires medical monitoring for signs of cancer as a result of that exposure, with much of what was found by the jury in the first trial to be considered law of the case in the retrial. My opinion is not available.

- (27) United Jersey Banks v. Parell, rev'd and remanded, 783 F.2d 360 (3d Cir.), cert. denied, 476 U.S. 1170 (1986).

Five state bank holding companies and their subsidiaries invoked state law in state court to prevent a merger between two nationally chartered banks. Defendants removed the case. I denied plaintiffs' motion to remand and dismissed the action as premature. Plaintiffs appealed. The Court of Appeals held that because plaintiffs relied on state law in the complaint, I lacked jurisdiction and, thus, that the motion to remand was improperly denied. The case was remanded to me so that I could remand it to the state court from which it was removed. My opinion is not available.

3. 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, please provide copies of the opinions.

- (1) Velasquez v. Reno, 37 F.Supp.2d 663 (D.N.J. 1999)

- (2) Farquharson v. I.N.S., 31 F.Supp.2d 403 (D.N.J. 1999)
- (3) Massieu v. Reno, 915 F.Supp. 681 (D.N.J.), rev'd, 91 F.3d 416 (3d Cir. 1996).
- (4) Sidali v. I.N.S., 914 F.Supp. 1104 (D.N.J. 1996), rev'd, 107 F.3d 191 (3d Cir. 1997)
- (5) United States v. Board of Education of Township of Piscataway, 832 F.Supp. 836 (D.N.J. 1993), aff'd, Taxman v. Board of Education of Township of Piscataway, 91 F.3d 1547 (3d Cir. 1996) (en banc), cert. granted, 117 S.Ct. 2506 (June 27, 1997), cert. denied, 118 S.Ct. 595 (Dec. 12, 1997).
- (6) PBA Local No. 38 v. Woodbridge Police Dep't, 832 F.Supp. 808 (D.N.J. 1993).
- (7) Kocienski v. City of Bayonne, 757 F.Supp. 457 (D.N.J. 1991).
- (8) Ernst v. Borough of Fort Lee, 739 F.Supp. 220 (D.N.J. 1990).
- (9) Smith v. Continental Ins. Corp., 747 F.Supp. 275 (D.N.J. 1990), aff'd, 941 F.2d 1203 (3d Cir. 1991).
- (10) Rodriguez v. City of Passaic, 730 F.Supp. 1314 (D.N.J.), aff'd, 914 F.2d 244 (3d Cir. 1990).
- (11) Ryan v. Burlington County, 674 F.Supp. 464 (D.N.J. 1987), aff'd, 860 F.2d 1199 (3d Cir. 1988), cert. denied, 4900 S.1020 (1989).
- (12) E.E.O.C. v. State of New Jersey, 620 F.Supp. 977 (D.N.J. 1985); see also 631 F.Supp. 1506 (D.N.J. 1986), aff'd, 815 F.2d 694 (3d Cir. 1987).
- (13) Horn v. Kean, 593 F.Supp. 1298 (D.N.J. 1984), aff'd, 796 F.2d 668 (3d Cir. 1986) (en banc).
- (14) Tustin v. Heckler, 591 F.Supp. 1049 (D.N.J.), vacated in part, 749 F.2d 1055 (3d Cir. 1984).
- (15) Skevofilax v. Quigley, 586 F.Supp. 532 (D.N.J. 1984).

16. Public Office:

- (a) State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed.

None.

- (b) State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. Legal Career:

- a. Describe chronologically your law practice and experience after graduation from law school including:
1. whether you served as clerk to a judge;
No.
 2. whether you practiced alone;
No.
 3. The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.

U.S. Attorney's Office for the District of New Jersey
970 Broad Street, Newark, New Jersey 07102
September 1974 to November 1983

Assistant U.S. Attorney, Civil Division -- 1974-1975

Deputy Chief, Appeals Division -- 1976-1977

Chief, Appeals Division -- 1977-1982

Executive Assistant U.S. Attorney -- 1981-1982

First Assistant U.S. Attorney -- 1981 to 1983

United States District Judge for the District of New Jersey

United States Post Office & Courthouse Building
P.O. Box 999, Newark, New Jersey 07101-0999
November 1983 to present

- (b) 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

The general character of my practice was litigation and, from 1977, also the supervision of litigation in which the United States was a party. More specifically, in 1974 and 1975, I was an Assistant U.S. Attorney serving in the Civil Division of the United States Attorney's Office for the District of New Jersey, litigating civil matters in which the United States was a party. In 1976, I became Deputy Chief of the Appeals Division, briefing and arguing both civil and criminal appeals before the United States Court of Appeals for the Third Circuit while maintaining an active civil caseload in the United States District Court. Between 1977 and 1982, I served as Chief of the Appeals Division, in which capacity I was the legal advisor to all Assistant U.S. Attorneys and Strike Force attorneys and responsible for assuring the expert and expeditious briefing of all appeals in which the United States was a party, personally briefing and arguing the more significant criminal appeals. During 1981 and 1982, I served not only as Chief of Appeals but as Executive Assistant U.S. Attorney. As Executive Assistant U.S. Attorney, I was responsible, together with the United States Attorney and the First Assistant, for supervising the division chiefs (Criminal, Civil, Special Prosecutions, and Frauds) with respect to investigations and trials, among other matters, and was responsible for the organization and implementation of management procedures for the efficient and effective operation of the Office. From 1981 and until I went on the bench in November, 1983, I served as First Assistant U.S. Attorney. In this capacity, I was the chief legal advisor to the United States Attorney, 56 Assistant U.S. Attorneys, and ten Strike Force attorneys and was responsible for providing effective supervision and counsel on all matters. I was also responsible, together with the United States Attorney, for formulating policy, supervising investigations, and overseeing all criminal and civil cases handled by the Office, including all major plea and settlement negotiations. I was at that time one of the highest

ranking women attorneys in any United States Attorney's Office in the country.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

My client was the United States of America.
My areas of specialization were civil, criminal, and particularly appellate litigation.

- (c) 1. Did you appear in court frequently, occasionally or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I appeared in court more than occasionally but less than frequently. During my last year and a half in the United States Attorney's Office, I appeared on fewer occasions than before because of my responsibilities as First Assistant U.S. Attorney.

2. What percentage of these appearances was in

(a) federal courts	100%
(b) state courts of record	0%
(c) other courts	0%

3. What percentage of your litigation was:

(a) civil	20%
(b) criminal	80%

4. State the number of cases you tried to verdict or judgment (rather than settled) in courts of record, indicating whether you were sole counsel, chief counsel, or associate counsel.

I served as associate or consulting counsel in all of the major criminal cases and many of the major civil cases tried to judgment or verdict. The approximate number of such cases is 30. The majority of my personal court appearances was in connection with the appeals I argued in the United States Court of Appeals for the Third Circuit,

which probably number about fifty, and issues occurring within or hearings emanating from those cases as to which I served as associate or consulting counsel.

5. What percentage of these trials was

- | | | |
|-----|----------|-----|
| (a) | Jury | 95% |
| (b) | Non-Jury | 5% |

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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.

The ten most significant litigated matters I personally handled at the United States District Court and/or before the United States Court of Appeals are:

- (1) United States v. Musto

In perhaps the most significant case handled in the District of New Jersey at that time, eight defendants, including State Senator William V. Musto, who was then serving as Chairman of the Senate Judiciary Committee, were convicted of violations of the federal racketeering laws and other offenses before the Honorable H. Lee Sarokin, United States District Judge, and a jury. Trial lasted from early November, 1981 until March 26, 1982 and the convictions were affirmed on appeal.

My role in this case was that of the hands-on supervisor

throughout the course of trial who also briefed and argued certain of the substantial pre-trial motions, handled the post-trial proceedings which proved to be highly significant from a tactical point of view, and worked closely with the State of New Jersey in preparing the submission in state court which resulted in the public official defendants' removal from office. My role commenced at the investigatory stage, when my advice as to strategy and technique was sought and given; continued to the pre-indictment stage, where various theories were analyzed and charges accurately reflecting the criminal conduct while most readily susceptible of proof were determined; and continued to the pre-trial, trial, post-trial and appellate stages of the prosecution where constant supervision was given and judgment calls made.

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(For defendant Anthony Genovese)

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Arseneault & Krovatin
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(973) 635-3366
(For defendant John Bertoli)

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Lowenstein, Sandler
65 Livingston Avenue
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(973) 597-2548
(For defendant William Musto (on appeal))

Irving Anolik, Esq.
225 Broadway
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(212) 732-3050
(For defendant William Musto)

(2) United States v. Genser and Forman

This case was at the time the most substantial tax evasion case ever tried in the District of New Jersey and one of the most substantial ever tried in the United States. The highly complex nature of the case is demonstrated by the fact that it was before the United States Court of Appeals for the Third Circuit on three occasions: 582 F.2d 292 (3d Cir. 1978) (Seitz, C.J., Biggs and Hunter, J.J.); 595 F.2d 146 (3d Cir. 1979) (Seitz, C.J., Biggs and Hunter, J.J.); 602 F.2d 73 (3d Cir. 1979) (Seitz, Ch.J., Gibbons and Hunter, J.J.); and before the United States District Court for two evidentiary hearings (Hon. Herbert J. Stern, U.S.D.J.) before the convictions were affirmed and certiorari denied, 444 U.S. 928 (1979).

This case, in which myself and co-counsel represented the United States at both evidentiary hearings and in which I personally briefed and argued all the appeals, is one of the leading cases on Internal Revenue summonses, providing the seminal explanation of United States v. LaSalle National Bank, 437 U.S. 298 (1978) and the procedural mechanism by which to vindicate LaSalle's substantive guarantees.

Co-Counsel: George Mendelson, Esq.
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Counsel for Defendants:

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(3) United States v. Gross

Following the affirmance of his conviction and service of his sentence, the defendant twice appealed from the denial by the Honorable Lawrence A. Whipple, United States District Judge, of a writ of error coram nobis. In the first appeal (United States v. Gross, No. 78-1360 (3d Cir. Nov. 6, 1978) (unpublished per curiam) (order reported at 588 F.2d 824), the Court remanded for a full evidentiary hearing on the defendant's allegations of misconduct on the part of United States Marshals in their dealings with the sequestered jury which convicted him. After an extensive hearing which I handled for the government and at which sixteen witnesses, including five jurors, testified, the Court affirmed the District Judge's conclusion that the defendant had not carried his burden of proving that he had been unjustly convicted in an

irregular and invalid proceeding. United States v. Gross, 614 F.2d 365 (3d Cir.) (Seitz, C.J., Adams and Weis, J.J.), cert. denied 477 U.S. 925 (1980).

This case, in which I personally briefed and argued both appeals as well as handled the evidentiary hearing, resulted in a major opinion on the availability of coram nobis and on the subject of post-conviction inquiry of jurors concerning misconduct issues.

Co-Counsel: Jeffrey Speiser, Esq.
(hearing) Stern & Greenberg
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Counsel for Defendant:

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F. Lee Bailey, Esq.
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(4) United States v. Adamo

The defendant raised a number of contentions on appeal from his conviction for violating 18 U.S.C. §§ 371, 1341 and 1342 by means of a fraudulent credit card scheme involving sixteen co-conspirators. The United States Court of Appeals rejected each contention in the appeal, which I personally briefed and argued. United States v. Adamo, 534 F.2d 31 (3d Cir.) (Gibbons, Hastie, and Rosenn, J.J.), cert. denied, 429 U.S. 841 (1976).

This case is significant because it was decided at a time when the use of credit as a lifestyle was rapidly accelerating in this country, and immediately following the decision of the Supreme Court of the United States in United States v. Maze, 414 U.S. 395 (1974), which decision had a substantial impact upon prosecutions for credit card fraud under the mail fraud statute, as the Maze Court strictly construed the statutory language that use of the mails be "for the purpose of executing such scheme or artifice." Additionally, for the first time the Third Circuit held that the harmless error rule may be applied when an overt act in furtherance of a conspiracy proven at trial differs from any of the overt acts alleged in the indictment.

Counsel for Defendant:

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(5) United States v. Dalia

In the course of affirming the judgment of conviction, the United States Court of Appeals for the Third Circuit agreed with the ruling of the United States District Court (Honorable Frederick B. Lacey, United States District Judge) and became the first circuit court to hold that an order authorizing the interception of oral communications does not require explicit authorization for a forcible, surreptitious entry to install the listening device. United States v. Dalia, 575 F.2d 1344 (3d Cir. 1978) (Rosenn, Higginbotham, J.J., and Van Artsdalen, D.J.). I personally briefed and argued this most substantial appeal in which the United States Court of Appeals was affirmed by the Supreme Court of the United States in a major opinion which discussed the Fourth Amendment vis-a-vis electronic surveillance. Dalia v. United States, 441 U.S. 238 (1979).

Counsel for Defendant:

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(6) Addonizio v. United States and Whelan and Flaherty v. United States

These consolidated appeals concerned former public officials who contested the length of the sentences they were required to serve and contested it well beyond the 120 day period provided for by former F.R.Crim.P. 35 for seeking a reduction of sentence. The United States Court of Appeals for the Third Circuit examined the propriety of post-sentencing relief under 28 U.S.C. § 2255 by a sentencing court upon a showing that the sentencing judge's expectations were frustrated by subsequent changes in criteria considered by the Parole Commission in granting or denying release. The Court concluded that sentencing courts have jurisdiction to entertain § 2255 motions on this ground and affirmed the order of the United States District Court releasing defendant Addonizio after he had served five years of a ten year sentence. Addonizio, et al. v. United States, 573 F.2d 147 (3d Cir. 1978) (Aldisert and Hunter, J.J., and Cahn, D.J.)

The Court had, in cases immediately preceding this one, rejected the government's contention that Rule 35 was the exclusive jurisdictional avenue for sentence reduction. In briefing and arguing this case, I continued to raise that contention and build a record on which I could argue to the Solicitor General of the United States that this was a case requiring Supreme Court review. My most important contribution to the case was in persuading the Solicitor General that, contrary to his earlier view, this case was both ripe for and worthy of being heard by the Supreme Court of the United States. The result was a major opinion authoritatively construing Rule 35 and reversing, 9-0, the United States Court

of Appeals. United States v. Addonizio, 442 U.S. 178 (1979).

Counsel for Defendants:

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(7) United States v. Fiumara

Defendant Fiumara was a high ranking organized crime figure. Following a two week trial in June, 1979 before the Honorable Herbert J. Stern and a jury, the defendant and three co-defendants were convicted of two counts of extortion, and Fiumara was sentenced to a twenty year term of imprisonment.

I briefed the direct appeal, which included responses to a severe attack on the District Judge and one extremely difficult issue (*i.e.*, the District Judge admitted the transcript of the victim's grand jury testimony in which he articulated his payment out of fear but did not admit the transcripts of two other grand jury appearances in which the victim did an about face). Additionally, I handled the appeal from the denial of a stay of the sentencing hearing that the defendants sought, for various reasons, to have closed to the press and the public, and I supervised the week-long sentencing hearing. The convictions were affirmed by judgment order and the denial of the stay was affirmed by opinion. United States v. Fiumara, 605 F.2d 116 (3d Cir. 1979) (Aldisert and Weis, J.J.).

Co-Counsel: (District Court proceedings)

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Counsel for Defendant Fiumara:

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(201) 867-2008

* * *

Any case which the United States Court of Appeals for the Third Circuit has determined was deserving of en banc consideration must be deemed worthy of inclusion on any list of significant cases. I have briefed and argued the following cases before the Court en banc:

- (8) United States v. DeFalco, 644 F.2d 132 (3d Cir. 1979) (en banc)

Six separate opinions, including four separate dissenting opinions, were filed by the United States Court of Appeals in the course of deciding this case in which the issue before the Court was whether or not the defendant received effective assistance of counsel on direct appeal. The plurality concluded that the totality of circumstances, including the facts that defendant's appeal emanated from the same District Court in

which his attorney was indicted, that three of his attorney's indictments were processed prior to the striking of the plea bargain before the same District Judge who presided over defendant's trial, that the same United States Attorney's Office prosecuted the defendant and his attorney, and that the attorney entered into plea bargaining during the pendency of the defendant's appeal with the same United States Attorney's Office that constituted his adversary on appeal, presented a possible conflict of interest or prejudice. The plurality was persuaded that even without proof of actual conflict, legitimate decisions of counsel were rendered suspect because of the potential for conflicting loyalties to himself and to his client. Unless the government was able to show a waiver by the defendant of his right to effective assistance of counsel, a new direct appeal was the appropriate remedy. A new direct appeal was afforded and the conviction was affirmed.

Counsel for defendant:

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(609) 931-1511

- (9) United States v. Gomez, 593 F.2d 210 (3d Cir. 1979) (en banc)

The United States Court of Appeals held that a defendant can be separately charged and convicted but not separately sentenced on his conviction for possession of a controlled substance with intent to distribute and for actual distribution, where both convictions arose out of the same criminal undertaking consisting of a single distribution. Additionally, the Court concluded that in a prosecution for possession with intent to distribute, an instruction permitting a jury to infer that the defendant intended the natural and probable consequences of acts knowingly done or omitted does not impermissibly shift from the government the burden of proving specific intent beyond a reasonable doubt.

Counsel for defendant:

James V. McGovern, Esq.
Tarrytown, New York
(last known address)

- (10) Gissen v. Tackman, 537 F.2d 784 (3d Cir. 1976) (en banc)

A former employee of the United States Department of Housing and Urban Development filed a complaint in which he alleged that his superiors had discriminated against him by denying him promotions on the basis of his race and religion. The United States Court of Appeals held that where an employee failed to seek any administrative relief before filing his complaint in federal court, where he did not file suit until fourteen months after he resigned his position, and where he did not comply with the Equal Employment Opportunity Act and the exclusive remedy provided by the Act for a federal employee complaining of job-related discrimination, the employee was precluded from receiving any judicial relief.

Counsel for plaintiff:

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* * *

Because all of the above listed cases are older than five years, the following are members of the legal community who have had recent contact with me.

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19. 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 the nature of your participation.

As my answer to question 9 indicates, I have been extensively involved in Court and Judicial Conference committees and bar organizations. I, of course, rate as "most significant" those committees to which I was appointed by the Chief Justice, and primarily the Committee on Criminal Law of the Judicial Conference, which I was appointed to Chair for three years after

serving on the Committee for three years, and the Judicial Fellows Commission. The former is one of the most important committees of the Judicial Conference and has numerous responsibilities, the most important of which are the review of proposed criminal legislation and communication to Congress of the Conference's view of the impact of that legislation on the federal courts; supervision of the federal probation and pretrial services system with its well over 6000 officers and pressing, on its behalf, issues of importance to officers including, but not limited to, arguing for sufficient funds for critically important programs such as drug treatment; and proposing amendments to the Sentencing Guidelines to the Sentencing Commission and meeting with the Commission on a regular basis to discuss both those proposals and changes the Commission was pursuing. As Chair of the Criminal Law Committee, I spoke for the Conference on these and other matters.

My service as a Commissioner on the Judicial Fellows Commission is important in a different way, although certainly my role is not nearly as difficult or demanding. A small group of Commissioners selects four persons from the well over one hundred applications of highly qualified men and women working in public service, academia and private practice. One is selected to spend a year at the Supreme Court of the United States, another is selected for the Administrative Office of the U.S. Courts, a third is selected for the Federal Judicial Center, and a fourth is selected for the Sentencing Commission. The extraordinary men and women who are selected as Fellows are given a once in a lifetime opportunity and their contribution has been profound. To have played a role in that is important to me, as was the opportunity to have helped steer law students and new lawyers in the right direction, which, I believe, my service as Chair of the Root Tilden Selection Committee and Co-chair of the National Conference of the American Inns of Court has done.

On a smaller scale, I rate my service as Chair of the Criminal Law Committee of my Court to be significant primarily for one reason. Last year, under my supervision and with my participation, a new Criminal Justice Act Plan was developed for the District of New Jersey. That plan set up, among other things, a fairly strict experience requirement for CJA attorneys, a training program for attorneys who wish to serve as CJA attorneys but do not yet have the requisite experience, semi-annual programs for all CJA attorneys at which changes in the criminal law and the

Sentencing Guidelines are discussed, and, importantly, a merit selection committee comprised of judges, magistrate judges, the public defender, and criminal defense attorneys in private practice who select the CJA attorneys and review their performance at year end. The new CJA Plan is being pointed to as a model throughout the country.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

The only such interest I have is in a Chase Retirement Management Account (Chase Manhattan Bank, P.O. Box 92930, Rochester, N.Y. 14692) to which I have not contributed in many years. Its market value as of April 30, 1999 was \$28,183.96.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

The United States Court of Appeals for the Third Circuit circulates a conflicts list as to each case to which a Judge is assigned which enables the Judge to determine if he or she has a conflict with any party on the list. The Court of Appeals also maintains a list of all public companies in which a Judge owns stock, and cases in which those companies are parties are not assigned to that Judge. I cannot conceive of any category of litigation that would raise a potential conflict and in the unlikely event that any personal financial holdings would raise such a conflict, I would, of course, disqualify myself. I have complied at all times with the Code of Conduct for United States Judges and will continue to do so.

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court?

No.

4. 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, interests, gifts, rents, royalties, patents, 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).

Financial disclosure report supplied.

5. Please complete the attached financial net worth statement in detail (add schedules as called for).

Net worth statement supplied.

6. Have you ever held a position or played a role in a political campaign?

No.

III. GENERAL (PUBLIC)

1. 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.

Prior to entering the practice of law in 1974, I worked over many years for a voluntary hospital in the area in which I lived, a hospital which primarily served the poor. I formed and was President of the Junior Auxiliary and, when I was no longer "junior," joined the Women's Auxiliary and was President of that for several years. I spearheaded fundraising drives and did volunteer work in the hospital itself and remain proud to this day of what I was able to accomplish, i.e. helping so many people who needed help.

From the time I entered the practice of law and until the present, I have been in public service, first as an Assistant U.S. Attorney and then as a United States District Judge and have over the years made generous financial contributions to many organizations which serve the disadvantaged. Because, however, I was a fairly visible Assistant U.S. Attorney and am a well-known United States District Judge, I have always been sensitive to the possibility or probability that by working in and with organizations, I would appear to be lending the prestige of my positions to advance the interests of those organizations which, at bottom, raise money to help their various constituencies. Indeed, the Code of Conduct for United States Judges, which regulates the extra-judicial activities of Judges of the United States Courts, specifically prohibits such things as fundraising and membership solicitation for educational, religious, charitable, fraternal and civic organizations and the use of the prestige of the judicial office for such purposes.

I have, however, always been active in speaking to groups of children, teenagers, law students, and young lawyers about law, about life, and about what is important for one to succeed. I have brought classes of children to my court on numerous occasions and, most recently, brought the young daughters of the men and women who work in this Court to my courtroom on "Take Your Daughters to Work Day." I have gone to many schools to speak to young people, and just last month spoke to the finalists of the

county debating competition at the local high school. I also have judged innumerable moot court competitions at various law schools and spend as much time as possible speaking with law students and with young lawyers at such things as the American Inns of Court, helping to boost their confidence level. And, importantly, I am very supportive of Renaissance House, a facility in Newark, New Jersey, for teenagers who have gotten into trouble with drugs and/or with the law. These young people live at Renaissance House for a period of months in a highly disciplined, boot-camp type environment, and learn from dedicated men and women how to get their lives back on track. The success stories are legion and very moving. I have spoken to these young people and remember their very positive reaction when I told them what Herman Cain, the CEO of Godfather's Pizza, once said: "There are two ways you can live your life – looking in front of you or looking over your shoulder. Show me some old drug dealers. Show me some old gang members. You decide whether you want to get old and look forward to the rest of your life, or whether you want to look behind you all the time and never see old."

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies?

No.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

There is no selection commission in my jurisdiction to recommend candidates for nomination to the federal courts. I was contacted and interviewed by officials at the White House and the Department of Justice and my rather voluminous paperwork prepared following those interviews was thereafter forwarded to the ABA and FBI for their review. I was notified in early June that I would be nominated for a seat on the United States Court

of Appeals for the Third Circuit.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question?

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

In my view, a judge is "activist" when he or she goes beyond the limits of his or her authority and takes on the authority delegated to the legislative or executive branches of government or to an institution of government. In its most basic form, judicial activism is at work when a judge makes or expands the law, in effect legislating

from the bench, instead of interpreting and applying the law and properly deferring to the Constitution and/or the will of the people as expressed through their legislatures.

My view -- and definition -- of judicial activism has not changed over the years. Almost sixteen years ago, when my nomination to the District Court was pending, I answered the identical question as follows:

The role of a federal judge is to analyze the facts of a given case and apply the law to the facts as found. In applying that law, a judge is confined by the Constitution, by statutes and regulations, and by controlling precedent.

It is primarily the Constitution which defines and limits the power of a federal judge, definition that would serve no purpose if at any time -- at his or her pleasure -- a judge could expand or reverse what the Constitution states or, for that matter, fail to accord the requisite deference to legislative and executive action. Moreover, the Constitution provides for a formal amendment process and, to the extent it is not amended, it should be interpreted where possible in its original sense. Thus, in my view, a judge acts constitutionally if he or she determines the meaning of the Constitution intended by the framers if that intent can be gleaned, on occasion being required to make explicit what is implicit. If a judge manipulates the Constitution for the purpose of being able to discover and articulate rights not there enunciated, he or she is rewriting the Constitution without the authorization of the people.

It is, of course, true that many decisions at the district court level have far-reaching ramifications and implications. Nonetheless,

each case must be decided in full recognition that it is the particular case before the court which requires resolution and not a perceived social problem of which that case may or may not be an example and for which that case may provide the vehicle for that problem's solution.

Where injustice in fact exists or is perceived to exist, courts must accept the power of Congress to act, with correction of a problem properly attained through the enactment of laws by Congress and the state legislatures, and not by the imposition of a judge's personal opinions, inclinations, and reactions as rules of conduct on others. Similarly impermissible, in my view, is easing jurisdictional requirements with an eye toward imposing duties upon government and society and enabling continuing oversight to assure that those duties are effectively discharged. The suggestion that, alone among the branches, the judiciary has been given unaccountable and unlimited powers held in check only by self restraint, finds no support in the Constitution or elsewhere.

In sum, the Constitution should control decision of a constitutional claim, and a statute, particularly where Congress has spoken with precision, should control decision of a statutory claim. Additionally, of course, a federal district court judge is constrained by the decisions of higher courts. In colloquial terms, it is not the function of a federal judge to be "in business" for himself -- or for herself.

That view of judicial activism, expressed sixteen years ago, remains my view today.

42-10 (w)
Rev 1-98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub L No 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Barry, Maryanne T.		2. Court or Organization US Court of Appeals 3rd Circuit	3. Date of Report 06/14/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge		5. Report Type (check type) <input checked="" type="checkbox"/> Nomination, Date <u>6/17/99</u> Initial _____ Annual _____ Final _____	6. Reporting Period 01/01/1998 to 05/30/1999
7. Chambers or Office Address USPO & Courthouse Newark, NJ 07101		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Member	Midland Associates L.L.C.
2 Member	Park Briar Associates, L.L.C.
3 Co-Trustee	Maryanne T. Barry Trust

I. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
2	
3	

II. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1998	Barry & McMoran (S) - Legal Services	
2 1998	Tompkins, McGuire, Wachenfeld, & Barry LLP (S) - Legal Services	
3 1999	Tompkins, McGuire, Wachenfeld, & Barry LLP (S) - Legal Services	
4		

FINANCIAL DISCLOSURE REPORT	Name of person reporting	Date of Report
	Barry, Maryanne T.	06/14/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Prudential Securities (S)	Margin Loan	P
2	PaineWebber Inc.	Margin Loan	P
3			
4			
5			
6			

* VAL. CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Maryanne T.	Date of Report 06/14/1999
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VII. Page 1 INVESTMENTS AND TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical (J)* for joint ownership of reporting individual and spouse. (S)* for separate ownership by spouse. (DC)* for ownership by dependent child.</i> <i>Place (X) after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 Midland Associates, L.L.C. Brooklyn, NY	G	LLC	M	U					
2 Park Briar Associates, L.L.C. Brooklyn, NY	F	LLC	J	U					
3 Maryanne T. Barry Trust Garden City, NY	F	TRUST	N	U					
4 Clyde Hall, Inc Brooklyn, NY	D	S-CORP	J	U					
5 Highlander Hall, Inc. Brooklyn, NY	E	S-CORP	J	U					
6 Coronet Hall, Inc. Brooklyn, NY	E	S-CORP	J	U					
7 All County Building Supply Manhasset, NY	G	S-CORP	L	U					
8 Apartment Management Associates, Inc. Brooklyn, NY	G	S-CORP	O	U					
9 Sussex Hall, Inc Brooklyn, NY	A	S-CORP	J	U					
10 Trump Village Construction Corp. Brooklyn, NY	A	S-CORP	J	U					
11 Wexford Hall, Inc. Brooklyn, NY	A	S-CORP	J	U					
12 Chelsea Hall, L.L.C. Brooklyn, NY	A	LLC	J	U					
13 Wilshire Hall, L.L.C. Brooklyn, NY	A	LLC	J	U					
14 Beach Haven Shopping Center LLC Brooklyn, NY	A	LLC	J	U					
15 Shore Haven Shopping Center, L.L.C. Brooklyn, NY		None	J	U					
16 Beach Haven Apartments #3, L.L.C. Brooklyn, NY	A	LLC	J	U					
17 Fontainebleau Apartments, L.L.C. Brooklyn, NY	A	LLC	J	U					
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,000,001 or more									
3 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
4 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Barry, Maryanne T. Date of Report: 06/14/1999

VII. Page 2 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(N)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions)									
18 Lawrence Towers Apartments, L.L.C. Brooklyn, NY	A	LLC	J	U					
19 Beach Haven Apartments #1, Inc Brooklyn, NY	B	S-CORP	J	U					
20 Shore Haven Apartments #1, Inc. Brooklyn, NY	B	S-CORP	J	U					
21 Country Properties, L.L.C. Brooklyn, NY		None	J	U					
22 Country Apartments, L.L.C. Brooklyn, NY		None	N	U					
23 Tysens Park Apartments, L.L.C. Brooklyn, NY		None	J	U	BUY	10/1	J		
24 CNA Money Fund (S)	E	Dividend	M	T					
25 Prudential Money Market (S)		None			Redemption	1/2	J		
26 Fred C. Trump III Trust 1976 - List of assets:									
27 Cash	A	Interest	K	T					
28 Mortgage Receivable - Shore Haven Apartments #1 Inc	F	Interest	N	T					
29 Mortgage Receivable - Fontainebleau Apartments LLC	E	Interest	M	T					
30 Mortgage Receivable - Beach Haven Apartments #1	D	Interest	L	T					
31 Mortgage Receivable - Chelsea Hall, LLC	C	Interest	K	T					
32 Elizabeth J. Trump Trust - List of assets:									
33 Cash	A	Interest	K	T					
34 Mortgage Receivable - Shore Haven Apartments #1 Inc	F	Interest	O	T					
1 Ino/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

VII. Page 3 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical (J) for joint ownership of reporting individual and spouse, (S) for separate ownership by spouse, (DC) for ownership by dependent child. Place (X) after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions)									
35 Mortgage Receivable - Fontainebleau Apartments LLC	E	Interest	M	T					
36 Mortgage Receivable - Chelsea Hall LLC	D	Interest	L	T					
37 Donald J. Trump Trust - List of assets:									
38 Cash	B	Interest	K	T					
39 Mortgage Receivable - Shore Haven Apartments #1 Inc	F	Interest	O	T					
40 Mortgage Receivable - Fontainebleau Apartments LLC	D	Interest	M	T					
41 Mortgage Receivable - Chelsea Hall LLC	E	Interest	M	T					
42 Maryanne Barry "Fred" Trust - List of assets:									
43 Land	D	Rent	M	U					
44 Maryanne Barry "Elis" Trust - List of assets:									
45 Land	D	Rent	L	U					
46 Maryanne T. Barry Trust - List of assets:									
47 Cash	B	Interest	K	T					
48 Mortgage Receivable - Shore Haven Apartments #1, Inc	F	Interest	N	T					
49 Mortgage Receivable - Chelsea Hall LLC	D	Interest	L	T					
50 David W. Desmond Trust - List of assets:									
51 Cash	A	Interest	K	T					

1 Inc/Gain Codes: A=\$1,000 or less Col. B1, D4	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=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3)	K=\$15,001-\$50,000	L=\$50,001-\$100,000	M=\$100,001-\$250,000	N=\$250,001-\$500,000	P1=\$1,000,001-\$5,000,000
3 Val Mth Codes: Q=Appraisal (Col. C2)	U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Maryanne T.	Date of Report 06/14/1999
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VII. Page 4 INVESTMENTS AND TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 16-14 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
52 Mortgage Receivable - Shore Haven Apartments #1, Inc.	E	Interest	N	T					
<input checked="" type="checkbox"/> Mortgage Receivable - Fontainebleau Apartments, LLC	D	Interest	L	T					
54 Mortgage Receivable - Beach Haven Apartments #1, Inc.	D	Interest	L	T					
55 Mortgage Receivable - Chelsea Hall, LLC	C	Interest	K	T					
56 Loan Receivable - Maryanne Barry		None	J	T					
57 Robert S. Trump Trust - List of assets:									
58 Cash	B	Interest	K	T					
59 Mortgage Receivable - Shore Haven Apartments #1, Inc.	F	Interest	O	T					
60 Mortgage Receivable - Fontainebleau Apartments, LLC	D	Interest	M	T					
<input checked="" type="checkbox"/> Mortgage Receivable - Chelsea Hall, LLC	E	Interest	M	T					
62 Mary Trump Trust 1976 - List of assets:									
63 Cash	A	Interest	L	T					
<input checked="" type="checkbox"/> Mortgage Receivable - Shore Haven Apartments #1, Inc.	E	Interest	N	T					
65 Mortgage Receivable - Fontainebleau Apartments LLC	E	Interest	M	T					
66 Mortgage Receivable - Beach Haven Apartments #1, Inc.	D	Interest	L	T					
<input checked="" type="checkbox"/> Mortgage Receivable - Chelsea Hall, LLC	D	Interest	K	T					
68 MAT GR-TR, FBO Elizabeth Trump Grau - List of assets:									
1 Ino/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 Col B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col C2) U=Book Value V=Other W=Estimated									

VII. Page 5 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse. "(S)" for separate ownership by spouse. "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
69 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U						
70 Sussex Hall, Inc.	E	S-Corp	M	U						
71 Beach Haven Apartments #1, Inc.	G	S-Corp	P1	U						
72 Beach Haven Apartments #3, LLC	E	LLC	N	U						
73 Trump Village Construction Corp.	G	S-Corp	P1	U						
74 Wexford Hall, Inc.	F	S-Corp	N	U						
75 MAT GR-TR, FBO Maryanne Trump Barry - List of assets:										
76 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U						
77 Sussex Hall, Inc.	E	S-Corp	M	U						
78 Beach Haven Apartments #1, Inc.	G	S-Corp	P1	U						
79 Beach Haven Apartments #3, LLC	E	LLC	N	U						
80 Trump Village Construction Corp.	G	S-Corp	P1	U						
81 Wexford Hall, Inc.	F	S-Corp	N	U						
82 MAT GR-TR, FBO Robert S. Trump - List of assets:										
83 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U						
84 Sussex Hall, Inc.	E	S-Corp	M	U						
85 Beach Haven Apartments #1, Inc.	G	S-CORP	P1	U						
1 Inc/Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000 Col. B1, D4) F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H1=\$1,000,001-\$5,000,000; H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000; P1=\$1,000,001-\$5,000,000; P2=\$5,000,001-\$25,000,000; P3=\$25,000,001-\$50,000,000; P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market (Col. C2) U=Book Value; V=Other; W=Estimated										

VII. Page 6 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical (J) for joint ownership of reporting individual and spouse. (S) for separate ownership by spouse. (DC) for ownership by dependent child.</i> <i>Place (X) after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
86 Beach Haven Apartments #3, LLC.	E	LLC	N	U					
87 Trump Village Construction Corp.	G	S-Corp	P1	U					
88 Wexford Hall, Inc.	F	S-Corp	N	U					
89 FCT GR-TR, FBO Robert S. Trump - List of assets:									
90 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U					
91 Sussex Hall, Inc.	E	S-Corp	M	U					
92 Beach Haven Apartments #1, Inc.	G	S-Corp	P1	U					
93 Beach Haven Apartments #3, Inc.	E	LLC	N	U					
94 Trump Village Construction Corp.	G	S-Corp	P1	U					
95 Wexford Hall, Inc.	F	S-Corp	N	U					
96 Loan - Beach Haven Apartments #1, Inc.	E	Interest			Repaid	2/22	N		
97 FCT GR-TR, FBO Elizabeth Trump Grau - List of assets:									
98 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U					
99 Sussex Hall, Inc.	E	S-Corp	M	U					
100 Beach Haven Apartments #1, Inc.	G	S-Corp	P1	U					
101 Beach Haven Apartments #3, LLC	E	LLC	N	U					
102 Trump Village Construction Corp.	G	S-Corp	P1	U					
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting
Barry, Maryanne T. Date of Report
06/14/1999

VII. Page 7 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 16-34 of Instructions.)*

A Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(D)" after each asset exempt from prior disclosure.</small>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions)									
103 Wexford Hall, Inc	F	S-CORP	N	0					
104 Loan - Beach Haven Apartments #1, Inc.	E	Interest			Repaid	2/22	N		
105 FCT GR-TR, FBO Maryanne Trump Barry - List of assets:									
106 Shore Haven Apartments #1, Inc.	G	S-Corp	P1	U					
107 Sussex Hall, Inc.	E	S-Corp	M	U					
108 Beach Haven Apartments #1, Inc.	E	S-Corp	P1	U					
109 Beach Haven Apartments #3, LLC	E	LLC	N	U					
110 Trump Village Construction Corp.	G	S-Corp	P1	U					
111 Wexford Hall, Inc.	F	S-Corp	N	0					
112 Loan - Beach Haven Apartments #1, Inc.	E	Interest			Repaid	2/22	N		
113 Chase Manhattan Bank	E	Interest	L	T					
114 20000 Airboss of America Corp common (\$)		None			Exchange	6/17	J		
115 20000 Airboss of America Corp common (\$)		None			Exchange	6/17	J		
116 60000 Airboss of America Corp common (\$)		None			BUY	VAR	K		
117 60000 Airboss of America Corp common (\$)		None			Exchange	06/17	L		
118 25000 Airboss of America Corp common (\$)		None	L	T	Exchange	06/17	L		
119 100 CALL Asyst Technologies Inc June 22 1/2 (\$)		None			BUY	5/5	K		
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Betty, Marjanne T. Date of Report: 06/14/1999

VII. Page 8 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 16-14 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical (J) for joint ownership of reporting individual and spouse, (S) for separate ownership by spouse, (DC) for ownership by dependent child.</i> <i>Place (D) after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions)										
120 100 CALL Asyst Technologies Inc June 22 1/2 (S)		None			SELL	6/22	J			
121 20000 Compaq Computer Corp common (S)	A	Dividend			BUY	VAR	O			
122 20000 Compaq Computer Corp common (S)		None			SELL	8/28	O	E		
123 5000 Digital Equipment Corp common (S)		None			SELL	1/27	N	E		
124 100 CALL Digital Equipment Corp JAN 55 (S)		None			SELL	1/20	J			
125 10000 Nabors Industries Inc common (S)		None			BUY	3/2	M			
126 10000 Nabors Industries Inc common (S)		None			SELL	3/25	N	E		
127 10000 Newmont Mining Corp common (S)	A	Dividend			BUY	3/26	N			
128 10000 Newmont Mining Corp common (S)		None			SELL	10/7	N			
129 10000 Staff Leasing Inc common (S)		None			BUY	4/24	N			
130 10000 Staff Leasing Inc common (S)		None			SELL	6/2	N			
131 5000 Winstar Communications Inc common (S)		None			SELL	3/25	M	F		
132 10000 Winstar Communications Inc common (S)		None			BUY	1/8	N			
133 10000 Winstar Communications Inc common (S)		None			SELL	3/25	N	G		
134 100 CALL Winstar Comm Jan 30 (S)		None			BUY	1/12	J			
135 100 CALL Winstar Comm Jan 30 (S)		None			SELL	1/15	K	E		
136 100 CALL Winstar Comm Apr 30 (S)		None			SELL	2/26	L	E		
1 Ino/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

VII. Page 9 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset Ⓢ exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
137 50 CALL Winstar Comm April 30 (S)		None			BUY	1/8 91	J			
138 50 CALL Winstar Comm April 30 (S)		None			SELL	2/26 91	K	E		
139 50 CALL Winstar Comm April 30 (S)		None			BUY	1/8 91	J			
140 50 CALL Winstar Comm April 30 (S)		None			SELL	2/26 91	K	E		
141 100 CALL Winstar Comm April 45 (S)		None			BUY	3/24 91	K			
142 100 CALL Winstar Comm April 45 (S)		None			SELL	3/27 91	K	D		
143 100 CALL Winstar Comm MAY 40 (S)		None			BUY	5/7 91	J			
144 100 CALL Winstar Comm MAY 40 (S)		None			SELL	5/18 91	J			
145 200 CALL Winstar Comm AUG 40 (S)		None			BUY	VAR 91	K			
146 200 CALL Winstar Comm AUG 40 (S)		None			SELL	8/24 91	J			
147 200 CALL Winstar Comm DEC 30 (S)		None			BUY	11/11 91	L			
148 200 CALL Winstar Comm DEC 30 (S)		None			SELL	VAR 91	L	E		
149 100 CALL Winstar Comm DEC 35 (S)		None			BUY	12/8 91	J			
50 100 CALL Winstar Comm DEC 35 (S)		None			Exercised	12/18 91	J			
51 10000 Asyst Techs Inc common (S)		None			BUY	3/24 91	H			
52 10000 Asyst Techs Inc common (S)		None			SELL	2/5 91	H	E		
53 10000 Asyst Techs Inc common (S)		None			BUY	01/20 91	H			
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Marianne T.	Date of Report 06/14/1999
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VII. Page 10 INVESTMENTS AND TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(N)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g. dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g. buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
154 10000 Asyst Techs Inc common (S)		None			SELL	2/5				
						99				
155 100 CALL Asyst Technologies Inc FEB 25 (S)		None			BUY	01/20				
						99				
156 100 CALL Asyst Technologies Inc FEB 25 (S)		None			SELL	2/5				
						99				
157 100 CALL Asyst Technologies Inc MAY 15 (S)		None			BUY	4/5				
						99				
158 100 CALL Asyst Technologies Inc MAY 15 (S)		None			SELL	4/26			E	
						99				
159 20000 NBTY Inc common (S)		None			BUY	11/23				
						99				
160 20000 NBTY Inc common (S)		None			SELL	2/5				
						99				
161 200 CALL NBTY Inc MAR 7 (S)		None			BUY	03/22				
						99				
162 200 CALL NBTY Inc MAR 7 (S)		None			SELL	1/12			E	
						99				
163 40000 Winstar Communications Inc common (S)		None			BUY	VAR			P1	
						99				
164 65000 Winstar Communications Inc common (S)		None			SELL	VAR			P1 H1	
						99				
165 200 CALL Winstar Communications MAR 30 (S)		None			BUY	VAR			M	
						99				
166 200 CALL Winstar Communications MAR 30 (S)		None			Exercised	3/19			M	
						99				
167 300 CALL Winstar Communications MAY 40 (S)		None			BUY	VAR			M	
						99				
168 100 CALL Winstar Communications MAY 40 (S)		None			SELL	VAR			H F	
						99				
169 200 Call Winstar Communications MAY 40 (S)		None			Exercised	5/21			L	
						99				
170 100 CALL Winstar Communications MAY 45 (S)		None			BUY	4/28			L	
						99				

1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Maryanne T.	Date of Report 06/14/1999
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VII. Page II INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
171 100 CALL Winstar Communications MAY 45 (S)		None			SELL	5/13	L	E		
200 PUT Winstar Communications MAY 50 (S)		None			BUY	VAR 99	J			
173 200 PUT Winstar Communications MAY 50 (S)		None			SELL	VAR 99	L	F		
174 10000 Asyst Techs Inc common (S)		None	M	T	BUY	6/30 99	M			
175 20000 Asyst Techs Inc common (S)		None	N	T	BUY	5/14 99	N			
176 10000 Asyst Techs Inc common (S)		None	M	T	BUY	5/21 99	N			
177 10000 Incyte Pharms Inc common (S)		None	M	T	BUY	4/6 99	N			
178 10000 Incyte Pharms Inc common (S)		None	M	T	BUY	4/12 99	N			
179 10000 Incyte Pharms Inc common (S)		None	M	T	BUY	4/13 99	N			
180 10000 Incyte Pharms Inc common (S)		None	M	T	BUY	5/12 99	N			
181 100 CALL Incyte Pharms Inc JUN 22 (S)		None	K	T	BUY	4/8 99	K			
182 10000 Pillowtex Corp common (S)		None	M	T	BUY	4/19 99	M			
183 500 Pillowtex Corp common (S)		None	J	T	BUY	5/14 99	J			
184 10000 Winstar Communications Inc common (S)		None	O	T	BUY	5/21 99	N			
185 5000 Winstar Communications Inc common (S)		None	N	T	BUY	5/19 99	N			
186 10000 Winstar Communications Inc common (S)		None	O	T	BUY	6/2 99	N			
187 5000 Winstar Communications Inc common (S)		None	N	T	BUY	7/14 99	N			
1. Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more										
2. Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 Col. C1, D3 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3. Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market Col. C2 U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT Name of Person Reporting
Barry, Marianne T. Date of Report
06/14/1999

VII. Page 12 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions)									
188 10000 Winstar Communications Inc common (S)		None	O	T	BUY	9/29	N		
189 10000 Winstar Communications Inc common (S)		None	O	T	BUY	11/9	H		
190 6000 Winstar Communications Inc common (S)		None	N	T	BUY	12/18	H		
191 5000 Winstar Communications Inc common (S)		None	N	T	BUY	12/18	H		
192 4000 Winstar Communications Inc common (S)		None	N	T	BUY	12/18	H		
193 10000 Winstar Communications Inc common (S)		None	O	T	BUY	2/18	N		
194 15000 Winstar Communications Inc common (S)		None	O	T	BUY	2/18	N		
195 10000 Winstar Communications Inc common (S)		None	O	T	BUY	5/21	N		
196 200 CALL Winstar Communications JUN 40 (S)		None	M	T	BUY	5/19	H		
197 10000 Agouron Pharmaceuticals Inc common		None			SELL	11/20	N	E	
198 10000 Burlington Industries Inc common		None			BUY	2/12	H		
199 10000 Burlington Industries Inc common		None			SELL	11/13	H		
200 6000 Digital Equipment Corp common		None			SELL	1/27	N	F	
201 9000 Digital Equipment Corp common		None			SELL	6/16	O	G	
202 10000 Medtronic Inc common	B	Dividend			SELL	11/20	O	G	
203 2500 Parkervision Inc common		None			SELL	11/13	K		
204 2500 Parkervision Inc common		None			SELL	11/16	K		

1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 Col. C1, D3 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 Col. C2 U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Marianne T.	Date of Report 06/14/2009
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VII. Page 13 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g. dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g. buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
205 10000 Pepsico Inc common	D	Dividend			SELL	10/14	N	E		
206 1000 Tricon Global Restaurants common		None			SELL	10/14	K	D		
207 4000 Uromed Corp common		None			SELL	11/13	J			
208 5000 Varian Associates common	B	Dividend			SELL	10/14	N			
209 100 CALL Intel		None			SELL	9/16	L			
210 100 CALL Intel		None			BUY	11/11	M			
211 100 CALL Intel		None			SELL	11/16	K			
212 100 CALL Intel		None			BUY	11/25	X			
213 75 CALL Cisco		None			SELL	8/24	L			
214 75 CALL Cisco		None			BUY	8/31	K	E		
215 50 CALL Merck		None			SELL	10/13	K			
216 50 CALL Merck		None			BUY	12/9	M			
217 50 CALL Pfizer		None			SELL	10/28	K			
218 50 CALL Pfizer		None			BUY	11/25	K			
219 100 CALL Intel		None			SELL	11/25	K			
220 100 CALL Intel		None			BUY	12/8	L			
221 50 CALL Merck		None			SELL	1/15	K			

1 Ino/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Barry, Maryanne T. Date of Report 06/14/1999

VII. Page 14 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
222 50 CALL Merck		None			BUY	4/14			
						91			
223 75 CALL Cisco		None			SELL	3/27			
						91			
224 75 CALL Cisco		None			BUY	8/24			
						91			
225 100 CALL Intel		None			SELL	9/4			
						91			
226 100 CALL Intel		None			BUY	9/16			
						91			
227 50 CALL Merck		None			SELL	9/4			
						91			
228 50 CALL Merck		None			BUY	10/13			
						91			
229 100 CALL Agouron		None			SELL	9/23			
						98			
230 100 CALL Agouron		None			BUY	10/16			C
						91			
231 100 CALL Sun Microsystems		None			SELL	9/22			
						91			
232 100 CALL Sun Microsystems		None			BUY	10/5			E
						98			
233 50 CALL Amgen		None			SELL	9/22			
						91			
234 50 CALL Amgen		None			BUY	10/7			D
						91			
235 5000 Boston Scientific common		None			Stock Split	11/30			
						91			
236 5000 Boston Scientific common		None			SELL	1/25			
						99			
237 5000 Boston Scientific common		None			SELL	1/26			
						99			
238 1250 Cisco Systems common		None			SELL	1/25			F
						91			

1 Ino/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

VII. Page 15 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
239 150 CALL Compaq		None			SELL	3/24		L	
240 150 CALL Compaq		None			BUY	4/21		K E	
241 50 CALL Amgen		None			SELL	1/28		K	
242 50 CALL Amgen		None			BUY	2/2		L	
243 50 CALL Pfizer		None			SELL	11/25		L	
244 50 CALL Pfizer		None			BUY	2/18		L	
245 100 CALL Amgen		None			SELL	2/2		L	
246 100 Call Amgen		None			BUY	4/21		K E	
247 200 CALL Intel		None			SELL	12/8		L	
248 200 CALL Intel		None			BUY	4/26		L E	
249 150 CALL Nextel		None	K	T	SELL	4/8		L	
250 10000 Allstate Corp common		None	N	T	BUY	4/15		N	
251 5000 Amer Intl Group Inc common	A	Dividend	O	T	BUY	10/14		N	
252 5000 Amgen Inc common		None			Stock Split	2/26			
253 10000 Amgen Inc common		None	O	T					
254 20000 Asyst Technologies Inc common		None	N	T					
255 5000 Caterpillar Inc common	C	Dividend	N	T	BUY	12/11		H	
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 Col. C1, D3 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market Col. C2 U=Book Value V=Other W=Estimated									

VII. Page 16 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code Method (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
256 10000 Centocor Inc common		None	N	T	BUY	12/18 97	N			
257 3750 Cisco Systems Inc common		None			Stock Split	9/15 97				
258 10000 Cisco Systems Inc common		None	P1	T						
259 15000 Compaq Computer Corp common	A	Dividend	N	T	BUY	VAR 98	N			
260 10000 Data General Corp common		None	M	T	BUY	1/7 99	M			
261 10000 General Electric common	E	Dividend	P1	T						
262 10000 Intel Corp common		None			Stock Split	4/15 99				
263 20000 Intel Corp common	B	Dividend	P1	T						
264 5000 Intl Business Machines common	A	Dividend	O	T	BUY	1/25 99	N			
265 10000 Lucent Technologies Inc common	A	Dividend	O	T	BUY	11/13 98	N			
266 5000 MCI Worldcom Inc common		None	N	T	BUY	1/8 99	N			
267 5000 Merck & Co common		None			Stock Split	2/16 97				
268 10000 Merck & Co common	D	Dividend	O	T						
269 15000 Nextel Communications Inc common		None	O	T						
270 2500 Pfizer Inc common	B	Dividend	N	T						
271 2500 Pfizer Inc common	B	Dividend	N	T	BUY	3/18 98	M			
272 2500 Pfizer Inc common	B	Dividend	N	T	BUY	2/18 97	N			
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 Col. B1, D4 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

VII. Page 17 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)

A. Description of Assets <i>Indicate where applicable: owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
273 10000 Sun Microsystems Inc common		None			Stock Split	4/14				
274 20000 Sun Microsystems Inc common		None	F1	T						
275 40000 Trump Hotel & Casino Resorts Inc common		None	M	T						
276 60000 Trump Hotels & Casino Resorts Inc common		None	M	T	BUY	10/8		M		
277 15000 Minstar Communications Inc common		None	O	T						
278 The Mary Anne Trump Qualified Personal Res.Trust - Assets:										
279 Personal Residence - New York, NY	New		P1	Q						
280 Chase Manhattan Bank - IRA List of Assets:										
281 Dreyfus GNMA Fund			K	T						
282 Merrill Lynch - IRA (S) List of Assets:	List		O	T						
283 ML Basic Value Fund CL A										
284 ML Basic Value Fund CL B										
285 ML Basic Value Fund CL D										
286 PaineWebber Resource		None			Redeemed	1/2		J		
287 Oakdale Investors, L.L.C.	A	LLC	J	U	BUY	6/15		J		
288 Sinclair Farms Investors, L.L.C.	A	LLC	J	U	BUY	6/15		J		
289 Ocean Air Investors, L.L.C.	A	LLC	J	U	BUY	6/15		J		
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Barry, Maryanne T.	06/14/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

1. Distributions were received from the following S Corps and Limited Liability Companies listed in Part VII.

⊗ Midland Associates LLC	\$ 40,000
Park Briar Associates LLC	72,000
Highlander Hall, Inc.	70,000
Coronet Hall, Inc.	30,000
All County Building Supply	
⊗ & Maint. Co., Inc.	1,024,690
Apartment Management Assoc. Inc.	1,056,825
Clyde Hall, Inc.	12,783
Beach Haven Apartments #1, Inc.	564
Shore Haven Apartments #1, Inc.	1420

2. The date of appraisal of the personal residence listed in The Mary Anne Trump Qualified Personal Residence Trust is June 8, 1998.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Barry, Maryanne T.	Date of Report 06/14/1995
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SECTION HEADING. (Indicate part of report.)
Information continued from Parts I through VI, inclusive.

PART 1. POSITIONS (cont'd.)

Line	Position	Name of Organization/Entity
4	Co-Trustee	David W. Desmond Trust
5	Co-Trustee	Robert S. Trump Trust
6	Co-Trustee	Mary Trump Trust 1976
7	Co-Trustee	Fred C. Trump III Trust 1976
8	Co-Trustee	Elizabeth J. Trump Trust
9	Co-Trustee	Donald J. Trump Trust
10	Member	Chelsea Hall, L.L.C.
11	Member	Wilshire Hall, L.L.C.
12	Member	Beach Haven Shopping Center LLC
13	Member	Shore Haven Shopping Center, L.L.C.
14	Member	Beach Haven Apartments #3, L.L.C.
15	Member	Fontainebleau Apartments, L.L.C.
16	Member	Lawrence Towers Apartments, L.L.C.
17	Co-Trustee	MAT GR-TR, FBO Elizabeth Trump Grau
18	Co-Trustee	MAT GR-TR, FBO Maryanne Trump Barry
19	Co-Trustee	MAT GR-TR, FBO Robert S. Trump
20	Co-Trustee	FCT GR-TR, FBO Robert S. Trump
21	Co-Trustee	FCT GR-TR, FBO Elizabeth Trump Grau
22	Co-Trustee	FCT GR-TR, FBO Maryanne Trump Barry
23	Member	Country Apartments, L.L.C.
24	Member	Country Properties, L.L.C.
25	Member	Country Investors, L.L.C.
26	Member	Tysens Park Apartments, L.L.C.
27	Member	Oakdale Investors, L.L.C.
28	Member	Sinclair Farms Investors, L.L.C.
29	Member	Ocean Air Investors, L.L.C.
30	Co-Trustee	The Mary Anne Trump Qualified Personal Residence Trust

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Barry, Maryanne T.	06/14/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Maryanne Trump Barry Date June 17, 1999

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

MARYANNE AND JOHN BARRY

FINANCIAL STATEMENT

NET WORTH

May 31, 1999

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	343	888 42	Notes payable to banks-secured		
U.S. Government securities-add schedule			Notes payable to banks-unsecured		
Listed securities-add schedule	11,997	078 78	Notes payable to relatives		
Unlisted securities-add schedule			Notes payable to others		
Accounts and notes receivable:			Accounts and bills due	5 000	00
Due from relatives and friends	1,370	000 00	Unpaid income tax		
Due from others			Other unpaid tax and interest		
Doubtful			Real estate mortgages payable-add schedule		
Real estate owned-add schedule (home)	1,500	000 00	Chattel mortgages and other liens payable		
(home)	1,000	000 00	Other debts-itemize:		
Real estate mortgages receivable					
Autom and other personal property	450	000 00			
Cash value-life insurance	39	000 00			
Other assets-itemize: (IRA) phase retirement	888	030 88			
Investments in closely held entities	5,300	000 00			
			Total Liabilities	5 000	00
			Net Worth	22,909	227 20
Total Assets	22,914	227 20	Total Liabilities and net worth	22,914	227 20
CONTINGENT LIABILITIES	NONE		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					

SENATE JUDICIARY COMMITTEE

Questionnaire for Judicial Nominees

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. **Full name:** (Include any former names used.)
MARSHA SIEGEL BERZON
Also: Marsha Lee Berzon; prior to marriage, Marsha Lee Siegel

2. **Address:** List current place of residence and office address(es).

Current Place of Residence
Berkeley, California

Office
Altshuler, Berzon, Nussbaum, Berzon & Rubin
177 Post Street, Suite 300
San Francisco, CA 94108

3. **Date and place of birth:**

Cincinnati, Ohio, April 17, 1945

4. **Marital Status:** (Include maiden name of wife, or husband's name.) List spouse's occupation, employer's name and business address(es).

Married to:
Stephen Paul Berzon
Attorney
Altshuler, Berzon, Nussbaum, Berzon & Rubin
177 Post Street, Suite 300
San Francisco, CA 94108

5. **Education:** List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Harvard/Radcliffe Colleges, 1962-66, B.A. cum laude 1966

University of California, Berkeley, summer, 1964 (no degree)

Columbia University, 1966-67, Master's program in History (no degree)

University of California, Berkeley, Boalt Hall School of Law, 1970-73,
J.D. 1973

6. **Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Paid Employment

1966

United States
Office of Economic Opportunity
Washington, D.C.
Public relations specialist for the Job Corps program

1967-68

Abt Associates
55 Wheeler Street
Cambridge, MA
Research Associate

1968-69

Total Community Action
1420 S. Jefferson Davis Parkway
New Orleans, LA 70125
Research specialist

1970

Far West Laboratory for Educational Research & Development
730 Harrison St.
San Francisco, CA
Editor

1971-72

National Housing Law Project
2201 Broadway
Oakland, CA
Law Clerk

1973-74

Judge James R. Browning
United States Court of Appeals for the Ninth Circuit
San Francisco, CA
Law Clerk

1974-75

Justice William J. Brennan, Jr.
United States Supreme Court
Washington, D.C.
Law Clerk

1975-77

Woll & Mayer
815 15th Street, N.W.
Washington, D.C.
Associate

1978 - present:

Altshuler, Berzon, Nussbaum, Berzon, & Rubin
177 Post Street, Suite 300
San Francisco, CA 94108
(The firm was known as Altshuler & Berzon until 1990.)
Of counsel, 1978 - 1990
Partner, 1990 - present

1982-88

Marsha S. Berzon, A Professional Corporation
177 Post Street
San Francisco, CA
Employee, officer

1992

School of Social Welfare
Haviland Hall
University of California, Berkeley
Faculty Lecturer

1994

Cornell Law School
Myron Taylor Hall
Ithaca, New York 14853
Practitioner-in-Residence

Unpaid

1976-77, Member, Board of Directors and Secretary, Capitol East Children's Center, Washington, D.C.

1984-present, Member, Board of Directors, AFL-CIO Lawyers Coordinating Committee

1984-present, Member, Board of Directors, Legal Aid Society of San Francisco

1985-91, 1995-97, Member, Board of Directors, American Civil Liberties Union of Northern California; Vice President 1989-91

1993-94, Member, Foundation Committee, William J. Brennan, Jr. Center for Justice

1993-95, Member, Board of Directors, Berkeley High Development Group

7. **Military Service:** Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

National Merit Scholar, Radcliffe College; graduated cum laude

Order of the Coif, Boalt Hall School of Law; Articles Editor, California Law Review

Fellow, American Bar Foundation

California Women Lawyers 1987 Fay Stender Award

California Law Review Alumni of the Year, 1992

Listed, Steven Naifeh and Gregory White Smith, Best Lawyers in America (current and previous editions)

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

State Bar of California, 1973-present; Member of the California Commission on the Future of the Profession and the State Bar, 1993-95; Member of the Executive Board (1992 -1995) and Treasurer (1993-95) of the Labor and Employment Law Section.

Bar Association of San Francisco; Member of the Executive Committee of the Labor and Employment Section, 1990 - present; Co-Chair, 1989-92, Appellate Courts Committee.

California Women Lawyers.

San Francisco Women Lawyers' Alliance.

American Bar Association (Member, Labor and Employment Section).

Fellow, American Bar Foundation.

Delegate, Ninth Circuit Judicial Conference, 1985, and Judicial Conference for the Northern District of California, c.1989-90.

Advisory Committee, Los Angeles Bar Association Labor Law Forum, 1986-89.

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Organizations that lobby:

State Bar of California

American Civil Liberties Union of Northern California

Other organizations:

Temple Beth-El, Berkeley, California

Berkeley YMCA

Radcliffe College Alumni Association

California Alumni Association

11. **Court Admissions:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

California Bar -- 12/73
 D.C. Bar -- 12/75
 U.S. Supreme Court - 1/25/81
 U.S. Court of Appeals for the D.C. Circuit -- 9/9/75
 U.S. Court of Appeals for the 4th Circuit -- 11/3/88
 U.S. Court of Appeals for the 5th Circuit -- 6/28/82
 U.S. Court of Appeals for the 6th Circuit -- 1/92
 U.S. Court of Appeals for the 7th Circuit -- 4/10/92
 U.S. Court of Appeals for the 9th Circuit -- 11/8/79
 U.S. Court of Appeals for the 10th Circuit -- 10/90
 U.S. District Court for the Northern District of California -- 12/73
 U.S. District Court for the Central District of California -- 2/83

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Publications:

(Please see the Attachments to this questionnaire for copies of these materials at the Tab noted, except for B and P below, separately submitted.)

- A. California Lawyer, August, 1996, Book Comment on Kingsolver, Holding the Line.
- B. California Commission on the Future of the Profession and the State Bar, The Future of the California Bar (1995). (I was a member of the Commission.)

- C. "Postscript: Impact of Northeast Utilities Service Corp.," The Labor Law Exchange, Number 14 (1995).
- D. Dunlop, Grodin, Berzon, and Keyes, Employment Litigation and Dispute Resolution: The Dunlop Commission Report, in Arbitration 1995. New Challenges and Expanding Responsibilities. Proceedings of the Forty-eighth Annual Meeting. National Academy of Arbitrators, Joyce M. Najita, Ed.
- E. Testimony of Marsha S. Berzon, Commission on the Future of Worker-Management Relations (the Dunlop Commission), April 6, 1994.
- F. "Employer Evasion of Collective Bargaining and Employee Protective Statutes Through Independent Contractor Status," The Labor Law Exchange; Number Thirteen (1994).
- G. Bertin, Berzon & Meyerhoff, Friend-of-the-Court Brief on the Issue of Scientific Evidence: Filed with the Court in Daubert v. Merrell Dow Pharmaceuticals, 4 New Solutions 68 (1993).
- H. Clauss, Bertin, & Berzon, Litigating Reproductive and Developmental Health in the Aftermath of UAW v. Johnson Controls, 101 Environmental Health Perspectives 205 (1993).
- I. "An Outline of ERISA Preemption: Is There Need for a Legislative Solution?" Eleventh Annual Labor Law Symposium (Course Manual), The Labor Law Section of the Los Angeles County Bar Association, February 1991.
- J. Zenger, Berzon, Bogue, et al., California Public Sector Labor Relations, Matthew Bender (1989) & 1990, 1991 & 1992 Cumulative Supplements, Chapter on Organizational Security.
- K. "Bargaining About Drug Testing: Law and Strategy," The Labor Law Exchange, Number 6 (1987).
- L. "The Rights of the Pregnant Worker," 11th National Conference on Women and the Law, Sourcebook, February 28 - March 2, 1980 (member of panel).
- M. Note, People v. Barksdale, 61 California Law Review 272 (1973).

- N. The San Francisco Bay Guardian, February 26, 1971, "There's No Room in the Skyscrapers".
- O. The San Francisco Bay Guardian, April 17, 1970, "Yerba Buena, A Case Study in How SF Development Went Wrong".
- P. Gordon, Berzon, Gregg, et al., The Promise of America (Science Research Associates, c. 1970).
- Q. The Nation, June 23, 1969, "What The Blacks Found Out".

(b) Speeches on Issues Involving Constitutional Law or Legal Policy:

(1) I do not routinely keep a record of speeches I have given, nor do I routinely retain the notes I use to give them. I have included in the Attachments the one published report of a speech I gave of which I am aware, as well as one speech which was formally drafted and is to appear in print in the future. (I have not included here or below presentations made on behalf of a client at meetings or conferences open only to lawyers affiliated with the client.):

R. Presentation on the state of legal scholarship from the perspective of an appellate and Supreme Court practitioner, Cornell Law School Faculty Forum, January, 1985.

S. Presentation in memory of Justice William J. Brennan, Loyola Law School, Los Angeles, California, December 5, 1997.

(2) Other public speeches or panel presentations, for which I have no written materials but have been able to ascertain the place and actual or approximate date, are:

Panel discussion in June, 1991, Twenty-fifth Harvard Reunion, about women in the workplace, which was recorded. (I am supplying a copy of the recording.)

Speech to the Michigan State Bar Association Labor and Employment Law Section in 1991 in Ann Arbor, Michigan on UAW v. Johnson Controls, 499 U.S. 187 (1991).

Speech at New York Law Forum, New York University Law School, June, 1991, on UAW v. Johnson Controls, 499 U.S. 187 (1991).

Speech at the Bar Association of San Francisco Labor and Employment Law Section Yosemite Conference, February 23, 1991, on "Current Issues Involving the National Center Labor Relations Act and the NLRB"

Speech at the Bar Association of San Francisco Labor and Employment Law Section Yosemite Conference February 20, 1993, on "New Models of Labor Management Cooperation"

Panel Discussion, National Labor Relations Board Region 32 Regional Conference, Oakland, California, May 10, 1995, on appellate review of National Labor Relations Board decisions.

Panel discussion at the ABA Annual Conference Labor and Employment Law Section in Chicago in August, 1995 on the legal aspects of affirmative action.

Speech at the Labor Law Group conference, Tucson, Arizona, December, 1995, on labor law practitioner perspectives on labor law scholarship.

Speech at the National Legal Aid and Defenders Association in Las Vegas, Nevada, November, 1996, on Blessing v. Freestone, 117 S. Ct. 1353 (1997).

Talk, Temple Beth El Community, Berkeley California, February, 1997, on understanding the Supreme Court.

Panel discussion at the Association of American Law Schools, Section of Deans, January 9, 1998, on the relationship between lawyers and law professors. (There may be a tape of this panel, but I do not have it and have not heard it.)

(3) Additionally, for the Committee's information, I am listing the other public talks I have given fairly recently -- in the last ten years -- that I can remember but as to which I have neither notes nor any record of the dates and/or locations:

ABA Labor and Employment Section, Napa, California, on the proposed Uniform Employment Termination Act.

Bar Association of San Francisco Labor and Employment Section Yosemite Conference on Labor Law Preemption and Contingent Workers (various years).

State Bar of California Labor and Employment Law Section, San Francisco, on Alternative Dispute Resolution.

San Francisco Business Roundtable on UAW v. Johnson Controls, 499 U.S. 187.

Boalt Hall School of Law on persuasive writing.

(4) Additionally, I have lectured in classes at Stanford, Cornell, McGeorge and Hastings Law Schools, in the Sociology Department and Social Work School of the University of California, Berkeley, and in the Government Department at Cornell on labor and employment law, gender discrimination, Supreme Court practice, and law as a career.

13. **Health:** What is the present state of your health? List the date of your last physical examination.

My health is excellent. My last physical examination was on January 19, 1997.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. **Citations:** If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

I was an appointed member of a Berkeley School District Special Committee on Redistricting in c. 1982. I was also an appointed member of the California Commission on the Future of the Profession and the State Bar in 1993-95. Otherwise, I have not held public office.

17. **Legal Career:**

- a. **Describe chronologically your law practice and experience after graduation from law school including:**

1. **whether you served as a clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;**

Law Clerk to Judge James R. Browning, United States Court of Appeals for the Ninth Circuit, September, 1973 to June, 1974.

Law Clerk to Justice William J. Brennan, United States Supreme Court, July, 1974 to June, 1975.

2. **whether you practiced alone, and if so, the addresses and dates;**

While Of Counsel to Altshuler & Berzon I practiced part of the time as a sole proprietorship and part of the time as Marsha S. Berzon, a Professional Corporation, and had separate clients and financial income from the firm.

3. **the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.**

I have been connected with the following firms:

- (i) Woll & Mayer
815 15th St. N.W.
Washington, D.C.
Associate, 1975 - 77; contract attorney c. 1977 - 1980.
(The firm is no longer in existence.)
- (ii) Altshuler, Berzon, Nussbaum, Berzon, & Rubin
177 Post St. Suite 300
San Francisco, CA 94108
415-421-7151
Of counsel, 1978 - 1990
Partner, 1990 - present
(The firm was previously known as Altshuler & Berzon)
- (iii) Marsha S. Berzon, A Professional Corporation
177 Post Street
San Francisco, CA
Employee, Officer, 1982 - 1988
- (iv) School of Social Welfare
Haviland Hall
University of California, Berkeley
Faculty Lecturer, 1992
- (v) Cornell University Law School
Myron Taylor Hall
Ithaca, New York 14853
as practitioner-in-residence, 1994

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years.**

See answer to (2), below.

- 2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.**

My practice is primarily, but not exclusively, appellate, and involves representing labor unions, public interest organizations, public agencies in California and Hawaii, and individuals in a wide range of cases. I have had extensive experience in both traditional labor law and employment law, as well as in First Amendment law, women's rights cases, and cases involving federalism and

federal courts issues. Supreme Court representation is a particular specialty; I have written more than one hundred party and amicus briefs and petitions in the Supreme Court and have argued four cases before the Court, two representing the United Auto Workers, one representing a class of individual custodial parents, and one representing a multiemployer pension fund.

I have also represented a number of individuals in employment discrimination disputes, primarily employees of academic institutions, and have provided day-to-day legal advice to labor unions, primarily international unions. Additionally, I serve as an Early Neutral Evaluator and mediator for the United States District Court for the Northern District of California, usually on a pro bono basis, and have evaluated and mediated about ten cases in the last few years, covering employment and commercial issues.

My practice has not changed significantly since my clerkships, despite a move from Washington, D.C. to San Francisco. From the outset of my law practice an important client has been the national AFL-CIO. I have since 1975 devoted a substantial part of my practice to aiding labor organizations that are affiliated with the AFL-CIO in Supreme Court and other appellate litigation, and since 1987 have been a part-time associate general counsel of the AFL-CIO.

I did more advice practice with national unions in the early years of my practice than I do now, and more state law appellate litigation in the past than I do now. Since 1977, I have done some individual representation, and some representation of nonprofit organizations and, occasionally, businesses. And as time went on I served more often as lead counsel rather than co-counsel on the cases that I work on.

- c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.**

I appear regularly in court. Because I have a largely appellate practice, many of my appearances are in the form of written briefs rather than in person. I have, in the last five years, for example, been chief counsel in five United States Supreme Court cases, two on the merits and three on petitions for certiorari; co-counsel on the merits in three Supreme Court cases and co-counsel on petitions for certiorari in several others; co-counsel for amicus curiae in approximately thirteen Supreme Court cases; lead counsel in at least nine federal court of appeals cases and co-counsel or counsel for amicus curiae in more than a dozen others; and counsel in several appellate cases in state supreme and appellate courts, in Hawaii, and California. In most of these cases I have been primarily responsible for the briefing; I have during that time orally argued two Supreme Court cases, six

federal appellate cases, and one state Supreme Court case. Additionally, I have, in the last five years, been counsel in trial courts in six cases, preparing motions and briefs and, in three cases, presenting oral argument in the trial court. That record is fairly typical of the last twenty years.

2. **What percentage of these appearances was in:**
(a) federal courts;
(b) state courts of record;
(c) other courts.

In recent years, ninety to ninety-five percent of my appearances have been in federal courts and between five and ten percent in state courts of record. At times in the past this percentage has varied so that state courts have been as much as twenty-five percent of my work.

3. **What percentage of your litigation was:**
(a) civil;
(b) criminal.

More than ninety-five percent of my work has been civil, and less than five percent criminal.

4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

I have not personally examined or cross-examined witnesses in any trial. Rather, the cases in which I have participated in trial courts typically are resolved, before or after discovery, on legal issues alone. I have in the last five years, for example, been chief counsel in four cases that went to judgment without an evidentiary hearing in trial courts, and joint counsel with other members of my firm in another such case. That number of trial court cases pursued to judgment without a trial is fairly typical of my practice for the last twenty years. Additionally, I have occasionally been involved in pretrial proceedings, including drafting and advising on pleadings, pretrial motions and discovery, in cases that later went to trial, including one in the last year.

5. **What percentage of these trials was:**
(a) jury;
(b) non-jury.

As noted, I have not tried any cases myself, jury or non-jury.

18. **Litigation:** Describe the ten most significant litigated matters which you personally handled. 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. International Union, United Automobile, Aerospace and Agricultural Implement Workers of America ("UAW") v. Johnson Controls, 499 U.S. 187 (1991).

I represented the UAW and seven women workers, and was the attorney chiefly responsible for preparing both the Petition for Writ of Certiorari and the merits Brief and Reply Brief, I also presented oral argument for the plaintiffs/petitioners before the Supreme Court. The primary issue was whether an employer can exclude all fertile female workers from a category of jobs because of concerns about potential fetal injuries.

The Supreme Court, with Justice Blackmun writing the opinion, held that such discrimination violates Title VII of the 1964 Civil Rights Act. The case is extremely significant as a matter of employment discrimination legal doctrine, since it elucidated the reach of the Pregnancy Discrimination Act of 1978, limited the bona fide occupational qualification exception to Title VII, and clarified the prohibition on intentional gender-based discrimination under Title VII.

My co-counsel were Laurence Gold, currently at Bredhoff & Kaiser, 1000 Connecticut Avenue, N.W., Suite 1300, Washington, DC 20036, (202) 833-9340; Jordan Rossen and Ralph Jones, UAW, 8000 East Jefferson Avenue, Detroit, Michigan 48214, (313) 926-5216; and Carin Ann Clauss, University of Wisconsin, 975 Bascom Mail, Madison, Wisconsin, 53706, (608) 233-8316/8374. Opposing counsel were Stanley Jaspán and Charles Curtis of Foley & Lardner, First Star Center, 777 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202, (414) 271-2400.

2. Board of Trustees, Bay Area Laundry and Dry Cleaning Pension Trust Fund v. Ferbar, U. S. Supreme Court No. 96-370 (Dec. 15, 1997).

I represented the Trust Fund, and was the attorney chiefly responsible for preparing the petition for writ of certiorari and the briefs on the merits, and for presenting oral argument. The issues in the case concerned the statute of limitations applicable to causes of action under ERISA for collection multiemployer pension plan withdrawal liability.

Reversing the Ninth Circuit, the Supreme Court, with Justice Ginsburg writing for the Court, unanimously agreed with the Trust Fund that the statute of limitations for each unpaid periodic withdrawal liability payment runs from the date that payment was due, not from the statutory date of complete withdrawal or from the date of the first missed payment. The case is significant to multiemployer trust fund trustees, the fund beneficiaries, and the employers who contribute to such funds because it settles a three-way circuit split concerning the statute of limitations for withdrawal liability payments, providing clarification to the affected parties and their attorneys concerning a critical aspect of an exceedingly complex statutory scheme.

My co-counsel were Scott Kronland and Lowell Finley, Altshuler, Berzon, Nussbaum, Berzon & Rubin, 177 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151; and Geoffrey V. White, 351 California Street, Suite 650, San Francisco, CA, (415) 362-5658. Edwin S. Kneedler, Lisa Schiavo Blatt, and Edward Dumont of the Office of the Solicitor General, Department of Justice, Washington, D.C. 20350-0001, (202) 514-2201, represented the United States as Amicus Curiae supporting the Trust Fund. Opposing counsel were William F. Terheyden, James D. Baker and John C. Corcoran, Littler Mendelson, 650 California Street, 20th Floor, San Francisco, CA 94108-2693, (415) 433-1940.

3. Blessing v. Freestone, 117 U.S. 1353 (1997).

I was the chief attorney for the five plaintiffs/respondents on the merits, responsible for drafting the merits brief and presenting oral argument. The principal issues in the case were: whether, under existing precedents, the plaintiffs, custodial parents seeking state assistance in enforcing child support obligations, had a cause of action under 42 U.S.C. § 1983 to enforce Title IV-D of the Social Security Act, providing for such assistance; whether longstanding precedent recognizing that federal statutory rights may be enforced under § 1983 should be limited or overruled; and whether the Eleventh Amendment bars such a suit.

With Justice O'Connor writing the opinion, the Court reaffirmed its previous standards for determining when there is a cause of action under 42 U.S.C.

§ 1983 for violation of a federal statute. The Court reversed the Ninth Circuit's determination that these standards were met, holding that the court of appeals had taken too broad an approach in making that determination. At the same time, the Court held that there may be individual causes of action for the enforcement of some provisions of Title IV-D, and rejected the contention that the availability of administrative enforcement mechanisms under Title IV-D itself precludes litigation under § 1983. The Court then remanded to the District Court to construe the complaint in order to determine exactly what rights the plaintiffs seek to litigate.

Blessing is significant because the Court clarified both the general rules applicable to determining whether a claim based on a federal statute is cognizable under § 1983 and, more specifically, the standards for determining when the enforcement scheme incorporated in a particular federal statute precludes a suit under § 1983.

My co-counsel was Scott A. Kronland, Altshuler, Berzon, Nussbaum, Berzon & Rubin, 177 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151. Edwin S. Kneedler and Patricia Millett of the United States Office of the Solicitor General, Department of Justice, Washington, D.C. 20530-0001, (202) 514-2201, represented the United States as amicus curiae in support of respondents, presenting briefs and oral argument. Opposing counsel representing Arizona officials were C. Tim Delaney, Solicitor General of Arizona, Paula S. Bickett, Kim D. Gillespie, Steven J. Silver and Kathleen P. Sweeney, Assistant Attorneys General, 1275 West Washington, Phoenix, Arizona, 85006, (602) 542-3333; and Carter G. Phillips, Richard D. Bernstein and Adam D. Hirsh, Sidley & Austin, 1722 Eye St., N.W., Washington, D.C. 20006, (202) 736-8000.

4. International Union, United Automobile, Aerospace & Agricultural Implement Workers of America ("UAW") v. Brock, 477 U.S. 274 (1986).

I represented the UAW as petitioner in a case concerning the validity of the Department of Labor's rules for determining whether employees laid off due to foreign competition were eligible for Trade Act benefits. I was primarily responsible for the briefing and oral argument in this case before the United States Supreme Court (and also, later, on remand to the United States Court of Appeals for the District of Columbia Circuit).

The issues before the Supreme Court were a complex of procedural questions, including, most prominently, whether the UAW had standing to bring the case. One of the questions raised by the United States as respondent was whether the Supreme Court should overrule entirely the Court's recognition of associational or representational standing, pursuant to which organizations under certain circumstances may bring suit on behalf of their members if one or more

members would have had standing; we therefore briefed that broad question in our Reply Brief. The Supreme Court, with Justice Marshall writing for the Court, reaffirmed the associational standing doctrine. Additionally, the Court held that an organization has standing to represent its members where the ultimate goal is a monetary payment, as long as the federal court will not itself have to determine the amount of money due each individual.

My co-counsel were Stephen P. Berzon and George C. Harris, Altshuler, Berzon, Nussbaum, Berzon & Rubin, 177 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151; and Jordan Rossen and Leonard Page, UAW, 8000 East Jefferson Avenue, Detroit, MI 48214, (313) 926-5216. Opposing counsel was Carolyn B. Kuhl, then of the United States Office of the Solicitor General and present Judge, Superior Court, 210 W. Temple Street, Los Angeles, CA 90012, (213) 974-5749.

5. Washington Service Contractors v. District of Columbia, 54 F.2d 811 (D.C. Cir. 1995), cert. denied 116 S. Ct. 1105 (1996).

Judges Wald, Rogers, and Sentelle

In this case, I represented intervenors, the Service Employees International Union ("SEIU"), on appeal and in opposing a Petition for Writ of Certiorari. I was chief counsel in writing a joint brief and a joint opposition to certiorari for the SEIU and the District of Columbia, and presented argument for both parties before the D.C. Circuit. (In the district court proceedings, I did not appear as counsel, but did briefly consult with the attorneys for the SEIU.)

The case concerned a newly-enacted District of Columbia statute providing that where one service contractor (such as a janitorial or food services contractor) is hired to replace another, the successor contractor has an obligation to choose its employees from among its predecessor's employees (with some exceptions). The statute was challenged by a group of service contractors as violative of the constitutional Supremacy and Contracts clauses. The central contention was that the D.C. statute is inconsistent with the National Labor Relations Act (NLRA), since under the NLRA successor employers are not required to hire their predecessor's employees and may incur an obligation to bargain with an incumbent union if they do so.

The D.C. Circuit held, 2-1, that the statute is valid, and the Supreme Court denied certiorari. The case is of significance because it clarifies when local and state governments may enact laws governing the hiring process without running afoul of the NLRA.

Co-counsel were Orrin Baird and Carol Golubock for the Service Employees International Union, 1313 L Street, Washington, D.C. 20005, (202) 898-3453; and, for the District of Columbia, Charles Ruff, presently Counsel to the President, The White House, Washington, D.C., (202)452-7901 and Charles Reischel, Deputy Corporate Counsel for the District of Columbia, One Judiciary Square, 441 Fourth Street, NW, Washington, D.C. 20001, (202) 727-6252. Opposing counsel were Anita Barondes, Peter Chatilovicz, and Ronald Lindsay, Seyfarth, Shaw, Fairweather & Geraldson, 815 Connecticut Ave., N.W., Suite 500, Washington, D.C. 20006, (202) 463-2400.

6. Pryner v. Tractor Supply Co., Inc., 109 F. 3d 354 (7th Cir.), cert. denied, 118 S. Ct. 294 (1997).

Judges Posner, Coffey, and Manion

I represented Mr. Pryner, an employee of Tractor Supply who brought an employment discrimination suit against the company, on appeal. (I was not involved in the district court proceedings). I was principally responsible for drafting the brief and for presenting argument before the United States Court of Appeals for the Seventh Circuit, and for filing a Brief in Opposition to a Petition for Certiorari and a Cross-Petition for Certiorari in the United State Supreme Court.

Tractor sought to have the suit dismissed on the basis that Mr. Pryner was obliged to arbitrate his statutory employment discrimination claims under a collective bargaining agreement covering his workplace, rather than litigating in federal court. The primary questions on appeal were two: first, whether the Federal Arbitration Act applies to agreements to arbitrate contained in contracts of employment, permitting an appeal of a district court's failure to order arbitration, and second, whether an employee covered by a collective bargaining agreement that bars discrimination and provides for arbitration is obliged to attempt to arbitrate under the collective bargaining agreement process and precluded from obtaining judicial relief. Both questions have excited a great deal of attention recently in the employment bar and in academia, generating both numerous published opinions, law review articles and conference panels.

On appeal, the Seventh Circuit held that the Federal Arbitration Act applies for some purposes (including permitting the appeal) to collective bargaining agreements, and that individual employees cannot be bound by a grievance/ arbitration procedure negotiated by a union and an employer to forego their right to litigate individual employment discrimination claims in federal court. The issues decided are of significance both for the vindication of the employment

discrimination claims of union-represented employees and for the future development of the arbitration system developed under collective bargaining agreements.

(I was also lead counsel in the Supreme Court in a similar case, Austin v. Owens Brockway Glass, 78 F.3d. 875 (4th Cir. 1996), cert. denied, 117 S. Ct. 432 (1997). In Austin, I represented, unsuccessfully, an employee attempting to persuade the Supreme Court to grant review of and overturn the first appellate decision holding that employees can be precluded from court litigation of an employment discrimination claim and required instead to use arbitration procedures contained in a collective bargaining agreement.)

Co-counsel in Pryner were Mary Lynne Werlwas, Altshuler, Berzon, Nussbaum, Berzon & Rubin, 177 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151; Bobby A. Potters, 2868 West Eugene Street, P.O. Box 22163, Indianapolis, Indiana, 46222, (317) 926-1028; Richard Jones, 1214 N. Rural Street, Indianapolis, IN 46201, (317) 637-4213; and William R. Groth, Fillenwarth, Dennerline, Groth & Towe, Suite 204, 1213 N. Arlington Ave., Indianapolis, Indiana 46219, (317) 353-9363. Opposing counsel were Charles Pautsch and Brian Price, Wessels & Pautsch, P.C., 330 East Kilbourn Avenue, Suite 1475, Milwaukee, Wisconsin 53202, (414) 291-0600 and David Swider and Scott Weathers, Bose McKinney & Evans, 135 North Pennsylvania Street, Suite 2700, Indianapolis, Indiana, 46204, (317) 684-5161.

7. San Mateo City School District v. Public Employment Relations Board, 33 Cal. 3d 850 (1983).

I represented the California Public Employment Relations Board (PERB), as special outside counsel, in defending before the California Court of Appeal and Supreme Court a set of decisions delineating for the first time the scope of bargaining under the California Educational Employment Relations Act. I was principally responsible for the briefs in both the Court of Appeal and the California Supreme Court and argued several related and consolidated cases in both fora. The seminal California Supreme Court labor law decision settled the basic standards that govern in deciding what issues are properly the subject of negotiation between public school employers and unions representing public school employees in California, and in determining when bargaining is precluded because substantive statutory provisions govern.

Co-counsel for PERB were Fred Altshuler, Altshuler, Berzon, Nussbaum, Berzon & Rubin, 177 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151; Jeffrey Sloan, presently at McKenna & Cuneo, One Market Plaza, 2700 Stuart Street Tower, 94105, (415) 267-4000; Barry Winograd, presently at Lake

Merritt Plaza, 1999 Harrison Street, Suite 1900, Oakland, CA 94612, (510) 465-5000); Elaine Feingold, presently at 1524 Scenic Avenue, Berkeley, CA 94708, (510) 848-8125. Counsel for the union parties were Madalyn Frazzini and Maureen Whelan, California School Employees Association, 2045 Lundy Avenue, San Jose, CA, 95131, (408) 263-8000; Kirsten L. Zerger, presently at Chisolm Road Conflict Resolution, 1766 Chisolm Road, Mound Ridge, Kansas 67107, (316) 345-3275; and Diane Ross, California Teachers Association, 1705 Murchison Drive, Burlingame, CA, 94010, (415) 697-1400. Counsel for the school board parties were William Brown and Nancy Ozsogomonyan, Brown & Conradi, 400 S. El Camino Real #800, San Mateo, CA 94402, (650) 342-5797; and V.T. Hitchcock and Rene Chouteau, then of the Office of City Attorney, 100 Santa Rosa Ave., PO Box 1678, Santa Rosa, CA, 95404, (707) 543-3040.

8. American Dental Association v. Martin, 984 F.2d 823 (7th Cir. 1993).

Judges Posner, Coffey, and Easterbrook

This case concerned the validity of the Occupational Safety and Health Administration's blood-borne pathogen standard, intended to curb the transmission of blood-borne diseases to employees covered by OSHA. I represented two unions, the Service Employees International Union and the American Federation of State, County, and Municipal Employees, in helping to defend the standard; I wrote the brief and argued orally for the union parties. The case involved complicated scientific issues and questions of OSHA and of administrative law.

The Seventh Circuit decided, 2- 1, that the rule is generally valid but that OSHA in a single respect failed to meet its obligation to consider and address all relevant considerations; that aspect of the rule was vacated. The case is of significance both for its affirmation of the bulk of an important safety rule governing the workplace and for its explication of the basic standards governing review of OSHA standards.

Co-counsel were Laurence Gold, currently at Bredhoff & Kaiser, 1000 Connecticut Ave. N.W. Suite 1300, Washington, D.C. 20036, (202) 833-9340; Orrin Baird, and Carol Golubock, 1313 L Street, Washington, D.C. 20005, (202) 898-3453; and Mary Joyce Carlson, currently with the National Labor Relations Board Office of the General Counsel, 1099 14th Street, NW, Suite 10100, Washington, DC 20570, (202) 273-3700. Primary counsel for the Secretary of Labor was Bruce Justh, Department of Labor Appellate Litigation Section, 200 Constitution Avenue, N.W., Room S. 4004, Washington, D.C. 20210, (202) 219-7718. Counsel for the petitioners were James Pyles, Powers, Pyles, Sutter & Verville, 1875 Eye Street, NW, 12th Floor, Washington, DC 20006, (202) 466-6550; W. Scott Railton, Reed, Smith, Shaw & McClay, Suite 1100 - East Tower,

1301 K St., N.W., Washington D.C. 20005-3317, (202) 414-9200; and Donald Verilli, Jr. and Bruce Ennis, Jenner & Block, 601 Thirteenth St., N.W., 12th Floor, Washington, D.C. 20005, (202) 639-6000.

9. Hawaiian Airlines v. Norris, 512 U.S. 246 (1994).

This case concerned whether an employee covered by the Railway Labor Act is precluded from bringing a whistle blower action under state law. I was asked by Mr. Norris' local counsel to represent Mr. Norris in the Supreme Court, and was largely responsible for the brief. The case was argued orally by local counsel.

The Supreme Court, disapproving *dicta* in a much earlier case, held that the Railway Labor Act does not require the arbitration of cases concerning issues independent of the labor agreement, and does not preclude state law causes of action as long as the claim is not dependent upon an interpretation of such an agreement. The case clarified an area of railway labor law long in dispute.

Co-counsel were Laurence Gold, presently at Bredhoff & Kaiser, 1000 Connecticut Avenue, Suite 1300, Washington, D.C. 20036, (202) 833-9340; Mark Schneider, presently at Jenner & Block, 601 Thirteenth St., N.W., 12th Floor, Washington, D.C. 20005, (202) 639-6000; and Susan Mollway, Cades, Schutte, Fleming & Wright, 1000 Bishop St., 10th Floor, Honolulu, HI 96813, (808) 521-9200. Richard Seamon, presently at the University of South Carolina, School of Law, Columbia SC 29208, (803) 777-6963, argued for the United States as amicus curiae supporting Mr. Norris. Opposing counsel was Kenneth Hipp, currently a member of the federal National Mediation Board, 1301 K Street, NW, Suite 250 East, Washington DC 20005, (202) 523-5920.

10. Stache v. International Union of Bricklayers, 852 F.2d 1231 (9th Cir. 1988).

Judges O'Scannlain, Leavy, and King (Sr. Dist. Judge, D. HI)

In this case, the International Union of Bricklayers had been held liable in a sexual harassment case on the theory that it had an affirmative obligation to prevent an affiliated local union from engaging in employment discrimination, including sexual harassment. (The local union defendant did not appeal the judgment against it, based on the actions of its own officers.) I represented the International Union at the trial level (although not at the trial itself) and, together with my partner Fred Altshuler prepared the briefs on appeal, raising a number of procedural and substantive issues, I argued orally before the United States Court of Appeals for the Ninth Circuit.

The Ninth Circuit reversed the judgment against the International Union because the Union had not been directly involved in any of the circumstances alleged in the charges filed with the Equal Employment Opportunity Commission against the local union, and no charges had been filed against the International Union itself. The case has proved important in delineating the circumstances under which separate but affiliated entities can be held responsible under Title VII when charges were filed with the EEOC only against one of them.

Co-counsel for the defendant International Union were Fred Altschuler, Altschuler, Berzon, Nussbaum, Berzon & Rubin, 117 Post Street, Suite 300, San Francisco, CA 94108, (415) 421-7151, and George Harris, then of the same address and now at University of Utah College of Law, 332 South 1400 East, Front, Salt Lake City, Utah 84112-0730, (801) 581-6833. Counsel for the local union were Julius Reich and Alexander B. Cvitan, Reich, Adell, Crost & Cvitan, 501 Shatto Place, Suite 100, Los Angeles, CA 90020, (213) 386-3860. Opposing counsel were Joann Lach, presently with the Office of the District Attorney, 540 Hall of Records, 320 W Temple St., Los Angeles, CA 90012, (310) 491-6301, and William Bisset of Hughes, Hubbard & Reed, 350 S. Grand Ave. #3600, Los Angeles, CA 90071, (213) 613-2881.

19. **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 the nature of your participation. In this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

(1) In addition to the representation of the parties to appellate and Supreme Court litigation, much of my work has involved the submission of briefs amici curiae in the Supreme Court, usually but not always on behalf of the AFL-CIO, in a wide variety of cases in which that organization has some interest. In the last two years, for example, I have been the principal draftsman of AFL-CIO Supreme Court amicus briefs in: Schenck v. Pro-Choice Network of Western New York, 117 S. Ct. 855 (1997); Allentown Mack Sales & Service v. National Labor Relations Board, No. 96-795 (January 26, 1998); and Faragher v. The City of Boca Raton, No. 97-282 (pending), as well as co-counsel on several others.

(2) In addition to the primary thrust of my legal practice, appellate and Supreme Court cases, described above, my legal activities have included representation of faculty members in disputes with universities. Only two of those

disputes have resulted in litigation; in the remainder, I represented clients in internal university dispute resolution procedures, and/or in settlement discussions that succeeded in resolving the dispute prior to litigation. In one case, along with other members of my firm I represented a class of faculty members at the University of California, Berkeley, who were promoted but not paid commensurately with their promotions; we succeeded in obtaining a substantial settlement for the class.

(3) Another major legal activity involves providing advice and counsel to attorneys representing unions in a wide range of labor and employment cases, including reviewing and editing draft briefs. Additionally, I am sometimes asked to consult for other attorneys as an expert in appellate practice, in cases in the California or United States Supreme Courts in particular, on a wide range of issues outside my usual substantive areas of expertise (including environmental and antitrust law, for example).

(4) Additionally, I have participated as Early Neutral Evaluator, mediator and, in one instance, arbitrator, in the United States District Court for the Northern District of California's Alternative Dispute Resolution program. In that capacity I have met with lawyers and their clients involved in litigation before the Northern District, provided neutral analyses and evaluations of the litigation, and, on several occasions, succeeded in fostering settlement of the litigation prior to trial. The cases have included a wide variety of employment discrimination and other employment disputes as well as a commercial contract dispute.

(5) A major activity between 1993 and 1995 was membership on the California Commission on the Future of the Legal Profession and the State Bar. The Commission, composed of practitioners, judges, and nonlawyers appointed by both the Bar and by other state officials, was brought together to investigate issues including the impact of current professional trends on the administration of justice, the services the Bar does and should provide, the structure of the Bar, and the impact of present trends on the work lives of lawyers. I was Vice-Chair of the Committee on Services To and For Lawyers. The Commission produced a lengthy report and made various recommendations which were referred to the State Bar for consideration. (I am supplying a copy of the Commission's Report in connection with the publications question above.)

(6) Finally, I was practitioner-in-residence at Cornell Law School for the fall term, 1994, and expect to be a scholar-in-residence at Indiana University Law School for a week this spring. At Cornell, I taught a weekly seminar for fifteen students on Supreme Court practice, in which the students studied (largely by role-playing) the Supreme Court's certiorari review and merits decision processes and wrote petitions for writs of certiorari and briefs which I reviewed before revision. In addition, I was a guest lecturer at classes taught by other faculty members; participated in weekly faculty discussions of scholarly work in progress; and gave a presentation to the faculty on contemporary legal scholarship from the viewpoint of a practitioner (an account of which is included above in connection with the question on speeches).

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

- 1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

I have an interest in the receivables of my law firm until they are collected, including some contingent fee cases. I will arrange for payment of any such interest as a sum certain to be paid out in no more than three years from the time of my confirmation. (My husband will remain a member of the firm.)

- 2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

I expect to resolve all conflicts, personal and financial, in accord with applicable codes of judicial conduct and the laws of the United States governing such conflicts, particularly 28 U.S.C. §455.

More specifically, I would of course expect to recuse myself during my initial service in any case in which I had any involvement whatever as a lawyer, and from any case in which my law firm or its clients is involved. To do the latter, I would check the parties to any cases assigned to me against the firm's client list, as periodically updated. Because of my husband's continuing financial interest in the firm, my own severance of all financial ties with the firm would not eliminate the conflict with regard to the firm and its clients, so I would continue to take the same steps outlined above as long as my husband is affiliated with the firm..

Additionally, I would devise a system to check for conflicts regarding any financial conflicts arising from stockholdings. I plan, however, as quickly as possible to divest myself of any stocks in individual companies so as to limit the possible conflicts.

3. **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.**

I am planning to serve as a scholar in residence at Indiana University Law School sometime this spring. Otherwise, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation.

4. **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, patents, 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 form, page 27-A.

5. **Please complete the attached financial net worth statement in detail (add schedules as called for).**

See attached Financial Net Worth Statement, page 27-H

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

No.

AG-10 (w) Rev. 8/96	FINANCIAL DISCLOSURE REPORT Nomination Report	Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)
1. Person Reporting (Last name, first, middle initial) Berzon, Marsha S.	2. Court or Organization Nominee, US Ct. App. 9th Cir.	3. Date of Report 01/19/1998
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5. Report Type (check type) <input checked="" type="checkbox"/> Nomination, Date 01/27/1998 Initial Annual Final	6. Reporting Period 01/01/1997 to 01/19/1998
7. Chambers or Office Address Altshuler, Berzon, et. al 177 Post St. Suite 300 San Francisco, CA 94108	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.		

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Partner	Altshuler, Berzon, Nussbaum, Berzon & Rubin
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-17 of Instructions)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 18-25 of Instructions)

DATE	PARTIES AND TERMS	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1998	Altshuler, Berzon, Nussbaum, Berzon & Rubin	\$ 5,625.00
2 1997	Altshuler, Berzon, Nussbaum, Berzon, & Rubin	\$ 383,074.00
3 1996	Altshuler, Berzon, Nussbaum, Berzon & Rubin	\$ 292,157.00
4 1998	Altshuler, Berzon, Nussbaum, Berzon & Rubin (S)	
5 1997	Altshuler, Berzon, Nussbaum, Berzon & Rubin (S)	

FINANCIAL DISCLOSURE REPORT		Name of Person Reporting	Date of Report
		Berzon, Marsha S.	01/19/1998

SECTION HEADING. (Indicate part of report.)
SECTION 3. NON-INVESTMENT INCOME (cont'd.)

Li. Date	Parties and Terms	Gross Income
6 1996	Altshuler, Berzon, Nussbaum, Berzon & Rubin (S)	\$ 0.00

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Berzon, Marsha S.	01/19/1998

IV. REIMBURSEMENTS and GIFTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements and gifts received by spouse and dependent children, respectively. See pp. 26-29 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements or gifts)	
1		
2		
3		
4		
5		
6		
7		

V. OTHER GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate other gifts received by spouse and dependent children, respectively. See pp. 30-33 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts)		
1			
2			
3			
4			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 34-36 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input checked="" type="checkbox"/>	NONE (No reportable liabilities)		
1			
2			
3			
4			
5			
6			
7			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Berzon, Marsha S. Date of Report: 01/19/1998

VII. Page 1 INVESTMENTS and TRUSTS - income, value, transactions (includes those of spouse and dependent children. See pp. 37-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "00" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amt. Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	If not exempt from disclosure					
					(1) Type (e.g., buy, sell, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (no reportable income, assets, or transactions)										
1 Bank of America, San Francisco, CA - checking account	A	Interest	J	T						
2 Coca Cola Common Stock (J)	A	Dividend	L	T						
3 Galileo Common Stock (J)		None	K	T						
4 John H. Harland Common Stock (J)	A	Dividend	K	T						
5 Mattel Common Stock (J)	A	Dividend	J	T						
6 Quaker Oats Common Stock (J)	A	Dividend	J	T						
7 California State Anticipation Notes (J)	D	None		T						
8 Dreyfus Appreciation Fund (J)	A	Dividend	K	T						
9 Dreyfus Emerging Leader Fund (J)	C	Dividend	K	T						
10 Dreyfus New Leaders Fund (J)	D	Dividend	L	T						
11 Jurika & Voyles Mini Cap Fund (J)	F	Dividend	N	T						
12 Robertson Stephens Growth & Income Fund	S	Dividend	M	T						
13 Van Wagoner Emerging Growth Fund (J)		None	K	T						
14 Van Wagoner Micro Cap Fund (J)		None	K	T						
15 Fidelity Spartan California Muni Money Market Fund (J)	S	Dividend	O	T						
16 Schwab California Muni Money Fund (J)	S	Dividend	L	T						
17 Schwab Cal. Muni Money Fund Value Advantage Shares (J)	C	Dividend	M	T						
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Berzon, Marsha S. Date of Report: 01/19/1998

VII. Page 2 INVESTMENTS and TRUSTS - income, value, transactions (includes those of spouse and dependent children. See pp. 37-54 of Instructions.)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amt. Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	If not exempt from disclosure				
					(1) Type (e.g., buy, sell, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (no reportable income, assets, or transactions)									
18 American Funds Inv. Co. of America Fund(IRA)	B	Dividend	N	T					
19 American Funds Europacific Growth Fund (IRA)	C	Dividend	L	T					
20 American Funds Small Cap World Fund (prof. shar. plan)	A	Dividend	J	T					
21 American Funds Washington Mutual Fund (IRA) (S)	D	Dividend	L	T					
22 AIM Weingarten Fund (Prof. Shar. Plan) (S)	D	Dividend	K	T					
23 AIM Constellation Fund (Prof. Shar. Plan) (S)	D	Dividend	L	T					
24 AIM International Equity Fund (prof. shar. plan) (S)	A	Dividend	J	T					
25 AIM Global Agg. Growth Fund (prof. shar. plan) (S)		None	J	T					
26 AIM Agg. Growth Fund (profit sharing plan) (S)	C	Dividend	L	T					
27 AIM Constellation Fund (money purch. plan) (S)	A	Dividend	J	T					
28 AIM Global Agg. Fund (money purch. plan) (S)		None	J	T					
29 American Funds INV. Co. of America Fund (DC)	C	Dividend	K	T					
30 Jurika & Voyles (DC)	C	Dividend	K	T					
31 AT&T Common Stock (J)	A	Dividend	J	T					
32 Bell Atlantic Common Stock (J)	A	Dividend	J	T					
33 Bell South Common Stock (J)	A	Dividend	J	T					
34 AIM Weingarden Fund Money Purchase Plan (s)	B	Dividend	J	T					
1 Inc./Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Berzon, Marsha S.	01/19/1998

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

NONE (No additional information or explanations.)

SECTION 3: Date, continued ...
hu1995

San Francisco, California

AFFIDAVIT

I, Marsha S. Berzon, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

January 12, 1999
(DATE)

Marsha S. Berzon
(NAME)

Maryann Milla
(NOTARY)



FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Berzon, Marsha S.	01/19/1998

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature  Date 1/30/98

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. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

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 debt, 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	\$	5,000.00	Notes payable to banks--secured		
U.S. Government securities--add schedule	---	---	Notes payable to banks--unsecured		
Listed securities--add schedule (Sch. A)	953,501.	00	Notes payable to relatives		
Unlisted securities--add schedule	---	---	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 tax and interest		
Doubtful	---	---	Real estate mortgages payable--add schedule See Sch. F	129,618.	00
Real estate owned--add schedule See Sch. F	700,000.	00	Chattel mortgages and other liens payable		
Real estate mortgages receivable			Other debts--itemize		
Automobile and other personal property	80,000.	00			
Cash value--life insurance					
Other assets--itemize					
Money Market Fund (Sch. B)	1,226,636.	00			
Retirement Funds (Sch. C)*	425,442.	00			
Spouse's Retirement Funds (Sch. D)*	339,782.	00	Total Liabilities	129,618.	00
Daughter's Accounts (Sch. E)	43,543.	00	Net Worth	3,644,386.	00
Total Assets	3,774,004.	00	Total Liabilities and net worth	3,774,004.	00
CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, co-maker 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 4/15/98 on 1997 income	75,000.	00			
Other special debt					

* (Subject to tax)

Schedule A
Listed Securities (value as of 1/19/98)

<u>Stocks</u>	<u>Shares</u>	<u>Value</u>
AT & T	23	1,495.00
Bell Atlantic	8	1,247.75
Bell South	18	1,050.75
Coca Cola	800	52,000.00
John H. Harland	2,000	35,625.00
Lucent Technologies	7	528.06
Mattel	97	3,819.38
Quaker Oats	200	10,500.00

<u>Mutual Funds</u>	<u>Shares</u>	<u>Value</u>
Dreyfus Appreciation Fund	648.92	21,070.43
Dreyfus Emerging Leaders Fund	1,369.278	32,410.81
Dreyfus New Leaders Fund	1,657.002	71,217.95
Jurika & Voyles Mini-Cap Fund	23,803.894	438,705.77
Robertson Stephens Growth & Income Fund	19,201.26	253,069.52
Van Wagoner Emergency Growth Fund	3,156.566	30,145.21
Van Wagoner Micro Cap Fund	3,498.95	32,715.18

Total Listed Securities: \$953,600.81

Schedule B
Money Market Accounts

Fidelity Spartan California Municipal Money Market Fund	\$948,350.05
Schwab California Muni Money Fund	66,968.14
Schwab California Muni Money Fund (Value Advantage)	211,318.23
<u>Total Money Market Accounts:</u>	<u>\$1,226,636.42</u>

Schedule C
Pension Accounts: Marsha S. Berzon

Marsha S. Berzon IRA:

<u>Funds</u>	<u>Shares</u>	<u>Value</u>
American Funds: Investment Co. of America	11,878.150	\$368,322.37
American Funds: Europacific Growth Fund	1,972.425	55,368.76

Altshuler Berzon et al Profit Sharing Plan

American Funds Smallcap World Fund	62.377	1,750.71
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<u>Total Retirement Accounts MSB:</u>	<u>\$425,441.84</u>
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Schedule D

Retirement Accounts: Stephen P. Berzon

Stephen P. Berzon IRA:

	<u>Shares</u>	<u>Value</u>
American Funds Washington Mutual Inv. Fund	3,100.952	\$99,794.67

Altshuler Berzon et al. Profit Sharing Plan

AIM Weingarten Fund	2,318.808	45,332.70
AIM Constellation Fund	3,488.681	88,961.37
AIM International Equity Fund	241.730	3,954.70
AIM Global Aggressive Growth Fund	481.078	7,783.84
AIM Aggressive Growth Fund	1,548.607	68,185.17

Altshuler Berzon et al. Money Purchase Plan

AIM Weingarten	469.112	9,171.14
AIM Constellation Fund	345.665	8,814.46
AIM Global Aggressive Growth Fund	481.078	7,783.84

Total Retirement Accounts SPB:

\$339,781.89

Schedule E

Alexandra Berzon's Accounts (18 Year Old Daughter)

<u>Fund</u>	<u>Shares</u>	<u>Value</u>
American Funds Investment Co. of America	926.848	\$25,933.21
Jurika & Voyles Mini Cap Fund	949.628	17,501.64
Franklin Money Fund		108.38
<u>Total AEB Accounts:</u>		\$43,543.23

Schedule F

Real Estate Owned/Mortgage Payable

<u>Real Estate</u>	<u>Value</u>	<u>Mortgage</u>
Residence	\$700,000	\$129,618.00 GE Capital Mortgage Co.

III. GENERAL (PUBLIC)

1. **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.**

In addition to my regular legal practice, some of which is devoted to representing poor workers:

I serve on the Board of the Legal Aid Society of San Francisco, devoting about twenty hours a year to meetings and to consulting with staff members.

This past year, I represented five custodial parents who were having difficulty supporting their families because the noncustodial parent was not paying child support, before the Supreme Court in Blessing v. Freestone, discussed above. The case took hundreds of hours of work to brief and argue.

I served on the Board of the Berkeley High School Development Group which raised money to help fund Berkeley High School. During the time I was on that Board I spent about fifty hours at meetings and on fundraising. I was a Board Member and Secretary, in the 1970's, of the Capitol East Children's Center in Washington, D.C., a child care center serving both middle and low income children, spending about thirty hours per year at meetings and on secretarial duties.

I have volunteered in public school classrooms in Berkeley, spending perhaps twenty hours a year for five years. And I have participated in serving dinners to homeless people at my Temple.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership, what you have done to try to change these Policies?**

No.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

There is no selection commission for the Ninth Circuit.

In the fall of 1994 I was contacted by a representative of Senator Diane Feinstein and asked to participate in an interview with several lawyers and other individuals with regard to the Ninth Circuit openings at the time. I did so, in San Francisco. Sometime thereafter I was called by Senator Barbara Boxer concerning a possible Ninth Circuit appointment.

In March, 1997 I was contacted by the Office of the Counsel to the President and asked about my interest in an appointment to the Ninth Circuit. In April, 1997, I was interviewed by representatives of the White House and the Justice Department in the Old Executive Office Building. I was then asked to, and did, complete American Bar Association, FBI, Senate Judicial Committee and Justice Department questionnaires.

In July, 1997, I met with Senator Feinstein and two staff members concerning my interest in a Ninth Circuit appointment.

In December, 1997, I was called again by the Office of the Counsel to the President and asked to update, complete and submit the required forms of which I had earlier submitted preliminary copies, which I did in December and January.

I was interviewed in early January by Charles Renfrew of the ABA Standing Committee on the Judiciary, and in mid-January by Mr. Tom Horrigan of the FBI.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-revolution;**
- b. **A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. **A tendency by the judiciary to impose broad, affirmative duties upon governments and society;**
- d. **A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. **A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

The Constitution imposes strict limits on the power and authority of the federal judiciary. Article III expressly requires that the federal courts decide cases only where there is an actual case or controversy between the litigants, and limit themselves to resolving that case or controversy rather than making broad pronouncements unnecessary to the decision. Consistent with those restrictions, the judiciary should not formulate social policy, oversee the workings of the other branches or levels of government, or decide issues or controversies not presented in the specific case before the court, by parties with a concrete stake in the controversy.

Judges exceed their authority when they decide cases on the basis of preconceived policy considerations rather than the wording of relevant constitutional and statutory provisions and the rulings of the Supreme Court and of relevant appellate precedents.

Additionally, limited rather than broad rulings best serve the implementation of judicial authority. As an appellate lawyer, I have often observed that broad doctrinal statements often prove, over time, poorly adapted to resolve issues that were not perceived to be even on the horizon at the time the statements were made. Courts faced with deciding a particular case on particular facts may make statements that seem to cover all future situations they can imagine, only to discover later that real life situations always outrun the imagination of judges.

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	28,000.00	Notes payable to banks—secured	
U.S. Government securities—add schedule		Notes payable to banks—unsecured	
Listed securities—add schedule (Sch. A)	930,625.00	Notes payable to relatives	
Unlisted securities—add schedule		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 tax and interest	
Doubtful		Real estate mortgages payable—add schedule See Sch. F	121,759.70
Real estate owned—add schedule See Sch. F	700,000.00	Chattel mortgages and other liens payable	
Real estate mortgages receivable		Other debts—itemize:	
Automobiles and other personal property	75,000.00		
Cash value—life insurance			
Other assets—itemize:			
Money Market Fund (Sch. B)	1,022,286.91		
Retirement Funds (Sch. C)**	517,406.82		
Spouse's Retirement Funds (Sch. D*)	417,850.05	Total Liabilities	121,759.70
Daughter's Accounts (Sch. E)	45,676.37	Net Worth	3,613,085.45
Total Assets	3,736,845.15	Total Liabilities and net worth	3,736,845.15
CONTINGENT LIABILITIES		GENERAL INFORMATION	
As endorser, cosigner or guarantor		Are any assets pledged? (Add schedule.)	No
On leases or contracts		Are you defendant in any suits or legal actions?	No
Legal Claims		Have you ever taken bankruptcy?	No
Provision for Federal Income Tax	25,000.00		
Other special debt			

* Subject to tax
 ** As of 11/14/98

Schedule A
Listed Securities (value as of 11/14/98)

<u>Stocks</u>	<u>Shares</u>	<u>Value</u>
Bell Atlantic	28	1,508.50
Bell South	18	1,431.00
Coca Cola	800	55,800.00
John H. Harland	2,000	31,625.00
Lucent Technologies	14	1,170.75
Mattel	97	3,613.25
Quaker Oats	200	12,525.00
Galileo	2000	6,750.00

<u>Mutual Funds</u>	<u>Shares</u>	<u>Value</u>
Dreyfus Appreciation Fund	648.995	25,427.62
Dreyfus Emerging Leaders Fund	1,369.278	31,849.41
Dreyfus New Leaders Fund	1,708.705	66,075.62
Jurika & Voyles Mini-Cap Fund	23,803.894	375,863.49
Robertson Stephens Growth & Income Fund	19,201.026	255,949.68
Van Wagoner Emerging Growth Fund	3,156.566	27,935.61
Van Wagoner Micro Cap Fund	3,498.95	33,100.07

Total Listed Securities:

\$930,625.00

Schedule B
Money Market Accounts

Fidelity Spartan California Municipal Money Market Fund	\$735,033.79
Schwab California Muni Money Fund	851.59
Schwab California Muni Money Fund (Value Advantage)	286,401.53
<u>Total Money Market Accounts:</u>	<u>\$1,022,286.91</u>

Schedule C
Pension Accounts: Marsha S. Berzon

Marsha S. Berzon IRA:

<u>Funds</u>	<u>Shares</u>	<u>Value</u>
American Funds: Investment Co. of America	13,471.922	\$425,173.86
American Funds: Europacific Growth Fund	2,206.475	60,038.18
<u>Altshuler Berzon et al Money Purchase Plan</u>	<u>8,144.790</u>	<u>8,144.79</u>
<u>Altshuler Berzon et al Profit Sharing Plan</u>		
AIM Cash Reserve Money Market Fund	22,398.300	22,398.30
American Funds Smallcap World Fund	68.763	1,651.69
<u>Total Retirement Accounts MSB:</u>		<u>\$517,406.82</u>

Schedule D
Retirement Accounts: Stephen P. Berzon

Stephen P. Berzon IRA:

	<u>Shares</u>	<u>Value</u>
American Funds Washington Mutual Inv. Fund	3,367.174	\$114,349.23

Altshuler Berzon et al. Profit Sharing Plan

AIM Weingarten Fund	2,324.697	51,515.29
AIM Constellation Fund	3,494.249	94,833.92
AIM International Equity Fund	241.730	4,239.94
AIM Global Aggressive Growth Fund	481.078	7,759.79
AIM Aggressive Growth Fund	1,548.607	65,273.79
American Washington Mutual Fund	639.303	21,710.73
American Cash Management Trust Money Market Fund	22,432.130	22,432.13

Altshuler Berzon et al. Money Purchase Plan

AIM Weingarten	470.304	10,421.94
AIM Constellation Fund	346.217	9,396.33
AIM Global Aggressive Growth Fund	481.078	7,759.79
American Cash Management Trust Money Market	8,157.170	8,157.17

Total Retirement Accounts SPB:

\$417,850.05

Schedule E

Alexandra Berzon's Accounts (19 Year Old Daughter)

<u>Fund</u>	<u>Shares</u>	<u>Value</u>
American Funds Investment Co. of America	948.545	\$29,936.08
Jurika & Voyles Mini Cap Fund	976.861	15,424.64
Franklin Money Fund	315.645	315.65
<u>Total AEB Accounts:</u>		\$45,676.37

Schedule F

Real Estate Owned/Mortgage Payable

<u>Real Estate</u>	<u>Value</u>	<u>Mortgage</u>
Residence	\$700,000	\$121,759.70 GE Capital Mortgage Co.

AO-106
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Berzon, Marsha S.		2. Court or Organization U. S. Ct. of App. 9th Cir.	3. Date of Report 01/10/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nominee		5. Report Type (check type) X Nomination, Date 1/26/99 Initial Annual Final	6. Reporting Period 01/01/1997 to 12/31/1998
7. Chambers or Office Address Altschuler, Berzon, et al. 177 Post Street, Suite 300 San Francisco, CA 94108		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
<i>IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.</i>			

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Partner/Attorney	Altschuler, Berzon, Nussbaum, Berzon & Rubin
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1 Anticipated	Altschuler, Berzon, Nussbaum, Berzon & Rubin: Agreement with firm will provide (1) for payment of my interest in the law firm as a sum certain (cont'd. Part 8)
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1998	Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner) *	\$ 175,000.00
2 1998	(S) Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner)	
3 1997	Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner)	\$ 410,615.00
4 1997	(S) Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner)	

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IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1	Exempt		
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input checked="" type="checkbox"/>	NONE (No reportable liabilities.)		
1			
2			
3			
4			
5			
6			

* VAL. CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 0=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

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VII. Page 1 INVESTMENTS and TRUSTS-- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period **		C. Gross value at end of reporting period **		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions)					Exempt				
1 Bank of America, San Francisco, CA - checking account (J)	A	Interest	K	T					
2 Coca Cola Common Stock (J)	A	Dividend	L	T					
3 Galileo Common Stock (J)		None	J	T					
4 John H. Harland Common Stock (J) (no longer have)	B	Dividend							
5 Mattel Common Stock (J)	A	Dividend	J	T					
6 Quaker Oats Common Stock (J)	A	Dividend	J	T					
7 California State Anticipation Notes (J) (NO LONGER HAVE)	D	Interest							
8 Dreyfus Appreciation Fund (J)	A	Dividend	K	T					
9 Dreyfus Emerging Leader Fund (J)	C	Dividend	K	T					
10 Dreyfus New Leaders Fund (J)	D	Dividend	L	T					
11 Jurika & Voyles Mini Cap Fund (J)	G	Dividend	N	T					
12 Robertson Stephens Growth & Income Fund (J)	E	Dividend	N	T					
13 Van Wagoner Emerging Growth Fund (J)		None	K	T					
14 Van Wagoner Micro Cap Fund (J)		None	K	T					
15 Fidelity Spartan California Muni Money Market Fund (J)	E	Dividend	O	T					
16 Schwab California Muni Money Fund (J)	B	Dividend	K	T					
17 Schwab California Muni Money Fund Value Advantage Shares (J)	D	Dividend	N	T					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

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VII. Page 2 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period *✶		C. Gross value at end of reporting period **		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Gain Code (J-P)	(4) Identity of buyer/seller Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18 American Funds Inv. Co. of America Fund (IRA)	E	Dividend	N	T					
19 American Funds Europacific Growth Fund (IRA)	D	Dividend	L	T					
20 American Funds Small Cap World Fund (prof. share. plan)	A	Dividend	J	T					
21 American Funds Washington Mutual Fund (IRA) (S)	E	Dividend	M	T					
22 AIM Weingarten Fund (Prof. Shar. Plan) (S)	D	Dividend	L	T					
23 AIM Constellation Fund (Prof. Shar. Plan) (S)	D	Dividend	M	T					
24 AIM International Equity Fund (Prof. Shar. Plan) (S)	A	Dividend	J	T					
25 AIM Global Agg. Growth Fund (Prof. Shar. Plan) (S)		None	J	T					
26 AIM Agg. Growth Fund (profit sharing plan) (S)	C	Dividend	L	T					
27 AIM Constellation Fund (Money Purchase Plan) (S)	A	Dividend	J	T					
28 AIM Global Agg. Fund (Money Purchase Plan) (S)		None	J	T					
29 American Funds Inv. Co. of America Fund (DC)	C	Dividend	K	T					
30 Jurika & Voyles Mini Cap Fund (DC)	D	Dividend	K	T					
31 AT&T Common Stock (No longer have)	A	Dividend							
32 Bell Atlantic Common Stock (J)	A	Dividend	J	T					
33 Bell South Common Stock (J)	A	Dividend	J	T					
34 AIM Weingarten Fund Money Purchase Plan (S)	B	Dividend	J	T					
1 Inc./Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000; F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H=\$1,000,001-\$5,000,000; I=\$5,000,001 or more 2 Val Codes: J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000; O=\$500,001-\$1,000,000; P=\$1,000,001-\$5,000,000; Q=\$5,000,001-\$25,000,000; R=\$25,000,001-\$50,000,000; S=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market; U=Book Value; V=Other; W=Estimated									

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VII. Page 3 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(3)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period **		C. Gross value at end of reporting period **		D. Transactions during reporting period				
	(1) Amount Code (A-I)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-I)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
35 35 Lucent Tech. Common Stock (J)	A	Dividend	J	T					
36 AIM Cash Reserve Money Market (Money Purchase Plan)	A	Dividend	J	T					
37 AIM Cash Reserve Money Market (Profit Sharing Plan)	A	Dividend	K	T					
38 American Funds Washington Mutual Fund (Profit Sharing Plan)	C	Dividend	K	T					
39 American Funds Cash Management Money Mkt. (Prof. Shar. Plan)	A	Dividend	K	T					
40 American Funds Cash Management Money Mkt. (Money Purch. Plan)	A	Dividend	J	T					
41 Franklin Money Fund (DC)	A	Dividend	J	T					
42									
43									
44									
45									
46									
47									
48									
49									
50									
51									

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

PART 2: Parties and Terms re: Altschuler, cont'd ...to be paid out in no more than three years. (My husband will remain a member of the firm.) (2) For rolling over accrued pension fund vested amounts into individual IRAs. (My husband will remain a participant in the funds.)

PART 3: * Approximation -- K-1 not yet prepared.

PART 7: ** Based on most recent statements as of date of report.

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SECTION HEADING. (Indicate part of report.)
Information continued from Parts I through VI, inclusive.

PART 3. NON-INVESTMENT INCOME (cont'd.)

Line	Date	Source and Type	Gross Income
5	1996	Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner)	\$ 292,157.00
6	1996	(S) Altschuler, Berzon, Nussbaum, Berzon & Rubin (attorney/partner)	\$ 0.00

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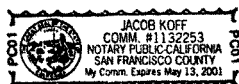
San Francisco, California

AFFIDAVIT

I, *Marsha S. Berzon*, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

January 30, 1998
(DATE)

M.S.
(NAME)



Jacob Koff
(NOTARY)

State of California
County of *San Francisco*
Subscribed and sworn to
before me on *January 30, 1998*
Jacob Koff
Jacob Koff
Notary Public

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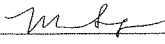
IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature



Date

1/12/99

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (including any former names used.)

My full name is Anna Jaeger Brown and I am generally known as Anna J. Brown. My maiden name is "Jaeger," which I now use as a middle name. I have no other middle name.

2. Address: List current place of residence and office address(es).

Place of Residence: Lake Oswego, Oregon

Office Address: 612 Multnomah County Courthouse
1021 SW Fourth Avenue
Portland, OR 97204
(503) 248-3348

3. Date and place of birth.

July 26, 1952 in Portland, Multnomah County, Oregon.

4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

I am married to Paul Tomas Brown (married December 22, 1977 in Portland, Multnomah County, Oregon). My husband retired March 1, 1998 as a police lieutenant after 30 years service to the City of Lake Oswego, OR, 380 "A" Avenue, Lake Oswego, OR 97034.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

- A. Lewis and Clark College, Portland, Oregon, 1970-1972. I left in my second year of chemistry and education studies to devote more time to caring for my infirm and aging parents, to continue full time employment for their support, and to consider a change of majors.
 - B. Portland State University, Portland, Oregon, 1973-75. B.S., Administration of Justice, August, 1975.
 - C. Northwestern School of Law at Lewis and Clark College, Portland, Oregon, 1976-1980 (night program), J.D., June, 1980.
6. **Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.
- A. I have worked as a state court trial judge, law partner, associate attorney, judicial law clerk, law clerk, emergency communications operator, police community service officer, police dispatcher and records clerk as follows:
 - 1992 to present: I have been an Oregon state court judge since March 1, 1992. First, I served as a Multnomah County District Court Judge from March 1, 1992 until July, 1994. Then I was appointed to my current office as a Multnomah County Circuit Court Judge. My "employer" is the Oregon Judicial Department.
 - 1986 to 1992: I was a partner in the law firm of Bullivant, Houser, Bailey, Pendergrass and Hoffman, now known as Bullivant Houser Bailey, LLP. In this same time frame, I volunteered as an arbitrator and a pro-tem Circuit Court Judge for Multnomah County Circuit Court.
 - 1980 to 1992: I was an associate attorney in the Bullivant firm. In this time period, as a member of the Multnomah Bar Association Young Lawyers Sections, I volunteered as a hearings officer for the Housing Authority of Portland to resolve property damage claims between landlords and tenants.

- 1978-1980: Judicial law clerk to Honorable John C. Beatty, Jr, Multnomah County Circuit Court.
- 1978-1980: My husband and I owned and rented a residential duplex located at 937-939 SE Tacoma Street, Portland, OR 97202.
- 1977: Law clerk to attorney Frederick T. Smith.
- 1977: Law clerk to attorneys Vergeer, Roehr & Sweek.
- 1975-77*: Emergency Communications Operator, City of Portland (Oregon) Bureau of Emergency Communications.
- 1970-75*: Records clerk, dispatcher, police community service officer; City of Lake Oswego (Oregon) Police Department.

* I graduated from college in 1975. I do not recall the month in 1975 when I left my employment with the City of Lake Oswego and went to work for the City of Portland. I have included all employment in 1975 for sake of completeness.

B. I have been associated as a director or officer or board member of the following organizations:

- 1996 - Present: Director, United States District Court, District of Oregon, Historical Society.
- 1994-95: President, American Inns of Court, Gus. J. Solomon Chapter.
- 1993-94 and 1986-88: Member, Alumni Board, Northwestern School of Law at Lewis & Clark College, Portland, Oregon.
- 1992-96: Volunteers of America, Member, Program Committee.
- 1991-92: Board Member, Oregon Association of Defense Counsel.
- 1991-92: Member, Church of the Resurrection Administrative Council.
- 1990-92: Board Member, REACH Center for Children.

- 1988-92: Board of Directors, holding offices of Secretary and Treasurer, Multnomah Bar Association.
- 1985-87: Member, Board of Regents, St. Mary's Academy, Portland, Oregon.
- 1983-85: Board of Directors and Treasurer, Young Lawyers Section, Multnomah Bar Association.

7. **Military Service:** Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

In law school, I received an "AmJur" award for writing high paper in my Wills and Trust course; I likewise wrote high paper and received the same award in my Corporations course.

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

- A. American Bar Association:
Member since 1981.
State of Oregon Membership Chair, 1985.
Chair, Government Liability Committee of Tort and Insurance Practice Section, 1991.
- B. American Bar Foundation: Elected Fellow 1998.

- C. American Inns of Court, Gus J. Solomon Chapter:
 Master of the Bench and Pupilage Group leader, 1993-98.
 President, 1994-95.
- D. Multnomah Bar Association:
 Member since 1982.
 Board of Directors, holding offices of Secretary and Treasurer, 1988-92.
 Board Member and Treasurer, Young Lawyers Section, 1983-85.
 Past member of Bench/Bar, Court Liaison, Membership, Insurance, Public Service
 and Social Committees.
- E. Multnomah County Circuit Court Motion Panel: I have been a member of my
 court's civil motion panel since 1992 and have been Chair since 1997.
- F. National Judicial College, Reno, Nevada:
 1992 three week General Jurisdiction course.
 1993 Gender Fairness Conference.
- G. Ninth Circuit Judicial Conference Lawyer Representative: 1991-92.
- H. Oregon Association of Defense Counsel:
 Member, 1982-92.
 Board Member, 1991-92.
- I. Oregon Council on Court Procedures: Member, 1997 - present.
- J. Oregon Judicial Conference: 1992 to present. The Oregon Judicial Conference is
 composed of all Oregon state court judges. I have been a member of the
 Conference since 1992. The Chief Justice of the Oregon Supreme Court
 appointed me to the Conference Practice and Procedure Committee in 1993 for
 which I served as Chair in 1995-96 when I recommended that the committee
 sunset as unnecessary. In 1998, the Chief Justice appointed me to the Conference
 Judicial Education Committee (under the auspices of which I have taught annually
 at the Oregon New Judges Seminars from 1995 to present).
- K. Oregon State Bar:
 Member in good standing since 1980.
 Chair, 1996-97, Uniform Criminal Jury Instruction Committee (served 1994-97).

Member, New Lawyers Committee, 1990-91.
 Chair, 1988-89, Uniform Civil Jury Instruction Committee (served 1986-89).
 Chair, 1984-85, Function and Organization of the Bar Committee (served 1982-85).

- L. Oregon Supreme Court/Oregon State Bar Joint Steering Committee to Establish a Task Force on Gender Fairness: 1995.
- M. Oregon Women Lawyers: Charter Member - 1989 to present.
- N. United States District Court, District of Oregon, Historical Society:
 Director, 1996-present. Member since 1995.
- O. United States District Court, District of Oregon, CJA Panel Selection Committee:
 Member since 1995.
- P. United States Magistrates Merit Selection Panels, District of Oregon:
 Member, 1992 Panel. Chairperson, 1993 Panel.

10. **Other Memberships**: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I am a member of the Oregon Circuit Judges Association, which engages in lobbying activities on behalf of state court judges before the Oregon Legislature. The other organizations to which I belong are listed in response to Item 9. I have donated money in the past to Oregon Public Broadcasting and by virtue of donation was deemed a member. I am a member of Our Lady of the Lake Catholic Church in Lake Oswego, Oregon.

11. **Court Admission**: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

I was admitted to the Oregon State Bar in September, 1980, which authorized my practice before all Oregon state courts. I remain a member in good standing.

I was admitted to practice before the United States District Court for the District of Oregon in the fall of 1980.

In the early 1980s, I appeared *pro hac vice* and with local counsel in the Superior Court for Clark County, Washington and in the Superior Court for Cowlitz County, Washington on a few cases.

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Except as noted, I am the sole author for the following "published materials" responsive to this request:

<u>Published Material No. 1</u>	"Homeowners Insurance," 2 <u>Insurance</u> Chap. 59 (Oregon CLE 1983); and with co-author Ronald J. Clark, Chapter Update for 1992 Supplement. For the chapter update, Mr. Clark, then an associate attorney in my firm, did the legal research to update the article, and we jointly wrote this supplement.
<u>Published Material No. 2</u>	"Evidence in Summary Judgment Actions," <u>Evidence</u> , Chap. 51 (Oregon CLE 1986); Chapter Update for 1992 Supplement.
<u>Published Material No. 3</u>	"Character Evidence," 1999 New Judges Seminar, Oregon Judicial Department.
<u>Published Material No. 4</u>	"Perspectives From the Trenches: A Trial Judge's Tips for Effective Expert Witness Testimony," Oregon Women Lawyers Women Litigator's Seminar, March 13, 1996.
<u>Published Material No. 5</u>	"Looking Ahead: Hopes and Concerns for our Civil Justice System," <u>For The Defense</u> , Defense Research Institute, January, 1994.

- Published Material No. 6 "Civil Motion Practice in Multnomah County Courts: Ten Tips to Avoid Problems," September 16, 1998, presented Fall, 1998, for Oregon State Bar New Lawyers Division, for Oregon Trial Lawyers/Oregon Association of Defense Counsel Bench Bar Breakfast, September 29, 1998, and again for Multnomah Bar Association Presiding Court CLE September 16, 1998.
- Published Material No. 7 "Admissibility," June 4, 1998 Oregon State Bar CLE, Trial Evidence --Doing it Right.
- Published Material No. 8 "Discussion Materials" and handwritten notes for scientific evidence panel discussion, Oregon State Bar Fourth Annual Litigation Institute and Retreat, March, 1997.
- Published Material No. 9 Lecture notes, "Keeping Jurors Happy," Oregon Law Institute seminar Advanced Skills for Trial Lawyers, October 1, 1998.
- Published Material No. 10 "State Court Jury Selection: The Law," Oregon State Bar Second Annual Litigation Institute and Retreat, March 1995.
- Published Material No. 11 Key-note speech, St. Mary's Academy Food for Thought scholarship luncheon, November 7, 1996.
- Published Material No. 12 "Sentencing: A Judge's Perspective," Oregon State Bar Criminal Law CLE, July 15, 1994.
- Published Material No. 13 "Successful Motion Practice: Written & Unwritten Rules," Oregon State Bar New Lawyers Division Brown Bag Series, October 8, 1997.
- Published Material No. 14 "Creating a Spark: What Works & What Doesn't," Oregon Trial Lawyers Association Annual Meeting, August, 1997.
- Published Material No. 15 "Evidence Problems: Tips and Traps," 1997 Oregon Municipal Judges Association and Oregon Justice of the Peace Association Judicial Education Meeting, Pendleton, Oregon, September, 1997.

- Published Material No. 16 1987 Supplement, "Oregon Jury Instructions for Civil Cases." I was a member of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 17 1988 Supplement, "Oregon Jury Instructions for Civil Cases." I was Secretary of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 18 1989 Supplement, "Oregon Jury Instructions for Civil Cases." I was Chair of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 19 1995 Supplement, "Oregon Jury Instructions for Criminal Cases." I was a member of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 20 1996 Supplement "Oregon Jury Instructions for Criminal Cases. I was Secretary of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 21 1997 Supplement "Oregon Jury Instructions for Criminal Cases. I was Chair of the Oregon State Bar Committee, which published these instructions.
- Published Material No. 22 "Evidence Problems: Tips and Traps," 1999 Oregon Judicial Department New Judges Seminar.
- Published Material No. 23 "Amendments to Oregon Rules of Civil Procedure promulgated by Council on Court Procedures," December 12, 1998. I am a member of the Council on Court Procedures.
- Published Material No. 24 "Adequate Service of Summons Under ORCP 7 and Baker v. Foy."
- Published Material No. 25 "Courtroom Do's and Don'ts: Civil Motion Practice," Lecture Notes, undated, probably for the Professional Liability Fund Learning the Ropes seminar series for new lawyers, and probably in 1994, 1995 and 1996.

13. **Health:** What is the present state of your health? List the date of your last physical examination.

I am in very good health. My last physical examination was February 11, 1999.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

While I was still in private practice, I served as a volunteer *pro-tem* Circuit Court judge for the Multnomah County Circuit Court, from 1986 until 1992, hearing summary judgment motions in civil matters in Circuit Court, a trial court of general jurisdiction. I also served as an arbitrator for the Circuit Court's arbitration program.

In February, 1992, Governor Barbara Roberts appointed me to the bench, Department 13 of the District Court of the State of Oregon for Multnomah County. I ran unopposed (non-partisan) and was elected to a six year term in that position after the Primary and General elections of 1992.

In July, 1994, Governor Roberts appointed me to a vacancy in Department 7 of the Circuit Court of the State of Oregon for Multnomah County. I ran unopposed (non-partisan) in the 1994 General Election and was elected to a six-year term, which I am now serving.

In January, 1998, as a result of new legislation, all district courts in Oregon were consolidated with the circuit courts. Previously, and in 1992 when I was first named to the District Court, it was a court of limited jurisdiction (small claims, traffic, ordinance violations, misdemeanor crimes, and civil matters of \$25,000 or less), and the Circuit Court was the trial court of general jurisdiction and had jurisdiction over all other matters including felony crimes, marriage dissolution, juvenile court, probate and civil matters of more than \$25,000. In 1992, the Multnomah County District and Circuit Courts were already administratively consolidated under one Presiding Judge, the Honorable Donald H. Londer, and all district court judges also held appointments from the Oregon Supreme Court as Circuit Judges *pro tem*.

Consequently, from 1992 until 1994, as a District Court Judge and a Circuit Judge *pro tem*, I regularly was assigned matters in the jurisdiction of both courts. From 1994 to present, as an elected Circuit Court Judge, I have continued to hear matters involving all the work of the consolidated court as assigned.

15. **Citations:** If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) citations for significant opinions of 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, please provide copies of the opinions.

(1) Citations for the ten most significant opinions you have written:

In my work on the busy Multnomah County trial court, there are only rare occasions when I have the opportunity to write an opinion or an analysis of the issues I am deciding. The volume of our caseload does not permit that luxury. Nor am I supported by a law clerk or other law trained staff. In the overwhelming majority of cases, I rule from the bench after reading the litigants' briefs, personally researching the law as necessary and considering oral argument. In most cases, my ruling is "on the record," however, unless a party has appealed and designated a transcript of the ruling for the appeal, typically the only existing record of a ruling is a summary written order prepared by the prevailing party. Enumerated below are ten rulings of legal significance for which there is either a reported reviewing appellate decision and/or some form of written record of the analysis I made in deciding the issue. Of course, the Code of Judicial Conduct precludes my discussion of the merits of any pending case.

Ruling No. 1 (See Attachment — Ruling No. 1)

Tiftt, et al. v. Vision Plastics, Inc. v. Stevens, et al, Multnomah County Circuit Court No. 9511-08674, consolidated with Vision Plastics, Inc., et. al. v. Tiftt, Multnomah County Circuit Court No. 9601-00118; Oregon Court of Appeals Case Nos. CA A96357 and CA A96358.

This was an action by a minority shareholder (Tiftt) against the majority shareholder (Stevens) seeking statutory dissolution of the corporation based upon alleged oppression. A separate, consolidated action by the corporation against the minority shareholder alleged breach of fiduciary duty and self dealing. The matter was hotly contested, thoroughly litigated and tried to the court, from a preliminary injunction granted in favor of the corporation against the minority shareholder, through a six week trial culminating in a finding of oppression supporting statutory dissolution. "Attachment - Ruling No. 1" is a copy of the 52-page transcript of the proceedings at which I analyzed the evidence and made the findings of fact and legal conclusions which led to the entry of a judgment. The matter is pending appeal.

Ruling No. 2 (See Attachment - Ruling No. 2)

State of Oregon v. The American Tobacco Company, et. al, Multnomah County Circuit Court No. 9706-04457.

This was Oregon's "Attorney General" action against tobacco industry defendants assigned to me in September, 1997 for all pretrial and trial handling. There were numerous motions to dismiss for failure to state a claim and for lack of personal jurisdiction, most of which were denied and all but one of which I decided from the bench in the process explained above. "Attachment - Ruling No. 2" is my Opinion and Order denying in part, pending Oregon-specific jurisdictional discovery, and otherwise allowing defendant B.A.T. Industries, P.L.C.'s Motion to Dismiss Plaintiff's Amended Complaint for lack of personal jurisdiction. After additional discovery, defendant renewed its motion to dismiss and I allowed the motion. Plaintiff petitioned the Oregon Supreme Court for Writ of Mandamus. The Supreme Court heard argument on the jurisdictional mandamus, but before it decided the case, Oregon joined other states in reaching a global settlement of the case. The Supreme Court then dismissed its proceeding. This matter is nevertheless "pending" in that further proceedings involving the settlement may be presented to the court.

Ruling No. 3 (See Attachment — Ruling No. 3)

State v. Rasheed, Multnomah County Circuit Court No. 92-08-34922, 128 Or. App. 439, 876 P. 2d 859 (1994).

Defendant was charged with delivery and possession of a controlled substance. Defendant moved to suppress the evidence seized incident to his arrest, arguing that the state lacked probable cause to stop and arrest him, and thus could not lawfully search him "incident to arrest" without a warrant. "Attachment — Ruling No. 2" is my written Order Suppressing Evidence finding that, although the state had established the arresting officer's subjective belief that there was probable cause to arrest, the state had not sufficiently shown that there also was the requisite objective basis for probable cause to arrest. The Court of Appeals reversed and remanded. On remand, defendant was convicted.

Ruling No. 4 (See Attachment — Ruling No. 4)

Crain v. Siegel, Multnomah County Circuit Court No. 9601-00783, 151 Or. App. 567, 950 P. 2d 382 (1997).

This was an action between adjoining residential landowners for injunctive relief and to quiet title arising from a claimed easement to a shared driveway. The matter was tried to the court. "Attachment -- Ruling No. 4" is my letter opinion of August 12, 1996 finding that plaintiff had not proved his case and defendants were entitled to a decree quieting title and enjoining plaintiff from interfering with the recorded boundaries. Plaintiff appealed. The Court of Appeals affirmed.

Ruling No. 5 (See Attachments -- Rulings No. 5A and 5B)

deParrie v. City of Portland, et. al., Multnomah County Circuit Court No. 9308-05495, 138 Or. App. 105, 906 P. 2d 844 (1995).

This was a citizen's action to litigate conflicting legislative decisions from the Portland City Council, the Multnomah County Commission and the Oregon Legislature concerning state and local public policy choices about so-called sexual orientation "special rights" versus local government "anti-discrimination" laws. After defendants' motions against plaintiff's three forms of complaint, I granted from the bench defendants' motions to dismiss with prejudice the Third Amended Complaint for failure to state a claim. "Attachment — Ruling 5A" is my April 12, 1994 order dismissing the Third Amended Complaint. "Attachment - Ruling 5B" is my April 13, 1994 letter to the parties denying Mr. deParrie's motion for Findings of Fact and Conclusions of Law. Plaintiff appealed. The Court of Appeals affirmed dismissal of nine of plaintiff's eleven claims for relief, and reversed and remanded as to two claims. On remand, the action was dismissed on plaintiff's motion.

Ruling No. 6 - (See Attachment - Ruling No. 6)

Jeddeloh v. Sylvan Medical Service, Inc., et. al., Multnomah County Circuit Court No. 9207-04881.

This was a medical malpractice action arising from profound brain injuries sustained by a baby either during pregnancy or childbirth. "Attachment — Ruling No. 6" is my letter of January 13, 1994 to counsel denying plaintiff's motion to

amend the complaint. I also was the trial judge when this case was tried to a jury in 1994. After the parties' enormous efforts and a 3-week trial, the jury was unable to reach a verdict. Ultimately, the Jeddelloh family dismissed the case.

Ruling No. 7 (See Attachment — Ruling No. 7)

Newton v. Schrunk, Multnomah County Circuit Court No. 9507-04913.

This was a civil declaratory judgment action brought by a public defender seeking access to prosecutors' records regarding jurors challenged or seated by the District Attorney's trial deputies within a jury panel's term of service. "Attachment — Ruling No. 7" is my November 22, 1995 letter to counsel finding that the materials sought were exempt from public disclosure under Oregon's public records law. Plaintiff's appeal was dismissed without opinion.

Ruling No. 8 (See Attachment No. 8A Opinion of Oregon Court of Appeals; Attachment 8B Opinion of Oregon Supreme Court dismissing appeal)

Brokenshire v. Rivas and Rivas Ltd., Multnomah County Circuit Court No. 9401-00028, 142 Or. App. 555, 922 P. 2d 696, rev. allowed 930 P. 2d 851, (1996), rev. dismissed as improvidently allowed 327 Or. 119, 957 P. 2d 157 (1998).

While I wrote no opinion in this matter, my rulings at the jury trial were the subject of a split decision by the Court of Appeals on a significant question of first impression in Oregon. This was an action for personal injuries arising from an on-the-job injury sustained by a baker who slipped on an acrylic floor surface which defendant sold and installed at plaintiff's workplace. Plaintiff's sole claim was for "strict product liability" on the basis that the new floor coating was a defective, unreasonably dangerous "product." I denied defendant's motion for directed verdict and submitted plaintiff's "product liability" claim to the jury. Plaintiff prevailed. On appeal (Attachment 8A), the Court of Appeals affirmed over a dissent concluding there is no product liability claim under the circumstances of this case. The Supreme Court accepted review, but then dismissed the appeal as improvidently granted (Attachment 8B).

Ruling No. 9 - (See Attachment No. 9 — Opinion of the Oregon Court of Appeals)

Purcell v. Asbestos Corp., Ltd., Multnomah County Circuit Court No. 9311-07674, 153 Or. App. 415, 959 P. 2d 89, modified 963 P. 2d 729 (1998), rev. allowed __P. 2d __ (1999). I understand from the parties that the Oregon Supreme Court has accepted review. That decision has not appeared in a reporter as yet.

As with Ruling No. 8, I wrote no opinion of my rulings in the jury trial in this matter, but my rulings were the subject of a significant opinion by the Court of Appeals (Attachment No. 8). I understand the Oregon Supreme Court has accepted review. This was a negligence and product liability action by a worker diagnosed with mesothelioma arising from his exposure to asbestos-containing products during his work life. The jury found for plaintiff in a multi-million dollar verdict, including punitive damages against defendant Owens-Corning. Trial rulings reviewed on appeal included the sufficiency of proof of “medical causation,” the proper application of a contractor’s statute of ultimate repose, the court’s statutory reduction of plaintiff’s damage award, and the court’s review of the punitive damage award.

Ruling No. 10 - (See Attachment 10A and Court of Appeals Opinion, Attachment 10B)

State v. Pelham, Multnomah County District Court Case No. DA 488069, 136 Or App 336, 901 P2d 972 (1995).

Defendant, a radio reporter, was charged with second degree criminal trespass after he failed immediately to leave a designated area that police officers had established outside a convention center where President Clinton was in attendance. Defendant moved to compel a television station to release videotape of his arrest. The motion was denied on the basis of Oregon’s Media Shield Law. After a trial to the court, defendant was convicted. Attachment 10A is a copy of my August 12, 1993 letter ruling finding the defendant guilty. Attachment 10B is a copy of the Court of Appeals opinion, affirming the conviction and the ruling on defendant’s Motion to Compel.

- (2) **a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings;**

State v. Rasheed, Ruling and Attachment No. 3 above.

deParrie v. City of Portland, et. al., Ruling and Attachment No. 5 above.

Brokenshire v. Rivas and Rivas, Ruling and Attachment No. 8 above.

McCulloch v. Price Waterhouse, LLP, Multnomah County Circuit Court No. 9508-05814, 157 Or. App. 237, 971 P. 2d 414, (1998), *petition for review pending*, is an accounting malpractice case in which the Court of Appeals ruled *inter alia* that it was reversible error not to submit one of defendant's closing arguments to the jury.

State v. Jackson, Multnomah County Circuit Court No. 9404-32392, 141 Or. App. 123, 917 P. 2d 34 (1996), reversed in part and vacated as too broad a condition of probation that defendant, convicted of assault in the third degree, not brag about the conviction and not discuss it with anyone other than district attorney, probation officer, and defense counsel.

State v. Shuneson, Multnomah County Circuit Court No. 9301-30265, 132 Or. App. 283, 888 P. 2d 90 (1995), reversed defendant's conviction for unauthorized use of a motor vehicle, holding that there was insufficient evidence for the jury to find beyond a reasonable doubt that defendant, a passenger, knew she did not have the owner's consent to ride in an automobile which she and a codefendant used to flee from a robbery.

State ex. rel. Roberts v. Acropolis McLoughlin, Inc., Multnomah County Circuit Court No. 9503-01597, 149 Or. App. 220, 942 P. 2d 829, *modified* 150 Or. App. 180, 945 P. 2d 647 (1997), originally reversed in part, but ultimately affirmed the trial court result in a Bureau of Labor and Industries action against a topless dance club on behalf of dancers to enforce minimum wage laws.

- (3) **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, please provide copies of the opinions.**

State of Oregon v. The American Tobacco Company et. al., Ruling and Attachment No. 2 above. The jurisdictional motion which I granted raised constitutional issues about the proper reach of Oregon's long-arm statute.

State v. Rasheed, Ruling and Attachment No. 3 above, raised search and seizure issues and, as such, had constitutional implications. In addition, like any trial judge, I have ruled on other motions to suppress involving similar constitutional issues. To the extent these rulings were appealed, they were affirmed without opinion.

deParrie v. City of Portland, Ruling and Attachment No. 5 above, sought a judicial declaration concerning conflicting state and local legislative decisions which could have involved constitutional issues of conflict between state and local authority.

Purcell v. Asbestos Corp., Ltd., Ruling and Attachment No. 6 above, included constitutional challenges to the jury's award of punitive damages.

State v. Pelham, Ruling and Attachment No. 10 above, involved conflict between Oregon's statutory Media Shield Law and a criminal defendant's constitutional right to access potentially exculpatory information.

Fred Meyer Inc. v. Saul Kline Campaigns, Multnomah County Circuit Court No. 9802-01392, was a preliminary injunction proceeding in which plaintiff sought and obtained an injunction prohibiting initiative petitioning activity on its property on the basis of a finding that the plaintiff's store was not the modern day equivalent of a town square. Ruling and Attachment No. 11 is a copy of the judgment I entered in the case, which now is pending appeal.

Additional information:

In October, 1998, I was the trial judge in the consolidated cases of Aspenwall, et al. v. Parker NW Paving, et al., Multnomah County Circuit Court No. 9708-06502 and Roop et al. v. Parker NW Paving et al., Multnomah County Circuit Court No. 9709-06913, an action for wrongful use of civil proceedings in which I granted, in a ruling from the bench, defendants' motions to strike plaintiffs' claims for punitive damages on the basis that those claims violated the Oregon Constitution. Appeals are now pending. I am providing as Ruling Attachment No. 12 a transcript of the proceedings on August 21, 1998 at which the defendants' motion to strike was argued and allowed on state constitutional grounds.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. **Legal Career:**

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. **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.**

Although it was before I graduated from law school, I did serve as a judicial law clerk. From 1978 until 1980, while I was in night law school, I was full-time law clerk to the Honorable John C. Beatty, Jr., Multnomah County Circuit Court. As a law clerk, I worked in a general jurisdiction state court trial department performing courtroom bailiff functions with witnesses, jurors, exhibits and records of proceedings and providing legal research and writing support to Judge Beatty for his caseload.

2. **Whether you practiced alone, and if so, the addresses and the dates.**

No. My only law practice was with the Bullivant firm as described below.

3. **The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.**

In September, 1980, after passing the Oregon bar, I joined the Portland, Oregon law firm then known as Bullivant, Wright, Leedy, Pendergrass & Hoffman, as an associate. In January, 1986, I was made a partner in the firm. I left the firm in February, 1992, to accept appointment to the

District Court of the State of Oregon for Multnomah County. The firm is presently known as Bullivant Houser Bailey, LLP, and is located at:

300 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204
(503) 228-6351.

b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

Throughout my 12 years with the Bullivant firm, I was a civil trial lawyer practicing in state and federal trial courts. My practice heavily emphasized the defense of tort and insurance claims. My tort practice included (i) the defense of personal injury and wrongful death damages actions arising from auto, premises liability and product liability claims; (ii) the defense of legal malpractice claims arising from civil litigation errors; (iii) the defense of public bodies sued in tort or for police conduct. My insurance practice included coverage analysis and advice in first party property insurance claims and third party liability insurance litigation. On rare occasions, I represented plaintiffs in personal injury claims and spouses in marriage dissolution proceedings.

2. Describe your typical former clients, and mention the areas, if any, in which you specialized.

Most of my work was assigned to me for defense by insurance and institutional clients. Typical insurance clients were Allstate Insurance Company and Maryland Casualty Company. For clients such as these, I represented their auto, homeowner and comprehensive general liability policy holders (i.e., the defendant driver, homeowner or business owner) sued for personal injury damages claims. Another typical insurance client was the Professional Liability Fund, Oregon's mandatory legal malpractice fund, for whom I represented Oregon lawyers sued for malpractice or other claims of wrongdoing. I also did work for self-insured municipalities and for Northland Insurance Company, which insured small cities and counties. In this regard, I defended personal injury claims and, in particular, claims of police misconduct for civil rights violations, false arrest, excessive force and wrongful death. My first party insurance clients typically sought advice about the nature and scope of coverage under homeowners and property policies.

- c. 1. **Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.**

I appeared frequently in Oregon state trial courts of record and occasionally in the United States District Court for the District of Oregon. I appeared occasionally in Oregon state appellate courts and I appeared *pro hac vice* and with local counsel on a few matters in Washington State courts of record.

2. **What percentage of these appearances was in:**

- (a) **federal courts;** — 15%
- (b) **state courts of record;** — 85%
- (c) **other courts.** — None.

3. **What percentage of your litigation was:**

- (a) **civil;** — 100%
- (b) **criminal.** — None.

4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

I tried approximately 35 cases to verdict in my 12 years of private practice. About five of those trials were in my early years when my role was as “second chair” to a more experienced trial lawyer in the firm. In the last 7 or 8 years of my private practice, I was sole counsel or lead counsel (with a less experienced lawyer my “second chair”).

5. **What percentage of these trials was:**

- (a) **jury;** — 90%.
- (b) **non-jury.** — 10%.

18. **Litigation: Describe the ten most significant litigated matters which you personally handled. 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 names 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.

Litigated Matter No. 1

McCoy v. Payne

United States District Court for the District of Oregon
Hon. Malcolm M. Marsh
Case No. CV 90-848-MFM
Jury Trial - December, 1992

McCoy v. Payne was a wrongful death action against a Portland, Oregon police officer who shot and killed Mr. McCoy after police were summoned to the McCoy residence in a 911 call reporting domestic violence. I represented Officer Payne. After a several day trial, the jury returned a verdict for the defendant. Plaintiff's appeal. The decision of the Ninth Circuit Court of Appeals is not a published opinion, but it appears at 1 F. 3d 1246 (9th Cir. 1993). The jury verdict for the defendant was affirmed.

I was sole trial counsel for the defendant. Also, I did most of the pretrial work (investigation, discovery, motion practice) myself, supported by a legal assistant and an associate.

Any loss of life at the hands of a police officer in the line of duty poses enormous issues for the surviving family, the officer, the police agency and the community. The facts leading up to this shooting were disputed. Liability in the case may have turned on a significant evidentiary ruling allowing admission of evidence concerning the decedent's violent behavior before the officer's arrival. That ruling was a basis of plaintiff's unsuccessful appeal.

For the Plaintiffs: Thomas M. Steenson
Ste. 500
815 SW Second Avenue
Portland, OR 97204
(503) 221-1792

Litigated Matter No. 2Smith v. Cogger

United States District Court for the District of Oregon
Hon. Helen J. Frye
Civil No. 86-484-FR
2-day Trial to the Court in 1986 or 1987

Smith v. Cogger was a wrongful death action arising from the unwitnessed capsizing of a small pleasure craft in bad weather and the dangerous waters of the Columbia River Bar on the northwest Oregon coast. All five aboard died. Plaintiff was the personal representative of the estate of one of the passengers. I was co-counsel with my partner, James D. Hibbard, for the defense. We represented the estate of the boat owner, who also was aboard and died in the accident. Supported by a legal assistant, I did all of the pretrial work (investigation, discovery, motion practice). I tried the case with Mr. Hibbard, sharing responsibility for witness examination and arguments to the court. The matter was tried in the admiralty jurisdiction of the United States District Court for the District of Oregon, without a jury.

Liability was the primary factual issue in the case. Our defense was that the absence of survivors, witnesses and physical evidence made it impossible to determine whether any conduct by our client caused or contributed to this loss. The case was noteworthy, obviously for the parties because it involved significant loss of life, but also because it required proof of causation beyond speculation with scant existing direct evidence. Plaintiff's counsel did an admirable job building a circumstantial case with expert testimony about the likely effect of river currents on the vessel's travel over an extended period of time. Judge Frye found for the plaintiff. There was no appeal.

Co-Counsel for the Defendant: James D. Hibbard
Ste. 300
888 SW Fifth Avenue
Portland, OR 97204
(503) 499-4401

For the Plaintiff: Robert J. Neuberger
14th Floor Standard Plaza
1100 SW Sixth Avenue
Portland, OR 97204-1087
(503) 226-3232

Litigated Matter No. 3.Moser v. Hampton

Multnomah County (Oregon) Circuit Court

Hon. Charles S. Crookham

No. A8102-01142

Dispositive Motion to Dismiss heard in 1981 or 1982

Moser v. Hampton was a wrongful death action arising from a motor vehicle accident. The case framed for appellate review the question whether spousal immunity should remain a viable defense to ordinary negligence claims under Oregon common law. The decedent, a passenger in an auto driven by her husband, died as a result of the accident. I represented the defendant. Relying on Oregon's then-existing spousal immunity rule, and under the supervision of a partner, Ronald G. Stephenson, I wrote and argued the dismissal motion in the trial court. The trial court granted the motion. I also helped write the briefs and I argued the matter before both levels of appellate courts. The Court of Appeals affirmed, Moser v. Hampton, 67 Or App 716, 679 P2d 1379 (1984), in a divided decision urging Supreme Court review of its possibly outdated precedent. Although the Oregon Supreme Court accepted review, it had an equally divided court, 298 Or 171, 690 P2d 505 (1984) and, therefore, it affirmed without opinion and the trial court decision upholding immunity stood. Ultimately, a later case with which I was not involved did overturn existing precedent, and spousal immunity is no longer the common law of Oregon. The case was significant for me as a developing lawyer, giving me firsthand experience with challenges to existing common law based on contrary trends from other jurisdictions.

Co-Counsel for the Defendant: Ronald G. Stephenson
I. Franklin Hunsaker
Ste. 300
888 SW Fifth Avenue
Portland, OR 97204
(503) 228-6351

For the Plaintiff: Michael A. Greene
Ste. 1907
1001 SW Fifth Avenue
Portland, OR 97204
(503) 228-3015

Litigated Matter No. 4.

Aproberts v. Washington County, et. al
Washington County (Oregon) Circuit Court
Hon. Jon B. Lund
No. 87-0888C
2-day Jury Trial - March 15, 1989

Aproberts v. Washington County, et. al was a police excessive force case. Plaintiff suffered a dislocated hip when she was tackled by my client, a Washington County Sheriff's Deputy, who was trying to end a foot chase and take her into custody on an outstanding warrant. I was sole counsel for the defense and did all the pretrial (investigation, discovery and motion practice) and trial work. At the close of the plaintiff's case, the trial court granted my motion for directed verdict in defendant's favor. Plaintiff did not appeal. The case was significant to my client and his coworkers who were concerned whether a court and jury could understand the difficulties faced by law enforcement in the performance of official duties.

For the Plaintiff: David N. Hobson, Jr.
18255 SW Tualatin Valley Hwy
Aloha, OR 97006
(503) 649-6333

Litigated Matter No. 5.

Brayton v. Ribble and City of Bend
Deschutes County (Oregon) Circuit Court
Honorable Michael Sullivan
No. 89CV-0089MS
3-day Jury Trial - January 4, 1990

Brayton v. Ribble and City of Bend was a personal injury action against a fire department lieutenant whose fire truck rear-ended plaintiff's vehicle. I was sole trial counsel for the defense and also did all the pretrial investigation and discovery. The jury found for plaintiff, there was no appeal. The primary significance of this case was for the parties who could not resolve the value of plaintiff's injury claim, leaving that decision to the jury whose judgment they accepted.

For the Plaintiff: Thomas C. Howes
P.O. Box 207
Bend, OR 97709
(541) 385-6822

Litigated Matter No. 6.

Hoyt v. Paulos

Washington County (Oregon) Circuit Court
Hon. Donald C. Ashmankas
Circuit Court No. 86-1204C
Dispositive Motion to Dismiss heard late 1986 or early 1987

Hoyt v. Paulos, 96 Or App 91, 771 P2d 647 (1988), was a personal injury action arising from a motor vehicle accident. I represented the defendant and filed and argued a motion to dismiss on statute of limitations grounds asserting that defendant had not timely and adequately served my client with summons and complaint as required by Oregon law. The trial court allowed the motion to dismiss. The Court of Appeals reversed. The case clarified ambiguous rules of civil procedure governing the manner for service of summons by mail and follow up notice to a liability insurer.

Current contact information for Judge Ashmankas:

Honorable Donald C. Ashmankas
Magistrate Judge
United States District Court for District of Oregon
1000 SW Third Avenue
Portland, OR 97204
(503) 326-8280

For the Plaintiff: Kathryn E. Jackson
145 Wilson St., S.
Salem, OR 97302
(503) 399-7648

Litigated Matter No. 7.Krause v. Andersen

Multnomah County (Oregon) Circuit Court
Hon. Phillip J. Roth, Hon. Charles B. Guinasso
No. A8904-02051
Summary Judgment heard 1989

Krause v. Andersen, 108 Or. App. 211, 814 P. 2d 178 (1991), was a legal malpractice action brought by Miriam Krause *pro se*. Ms. Krause alleged that her former attorney, Andersen, negligently failed to timely appeal the dismissal of a personal injury product liability action Andersen had brought on her behalf against various manufacturers. As sole counsel, I represented Mr. Andersen in the legal malpractice case which was assigned to mandatory court-annexed arbitration.

While the case was in arbitration, I moved for summary judgment on the basis that the trial court's ruling dismissing the product liability claim was correct as a matter of law, and therefore attorney Andersen's failure to appeal was not a cause of harm to plaintiff because an appeal would not have produced a reversal of a correct dismissal ruling. The arbitrator granted summary judgment to my client. Plaintiff moved for a trial *de novo* pursuant to arbitration rules. I resisted that motion on the basis that the summary judgment record already had established that no issues of fact existed and, thus, there was no basis for a trial *de novo*. Judge Phillip J. Roth entered judgment for my client.

The Court of Appeals reversed, holding that plaintiff was entitled to a *de novo* review of the summary judgment record by a circuit judge. On remand, the Honorable Charles B. Guinasso confirmed the summary judgment in my client's favor; then the Court of Appeals affirmed without opinion, Krause v. Andersen, 117 Or. App. 595 (1993).

Contact information for involved judges:

Hon. Charles S. Crookham
Senior Judge
Ste. 300
888 Fifth Avenue
Portland, OR 97204
(503) 228-6351

Hon. Charles B. Guinasso
1021 SW Fourth Avenue
Portland, OR 97204
(503) 248-3540

Hon. Phillip J. Roth
Senior Judge
2495 SW 73rd Avenue
Portland, OR 97225
(503) 292-4287

Pro Se Plaintiff: Miriam Krause
3339 NE Wasco
Portland, OR 97232
(503) 233-7627

Litigated Matter No. 8

Kim v. Allstate Insurance Company
Multnomah County (Oregon) Circuit Court
Honorable William C. Snouffer
No. 8912-07285
2-3 day Jury Trial beginning January 9, 1991

Kim v. Allstate Insurance Company, was an action to rescind a release discharging liability for injuries arising from a motor vehicle accident. I represented the insurance company defendant. I was sole counsel and handled all pretrial investigation, discovery and motion practice. I was sole trial counsel when the matter was tried. The trial resulted in a hung jury. The parties settled the case thereafter. Significant fact issues in the case included whether and to what extent plaintiff understood the terms of the release written in English. This was my first exposure, as a legal professional, to the barriers non-English speakers may have with our system of justice.

For the Plaintiff: Neil W. Jackson
2450 SE Belmont Street
Portland, OR 97214
(503) 223-3411

Litigated Matter No. 9Adkins v. Aluminum Company of America (ALCOA)

Superior Court for Clark County, Washington

Hon. J. Dean Morgan

Unknown Trial Court No., Reported at 110 Wash. 2d, 128, 750 P. 2d 1257 (Wash Sup Ct 1987)

2 Jury Trials in mid-1980s

Adkins v. Aluminum Company of America (ALCOA) was a premises liability claim for personal injuries sustained by a roofing contractor's employee whose hand was severely injured when it was caught by a rotating exhaust fan as the worker reached into an exhaust duct to retrieve a tube of caulking. I was second chair associate for the defense of the case, under the supervision of Ronald E. Bailey. I did the pretrial investigation, depositions and pleading work. I assisted at trial with legal issues and briefing. The case was tried twice to a jury in the mid-1980s.

Liability and damages were bifurcated for the first trial which ended in a mistrial due to bailiff misconduct. The second trial consolidated liability and damages, and the jury returned a verdict for the defendant. Plaintiff appealed with multiple assignments of error challenging, *inter alia*, evidentiary rulings for the defense excluding certain evidence of safety code violations and asserting that my colleague made an improper "golden rule" closing argument. On all the evidentiary issues, the trial court's rulings were affirmed in Adkins v. Aluminum Company of America, 110 Wash. 2d 128, 750 P. 2d 1257 (Wash Sup Ct 1988). However, the Washington Supreme Court reversed and remanded for a new jury trial on the basis that the challenged "golden rule" closing arguments were improper. Thereafter, the parties reached a settlement. The case was a significant learning experience for me as a developing trial lawyer — on the law, civil procedure, and the profound effects of such a serious injury to a laborer who relied on his hands for his livelihood.

Co-Counsel for the Defendant: Ronald E. Bailey
Ste. 300
888 SW Fifth Avenue
Portland, OR 97204
(503) 228-6351

For the Plaintiff: Duane Lansverk
915 Broadway
Vancouver, WA 98660
(360) 696-3312

Litigated Matter No. 10

Graham v. Public Employees Mutual Insurance Company, et. al

Cowlitz County (Washington) Superior Court

Hon. Don L. McCulloch

No. 47706-0

Dispositive Summary Judgment Motion Reversed on Appeal Early 1980s

Graham v. Public Employees Mutual Insurance Company, et. al, 98

Wash. 2d 533, 656 P. 2d 1077 (1983) was a first party insurance claim under a homeowners' policy for loss of a residence which had been moved off its foundation by mudflows following the eruption of the Mt. St. Helens volcano in May, 1980. My firm represented the defendant homeowners' insurer. My role, as a fairly novice lawyer, was to write and argue the summary judgment motion which framed the coverage issues for the trial court. I worked under the supervision of partner Douglas G. Houser. We moved for summary judgment arguing that the undisputed facts showed that the house had been lost due to mudflow and that, as a matter of law, a mudflow loss was excluded from coverage as an "earth movement." The trial judge granted the motion, but the Washington Supreme Court reversed, finding a fact question for the jury and articulating a significant new legal standard for causation in such property insurance claims. The matter was settled on remand.

Co-Counsel for the Defendant: Douglas G. Houser
Ste. 300
888 SW Fifth Avenue
Portland, OR 97204
(503) 228-6351

For the Plaintiff: John Barlow
P.O. Box 1549
Longview, WA 98632
(360) 423-5220

Since I have been on the bench and out of private practice for 7 years, all of the litigated matters described are dated. Therefore, I also am providing the names and contact information for the following members of the legal community who have had recent contact with me:

1. The Honorable Wallace P. Carson, Jr.
Chief Justice, Oregon Supreme Court
1163 State Street
Salem, OR 97310
(503) 986-5700
2. Ms. Diana L. Craine
Attorney at Law
Suite 480
5 Centerpointe Drive
Lake Oswego, OR 97035
(503) 620-1088
3. Mr. James L. Dumas
Attorney at Law
Suite 3400
1300 SW Fifth Avenue
Portland, OR 97201
(503) 226-7677
4. Mr. Barnes H. Ellis
Attorney at Law
Suite 2300
900 SW Fifth Avenue
Portland, OR 97204
(503) 294-9243
5. The Honorable Sidney A. Galton
Circuit Judge
Multnomah County Circuit Court
1021 SW Fourth Avenue
Portland, OR 97204
(503) 248-5047
6. William A. Gaylord
Attorney at Law
1400 SW Montgomery Street
Portland, OR 97201
(503) 222-3526

7. The Honorable Susan M. Leeson
Associate Justice, Oregon Supreme Court
1163 State Street
Salem, OR 97310
(503) 986-5713
 8. Sheriff Dan Noelle
Sheriff of Multnomah County
12240 NE Glisan Street
Portland, OR 97230
(503) 255-3600
 9. Mr. Forrest N. ("Joe") Rieke
Attorney at Law
140 SW Yamhill Street
Portland, OR 97204-3090
(503) 222-0200
 10. Mr. Michael D. Schrunk
District Attorney for Multnomah County
1021 SW Fourth Avenue
Portland, OR 97204
(503) 248-3162
 11. Ms. Mary Burns Tomlinson
Attorney at Law
905 Lund Lane
Baker City, OR 97814
(541) 523-0109
 12. Mr. Robert C. Weaver, Jr.
Attorney at Law
11th Floor
121 SW Morrison Street
Portland, OR 97204
(503) 228-3939
19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

From the first time I walked into a courtroom to apply for Judge Beatty's clerkship, I knew I wanted to be a trial court judge. In the 20 years since then, as a judicial law clerk, a civil trial lawyer in state and federal courts, and now as a state court trial judge, I have had extensive training and experience in all aspects of trial court work. As a trial lawyer, I gained the knowledge, skill and judgment to resolve disputes short of trial and, if that was not possible, to try the case professionally, efficiently and competently. In 7 years as a state trial judge, I have presided over all forms of proceedings at all stages of litigation and throughout my courts' jurisdictions. I have had extensive hands-on experience in the judicial management, trial and alternative resolution of complex civil matters beginning immediately with my appointment to the bench in 1992 and continuing through two presiding judges. I manage all asbestos-exposure cases pending in our court and, since 1994, all but one have settled. I am managing two class action matters, all "tobacco" litigation in Oregon state courts, and other complex cases. In addition to the demands of my specially assigned complex civil caseload, I have served consistently and fully in all functions of my busy, resource-poor, urban court. I have heard everything from felonies to traffic tickets, juvenile delinquency and dependency matters to cases of terminating parental rights and adjudicating marriage dissolutions, and from medical malpractice and other significant civil controversies to landlord-tenant and small claims disputes. I have served as settlement judge, regular stand-in for the presiding judge and chair of our court's Civil Motion Panel. I am a productive, reliable, consistent contributor to the court, in whatever capacity I am needed.

Moreover, I have been a dedicated volunteer to the profession, serving as previously explained on numerous bar committees, usually in a leadership role, and as a frequent speaker for continuing legal education programs, typically on trial practice, civil procedure, evidence, and professionalism. In my local bar association, The Multnomah Bar Association, I was very active in the Young Lawyers Section and later on the Association's Board, serving continuously on committees. My primary focus was on bench and bar relations and improving opportunities for positive interaction among new lawyers, sole practitioners and the established bar. My service on the MBA Social Committee led to the organization of an annual event, "The Strictly Social Social," at which there are no speeches or awards but simply opportunities for members of the legal community to enjoy interacting with one another. My service as a lawyer on the MBA Court Liaison committee led to the formulation of the Multnomah County Circuit Court Civil Motion Panel Consensus Rulings. I now chair the Civil Motion Panel. At the state bar level, I have consistently served in leadership positions on bar committees as previously identified. Early in my practice career, I was active as well at the national level in the ABA Tort and Insurance Practice Section where I chaired the Government Liability Committee. As a legal education speaker in frequent demand, I find it difficult to say "no" when asked to participate in ongoing lawyer training. I am very proud of my service to the profession, to law students, lawyers and judges, in all of my teaching efforts.

Finally, I am fond of children. Students on field trips to the courthouse have a priority in my court. Unless there are urgent docketed matters, I always try to take time to instruct and role play with the visiting students to help them learn the significance of the judicial system in their lives and their community. I have had high school students "shadow" me during the court day to learn how a judge works. I have visited high schools to teach about current legal matters of interest to youth. I have judged student moot court competitions for high school and law students.

In summary, I hope that I have been a positive force for the good of my profession in my community. That I might continue to serve Oregonians as a federal trial judge would be the opportunity of a lifetime.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

In February, 1992, when I first became a state court judge, I withdrew from my law partnership and severed all financial connection with the firm. I was paid in full for my partnership interest in the firm at the time, and there is no future expectancy of any kind. When I resigned from the firm, I also withdrew my interest in the law firm's retirement program, rolling it over into an individual KEOGH account. In May, 1998, I again rolled over the retirement account, together with other tax deferred accounts I had individually accumulated, into the following Oppenheimer Funds:

Oppenheimer Strategic Income Fund Class A
 Oppenheimer Equity Income Fund Class A
 Oppenheimer Main Street Income & Growth Fund Class A
 Oppenheimer Growth Fund Class A
 Oppenheimer Quest Capital Value Fund Class A
 Oppenheimer Global Fund Class A.

These funds are managed for me by an Oppenheimer investment advisor and have a current market value of approximately \$244,542. I am 46 years of age. I have no plans to access these funds until my retirement in approximately 20 years.

I am also vested in the Oregon Judges in P.E.R.S. retirement plan, which will pay me monthly benefits at age 65 on a statutory formula over which I have no control.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

Having served as a state court trial judge for the last seven years, I have already resolved the typical potential conflicts-of-interest which arise in a transition from private practice to judicial service. For at least my first two years on the bench, I did not hear any matters involving my former law firm, regardless whether those matters arose before or after my withdrawal. Nor did I hear new matters involving former clients for a similar period of time. Presently, I ordinarily do not recuse myself from matters assigned to my docket which involve my former law firm or former clients. I would identify areas of potential conflict-of-interest as I do now — by considering the subject matter, the parties and the attorneys involved to determine whether, under the applicable Code of Judicial Conduct, there is an actual or apparent conflict. If so, I would disclose and recuse as required.

3. **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.

4. **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, patents, 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 Financial Disclosure Report AO-10, attached.

5. **Please complete the attached financial net worth statement in detail (Add schedules as called for).**

See attached Net Worth Statement.

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

Twice I have been a candidate for judicial office:

- A. In 1992, after Governor Barbara Roberts appointed me to the Multnomah County District Court, I was a nonpartisan, unopposed candidate for that office and was elected to a six-year term beginning January, 1993.
- B. In 1994, after Governor Barbara Roberts appointed me to the Multnomah County Circuit Court, I was a nonpartisan, unopposed candidate for that office and was elected to a six-year term beginning January, 1995.

Before Governor Roberts first appointed me, I unsuccessfully sought appointment by Governor Neil Goldschmidt to a Multnomah County District Court vacancy in 1989 and a Circuit Court vacancy in 1990. I likewise unsuccessfully sought appointment by Governor Roberts earlier in her term before she first appointed me in 1992. Finally, in 1997, prior to this current federal court nomination process, I participated unsuccessfully in a screening process for a United States District Court nomination.

In the 1991-92 Oregon state election cycle, and before I was appointed to the Multnomah County District Court in 1992, I was co-chair for Multnomah County of the Committee to Re-elect Justice W. Michael Gillette.

As a lawyer and later as a judge, I lent my name to support various judicial candidates over the years. Typically this would involved my name being printed on a list of supporters for a candidate for judicial office. I have no records and no particular recollection of the names and campaigns involved. In the 1998 primary election to fill a newly created judgeship in my county, I consented that a candidate, Mary A. Overgaard, similarly use my name in support of her candidacy. Based on information I received about the candidate's demeanor on the bench while serving as a pro-tem judge, I decided to withdraw my consent for continued use of my name. The candidate complied.

**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	33	000	Notes payable to banks--secured		0
U.S. Government securities--add schedule		0	Notes payable to banks--unsecured		0
Listed securities--add schedule	244	542	Notes payable to relatives		0
Unlisted securities--add schedule		0	Notes payable to others		0
Accounts and notes receivable:		0	Accounts and bills due		0
Due from relatives and friends	15	000	Unpaid income tax (Still to be determined for 1998)		0
Due from others		0	Other unpaid tax and interest		0
Doubtful		0	Real estate mortgages payable--add schedule	188	000
Real estate owned--add schedule	326	400	Chattel mortgages and other liens payable		0
Real estate mortgages receivable		0	Other debts--itemize		
Autos and other personal property	75	000	VISA	7	000
Cash value--life insurance	28	500			
Other assets--itemize		0			
Oregon Savings Growth Plan Deferred Compensation Account	42	898			
			Total Liabilities	195	000
			Net Worth	570	340
Total Assets	765	340	Total Liabilities and net worth	765	340
CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, comaker or guarantor		0	Are any assets pledged? (Add schedule.) No.		0
On leases or contracts		0	Are you defendant in any suits or legal actions? NO.		0
Legal Claims - NONE.		0	Have you ever taken bankruptcy? NO		0
Provision for Federal Income Tax (PAID FOR 1998)					
Other special debt		0			

795

SCHEDULE

Listed Securities

Oppenheimer Strategic Income Fund Class A
Oppenheimer Equity Income Fund Class A
Oppenheimer Main Street Income & Growth Fund Class A
Oppenheimer Growth Fund Class A
Oppenheimer Quest Capital Value Fund Class A
Oppenheimer Global Fund Class A.

Real Estate Owned:

Residence, Lake Oswego, OR

Real Estate Mortgage Payable:

HomeSide Lending, Inc., San Antonio, TX.

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub L.No. 101-194, November 30, 1989 (3 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Brown, Anna J.		2. Court or Organization U.S. District Court, Oregon	3. Date of Report / /
4. Title (Article III judges indicate active or senior status, magistrate judges indicate full- or part-time) Nominee, U.S. Dist.Court Judge		5. Report Type (check type) X Nomination, Date / / Initial Annual Final	6. Reporting Period 01/01/1997 to / /
7. Chambers or Office Address Multnomah County Courthouse 1021 SW 4th Avenue, Room 612 Portland, OR 97204		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
<i>IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.</i>			

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

	POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/>	NONE (No reportable positions.)	
1	Director	United States District Court, District of Oregon, Historical Society
2		
3		

II. AGREEMENTS (Reporting individual only; see pp.14-16 of Instructions.)

	DATE	PARTIES AND TERMS
<input type="checkbox"/>	NONE (No reportable agreements.)	
1	1999	Retirement Plan, Judges in PERS, monthly benefits payable at age 65 on statutory formula (no control)
2		
3		

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

	DATE	SOURCE AND TYPE	GROSS INCOME (years, not spouse's)
<input type="checkbox"/>	NONE (No reportable non-investment income)		
1	1999	Oregon Judicial Department (employment as state court judge-monthly)	\$ 7,108.00
2	1998	Oregon Judicial Department (employment as state court judge)	\$ 85,525.00
3	1997	Oregon Judicial Department (employment as state court judge)	\$ 78,916.00
4	1997	Northwestern School of Law at Lewis & Clark College (honoraria for teaching Trial Advocacy)	\$ 600.00

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Brown, Anna J.	Date of Report / /
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IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE (No such reportable reimbursements.)	DESCRIPTION
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE (No such reportable gifts.)	DESCRIPTION	VALUE
1	Exempt		
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR (No reportable liabilities.)	DESCRIPTION	VALUE CODE*
1	Mileage Plus First Card	Credit Card	J
2			
3			
4			
5			
6			

* VAL. CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Brown, Anna J.	Date of Report / /
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VII. Page 1 INVESTMENTS and TRUSTS— income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
1 Oppenheimer Strategic Income Fund Class A	A	None	K	T					
2 Oppenheimer Equity Income Fund Class A	C	None	K	T					
3 Oppenheimer Main Street Income & Growth Fund Class A	D	Interest	K	T					
4 Oppenheimer Growth Fund Class A	D	Interest	L	T					
5 Oppenheimer Quest Capital Value Fund Class A	D	Interest	K	T					
6 Oregon Savings Growth Plan (Deferred Compensation)	D	Interest	K	T					
7 Massachusetts Mutual life Insurance Co. (variable life)	A	Interest	K	T					
8 Bank of American Checking (J) Lake Oswego, OR	A	None		T					
9 Bank of America Savings (J) Lake Oswego, OR	A	Interest	J	T					
10 Bank of American Time Deposit (S) Rancho Cordova, CA	B	Interest	K	T					
11 Oppenheimer Money Market Fund (S) Denver, CO	A	Interest	K	T					
12 Clackamas Federal Credit Union Savings (J) Oregon City, OR	A	Interest	J	T					
13 Aetna Life Insurance Deferred Compensation (S)	D	Deferred Comp.	K	T					
14 Metropolitan Life Ins. Co (univ. life policy-sold 1998)	D	Distribut ion		T					
15 Farmers New World Life Ins. Co (univ. life policy-sold 1998)	D	Distribut ion		T					
16									
17									
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Brown, Anna J.	Date of Report / /
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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Brown, Anna J.	Date of Report / /
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SECTION HEADING. (Indicate part of report.)

Information continued from Parts I through VI, inclusive.

PART 3. NON-INVESTMENT INCOME (cont'd.)

Line	Date	Source and Type	Gross Income
5	1999	Oregon Public Employees Retirement System (S) (monthly retirement benefits)	\$ 0.00
6	1999	Aetna Life Insurance Deferred Compensation (S) (monthly deferred compensation payments)	\$ 0.00
7	1998	Oregon Public Employees Retirement System (S) (retirement benefits)	\$ 0.00
8	1998	Aetna Life Insurance Deferred Compensation (S)	\$ 0.00
9	1998	SalomonSmithBarney Deferred Compensation (S)	\$ 0.00
10	1998	City of Lake Oswego, Oregon (S) (spouse employment as police lieutenant)	\$ 0.00
11	1997	City of Lake Oswego, Oregon (S) (spouse employment as police lieutenant)	\$ 0.00

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Brown, Anna J.	Date of Report / /
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IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Anna Brown Date April 20, 1999

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

III. GENERAL (PUBLIC)

1. **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.**

Long before I became a lawyer at age 25, service to the elderly and the disabled has been a personal value by which I have strived to live. As one of five children of immigrant parents who spoke little English, I learned early in life that we were different from our peers at school. My father worked as a laundry laborer and then a hospital janitor; my mother raised the children and ran the household. While my parents saved enough to purchase our house, we never owned a car, and we lived near the poverty line. All of the children worked to help support the family; I picked berries in the summer and babysat to help pay the tuition and school uniform expenses for Catholic primary and secondary education. For two summers beginning at age 13, I was a live-in housekeeper and child care provider for a family from our church whose children attended the same school as I. When I was 16 and my younger siblings were 10 and 8, my mother, then 54, suffered a catastrophic brain injury which left her profoundly physically and mentally disabled. Our father, age 59, was working as a janitor. We had no means to care for her other than personally and at home. For the next 12 years of her life, my primary responsibility was caring for her and keeping the household functioning. As time passed, my father became infirm as well and his care and support also fell to me and my young siblings. In short, service to these disadvantaged souls was more than a full time commitment and continued until their deaths 6 months apart in 1980 when I was graduating from law school, taking the bar and beginning my legal career.

After my parents' deaths, my sister and I became actively involved in the care of two elderly aunts by marriage, one who died at age 95 in 1995 and the other, now age 93, who lives in a care center. We have provided a few hours a week of attention, visits, errands, meals out of the facility and company for trips to the doctor or hospital. This has meant the world to them and to us.

As a lawyer, I served as a board member for the REACH Center for Children. This was a nonprofit organization (no longer existing) which provided residential care for developmentally disabled children. The time commitment was for a few hours a month at board meetings, an annual fund raising spaghetti dinner, and an occasional visit to the home itself. Also as a lawyer, I served on the Board of

Regents for St. Mary's Academy where I attended high school. I averaged several hours a month in board and committee meetings. My particular interest was to support financial aid programs for economically disadvantaged girls so that they might have the opportunity I did to obtain an excellent secondary education. I have been an active supporter of St. Mary's Food for Thought annual scholarship luncheons. I was the keynote speaker for the 1997 Food for Thought luncheon.

As a judge, I served for two years on the Volunteers of America Program Committee, which helped focus resources for services to the poor and disadvantaged in our community. Outside my regular volunteer teaching efforts, I spent many hours in September, 1997 preparing for and training municipal court and justice of the peace officials who deal with the everyday problems of regular citizens, including the disadvantaged.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates — through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

No.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

Yes. Yes. A Judicial Selection Advisory Committee comprised of leading Oregon attorneys and citizens was appointed with input from all the members of the Oregon Congressional delegation and the Governor's Office. I was one of 10 finalists interviewed by the full Selection Committee. That interview occurred after committee members had completed their own background investigation. I understand that the Committee evaluated all candidates on three criteria: judicial temperament, fitness to serve on the federal bench and legal qualifications. I am informed that the Committee rated me very highly. Thereafter, I was personally interviewed by Oregon Senator Ron Wyden and two members of his staff,

followed up by additional telephone interviews with Senator Wyden's staff. On February 4, 1999, Senator Wyden telephoned me with the wonderful news that I would be recommended for nomination to the position of United States District Court Judge for the District of Oregon. Before making this recommendation, Senator Wyden consulted with Senator Gordon Smith who likewise supports this recommendation.

Thereafter, I submitted to the Office of White House Counsel, the Department of Justice, the Federal Bureau of Investigation, the American Bar Association, and the Senate Judiciary Committee various written materials concerning my background and qualifications to serve to date. I have been interviewed by individuals from the Office of White House Counsel, the Department of Justice, the Federal Bureau of Investigation, and the ABA Standing Committee on the Judiciary.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No, and I would decline to answer such inquiry if asked.

5. **Please discuss your views on the following criticism involving "judicial activism."**

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-resolution;**

- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;**
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

Throughout my career as a state court trial judge, I have rigorously applied the law made by legislative authority in light of binding judicial precedent. Just as the law requires me to instruct jurors to follow the law “whether you agree with it or not,” the same standard guides the exercise of my Oath. My natural inclination to limit a controversy to established legal parameters has been a good fit with the busy, high volume state trial court dockets at which I preside. I believe any trial judge’s function is to resolve, first and foremost, the issues necessary to disposition of the particular litigants’ disputes, and no more. Trial judges function best when they predictably and consistently adhere to existing law. Trial judges ought to help parties reach agreement and settlement, and failing that, judges must provide an accessible forum within which the matter may be appropriately adjudicated. However, it is both unwise and unrealistic to expect solutions for every problem in state and/or federal trial courts. Obviously, a court without jurisdiction cannot provide relief and a party lacking standing will be left to seek resolution elsewhere. Valuing an independent judiciary committed to the law is the best insurance for ongoing vitality for the rule of law.

U.S. SENATE JUDICIARY COMMITTEE
QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

Naomi Reice Buchwald
Naomi Lynn Reice (maiden name) (used before May 1974)

2. Address: List current place of residence and office address(es)

Office: United States Courthouse
500 Pearl Street, Chambers 2270
New York, New York 10007

Home: Larchmont, New York

3. Date and place of birth.

February 14, 1944
Kingston, New York

4. Marital Status (include maiden name of wife, or husband's name). Married. List spouse's occupation, employer's name and business address(es).

Don David Buchwald
Attorney
Buchwald & Kaufman
600 Third Avenue
New York, New York 10016

5. **Education:** List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Brandeis University, Waltham, Massachusetts
September 1961 - June 1965
B.A. cum laude, June 13, 1965

Columbia Law School, New York, New York
September 1965 - June 1968
L.L.B. cum laude, June 4, 1968

6. **Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Research Assistant to Professor Alfred Hill, Columbia Law School
June - August, 1966
Summer Associate, Marshall, Bratter, Greene, Allison & Tucker
June - August, 1967
Litigation Associate, Marshall, Bratter, Greene, Allison & Tucker,
September 1968 - March 1973
United States Attorney's Office for the Southern District of New York
April 1973 - February 1980
Assistant United States Attorney, 1973 - 1976
Deputy Chief, Civil Division, 1976 - 1979
Chief, Civil Division, 1979 - 1980
United States Magistrate Judge, 1980 to date

7. **Military Service:** Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

B.A. cum laude, Brandeis University
L.L.B. cum laude, Columbia Law School

Phi Beta Kappa
Omicron Delta Epsilon (National Economics Honor Society)
Susan Brandeis Gilbert Scholar, 1963-1965, Brandeis University

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

Association of the Bar of the City of New York, 1981 to date.

Ad Hoc Committee on Judicial Conduct, 1996 to date
Litigation Committee, 1994 - 1996
Long-Range Planning Committee, 1993 - 1995
Trademarks and Unfair Competition Committee, 1988 - 1989

Federal Bar Council, 1976 to date.

Trustee, 1998 - 2000
Awards Committee, 1995 to date (Chair 1997 to date)
Vice-President, 1982 - 1984
Bench and Bar Conference Planning Committee, 1982 - 1984
Trustee, 1976-1982

New York State Bar Association, 1981 to date.

Federal Magistrate Judges' Association, 1980 to date.

American Bar Association, 1984 to 1996.

Court Committees:

Committee on Rules and Practice (Judge Preska, Chair), 1998 to date
Joint Committee on Local Rules of the Eastern and Southern Districts
(Guy Miller Struve, Chair), 1996 to date
Civil Justice Reform Act Committee (Judge Martin, Chair), 1995 to
1996
Planning Committee for the Judicial Conference of the Second Circuit,
1985 - 1987; 1991 - 1994
Security Committee (Judge Leval, Chair), 1990 - 1992
Discovery Committee (Judge Goettel, Chair), 1983 - 1984

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

(a) None.

(b) By virtue of my service as an Assistant United States Attorney, I am a member of the following organizations comprised of AUSA's who served under the United States Attorney for whom the Association is named: the Whitney North Seymour, Jr. Association; the Paul R. Curran Association, and the Robert B. Fiske, Jr. Association. I am also a member of the Columbia Law School Alumni Association. Finally, by virtue of monetary contributions, I am considered a member of the following organizations: The Smithsonian Institution; United States Holocaust Memorial Museum; Statue of Liberty-Ellis Island Foundation; Boston Museum of Fine Arts, The Isabella Gardner Museum; and Channel 13-WNET.

11. **Court Admissions:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any other memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

State of New York, First Department	1968
U.S. Court of Appeals, Second Circuit	1969
U.S. District Court, S.D.N.Y.	1970
U.S. District Court, E.D.N.Y.	1970
Supreme Court of the United States	1978

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Abuse of Process: Sewer Service, 3 Colum.J.L. & Soc. Probs. 17 (1967)

13. **Health:** What is the present state of your health? List the date of your last physical examination.

Excellent, May 4, 1998

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I am presently a United States Magistrate Judge, a position I have held for approximately 18 ½ years. A Magistrate Judge is appointed for a term of eight years by the District Judges of the District in which the Magistrate Judge sits. I was initially appointed in 1980 and have since been reappointed twice following public notice and approval by a merit selection panel in accordance with 28 U.S.C. § 631. The jurisdiction of a Magistrate Judge is set forth in 28 U.S.C. § 636, but may be summarized as follows. With the consent of the parties, Magistrate Judges may act as the equivalent of United States District Judges which includes the authority to try any civil case pending in federal court with or without a jury under the same rules of evidence and procedure that apply in all federal district courts. Even without consent of the parties, District Judges may refer cases to Magistrate Judges for resolution of motions, evidentiary hearings, pretrial supervision, settlement, and for such other duties as are not inconsistent with the Constitution or laws of the United States. Apart from the requirement of consent before a Magistrate Judge can act as the trial judge equivalent in civil cases, the most significant limitation on the jurisdiction of Magistrate Judges is that Magistrate Judges cannot try federal felony cases, although Magistrate Judges may and are responsible for pretrial aspects of felony cases, such as the setting of bail, taking pleas, and signing arrest and search warrants. Magistrate Judges may with the consent of the defendant try federal criminal misdemeanors and may sentence defendants convicted of misdemeanors and do so regularly.

As a Magistrate Judge, I have had responsibility for and have written decisions on all categories of federal litigation, including *inter alia*: civil and criminal procedure, evidence, criminal and constitutional law, RICO, antitrust, patent, trademark, copyright, contract, securities, personal injury, employment discrimination, habeas corpus, Section 1983, and social security.

In addition to presiding at trials and evidentiary hearings and resolving motions, my experience as a Magistrate Judge has exposed me to all phases of case management and, in particular, has given me extensive experience in assisting parties in the settlement of cases.

15. **Citations:** If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

- (1) **Significant opinions:** These cases are listed in reverse chronological order. In making my selections, I have concentrated on decisions I filed in the more recent past. I have not listed any decision in an ongoing litigation.

(a) Lloyd Bensen v. American Ultramar, LTD.

No. 92 Civ. 4420 (KMW), 1997 WL 66780 (S.D.N.Y. Feb. 14, 1997).

(b) Variable-Parameter Fixture Development Corporation v. Morpheus Lights, Inc. and John Richardson

No. 90 Civ. 5593 (DC), 1996 U.S. Dist. LEXIS (S.D.N.Y. June 25, 1996), adopted, 945 F. Supp. 603 (S.D.N.Y. 1996).

(c) Virginia H. Black v. New York University Medical Center

No. 91 Civ. 7701 (SS), 1996 WL 294310 (S.D.N.Y. June 3, 1996).

(d) Bass Public Limited Company v. The Promus Companies Incorporated

No. 92 Civ. 0969 (SWK), 1994 WL 164031 (S.D.N.Y. Apr. 26, 1994), aff'd, 868 F. Supp. 615 (S.D.N.Y. 1994).

(e) National Labor Relations Board v. Baby Watson Cheesecake, Inc.

No. 93 Civ. 4023, 1994 U.S. App. LEXIS 40849 (2d Cir. Sept. 21, 1994), adopted, 1995 U.S. App. LEXIS 22132 (2d Cir. Feb. 1, 1995).

(f) In re Pfizer Inc. Securities Litigation

No. 90 Civ. 1260 (SS), 1993 WL 561125 (S.D.N.Y. Dec. 23, 1993).

Related opinions: 1994 WL 263610 (S.D.N.Y. June 6, 1994); 1994 WL 661104 (S.D.N.Y. Nov. 22, 1994).

(g) Barbara Swift Hollie v. Korean Air Lines Co., LTD.

834 F. Supp. 65 (S.D.N.Y. 1993).

(h) Luis Tucunango v. Louis W. Sullivan, Secretary of Health & Human Services

810 F. Supp. 103 (S.D.N.Y. 1993).

(i) Kyung Hwa Park v. Korean Air Lines Company, LTD.
No. 83 Civ. 7900 (PNL), 1992 WL 331092 (S.D.N.Y. Oct. 30, 1992).

(j) United States of America v. Alan E. Rosenthal
142 F.R.D. 389 (S.D.N.Y. April 16, 1992).

(2) **Appellate Reversals (in reverse chronological order)**

(a) Kronisch v. United States, 150 F.3d 112 (2d Cir. 1998), aff'g in part and vacating in part, 1997 WL 907994 (S.D.N.Y. 1997).

In this case, plaintiff alleges that he was the victim of a CIA program to test mind-altering drugs on unsuspecting persons. The Second Circuit affirmed the summary judgment dismissal of the Federal Tort Claims action against the United States on statute of limitations grounds, affirmed the dismissal of Bivens claims against Richard Helms and Sidney Gottlieb to the extent that plaintiff claimed that they administered a program of LSD testing, but vacated the dismissal on statute of limitations and personal jurisdiction grounds insofar as plaintiff claimed that Gottlieb himself administered the LSD-laced drink. The case is pending.

(b) Monarch Knitting Machinery Corp. v. Sulzer Morat GMBH, 139 F.3d 877 (Fed. Cir. 1998).

In this patent and antitrust case, the Federal Circuit vacated the grant of summary judgment to Monarch on the ground that the patent at issue was invalid for obviousness. Judge Sand had adopted my Report and Recommendation on this motion. The case is pending.

(c) Cooper v. Parsky, 140 F.3d 433, aff'g in part, vacating and remanding in part, 1997 WL 150934 (S.D.N.Y. Mar. 27, 1997), adopting, 1997 WL 242534 (S.D.N.Y. Jan. 8, 1997) (Report and Recommendation, Buchwald M.J.).

Plaintiff sued numerous defendants on a variety of claims arising out of his relinquishment of control of a corporation he founded. The Second Circuit affirmed for the most part the decision to dismiss the complaint with the exception of a claim of breach of a Voting Agreement against three defendants.

(d) Merchant v. Levy, 92 F.3d 51 (2d Cir. 1996), rev'g, 828 F. Supp. 1048 (S.D.N.Y. 1993), 828 F. Supp. 29 (S.D.N.Y. 1995) and 1995 WL 217508 (S.D.N.Y. Apr. 11, 1995).

After a trial, in part before a jury and in part before the Court, the Second Circuit ruled that the copyright ownership claim of the plaintiffs, two of the original members of the singing group "Frankie Lymon and the Teenagers," to "Why Do Fools Fall in Love" was barred by the statute of limitations.

(e) Aris Isotoner Inc. v. Berkshire Fashions, Inc., 924 F.2d 465 (2d Cir. 1991).

The Second Circuit remanded this case for further consideration of the defendant's laches defense to plaintiff's motion to find defendant in civil contempt of a consent judgment. After further proceedings on remand the defense of laches was rejected, a decision which was upheld by the Second Circuit. See 983 F.2d 1048 (2d Cir.), aff'g, 792 F. Supp. 969 (S.D.N.Y. 1992).

(f) Cruz v. Sullivan, 912 F.2d 8 (2d Cir. 1990).

The Second Circuit vacated Judge Edelstein's order adopting my Report and Recommendation, which found that the decision of the Secretary of Health and Human Services denying plaintiff's application for Supplemental Security Income was supported by substantial evidence. The Circuit remanded the matter to the Secretary based on its finding that the claimant, who had been unrepresented, did not have an adequate hearing before the Administrative Law Judge.

(g) Ortiz v. Cornetta, 867 F.2d 146 (2d Cir. 1989).

The Second Circuit reversed the dismissal of this complaint on statute of limitations grounds and remanded this pro se action brought under 42 U.S.C. § 1983 for further proceedings on the issue of whether the plaintiff had sent his complaint to the Office of the Clerk earlier than their records indicated.

(h) Hasbro, Inc. v. Lanard Toys, Ltd., 858 F.2d 70 (2d Cir. 1988), rev'g, 1987 WL 123983 (S.D.N.Y. Nov. 18, 1987).

In this Lanham Act case between two manufacturers of action toys, the Second Circuit reversed my denial of a preliminary injunction directed to defendant's use of the mark "GUNG-HO."

(i) National Association of Pharmaceutical Manufacturers, Inc. v. Ayerst Laboratories, Division of/and American Home Products Corp., 850 F.2d 904 (2d Cir. 1988), rev'g, 1987 WL 15463 (S.D.N.Y. Apr. 30, 1987).

This case was brought by an association of generic drug manufacturers and one company against a brand name drug manufacturer. The Second Circuit reversed my determinations that the plaintiffs lacked standing to maintain their antitrust and Lanham Act claims and that the plaintiffs failed to state a Lanham Act claim.

(j) Carter v. Dutchess Community College, 735 F.2d 8 (2d Cir. 1984).

The Second Circuit reversed Judge Carter's adoption of my Report and Recommendation that inmates were not entitled to receive the minimum wage for time spent tutoring in a prison-based program conducted by a community college. The Circuit remanded the case for further inquiry on the question of whether as a matter of "economic reality" the community college had sufficient control over the prisoners to create an employer-employee relationship within the meaning of the Fair Labor Standards Act.

(k) D.C.A. Food Industries, Inc. v. Christy Crops, Inc., No. 81-7408, slip op. (2d Cir. May 18, 1982) (unreported).

The Second Circuit reversed my recommendation to Judge Knapp, which he adopted, that plaintiff not recover pre-judgment interest at the prime rate as an item of consequential damages under the U.C.C. as such recovery would be unprecedented.

NOTE: Hollie v. Korean Air Lines Co., Ltd. The Second Circuit's opinion of July 12, 1995, reported at 60 F.3d 90, indicates a reversal of my decision with respect to the availability of damages for loss of society in an action brought by relatives of persons who died in the downing of KAL Flight 007. However, the Second Circuit's decision in this regard was vacated by the Supreme Court, 516 U.S. 1088 (1996).

(3) **Constitutional Law Decisions**

While I do not believe that any decisions I have written addressing federal constitutional law issues should be characterized as "significant" within the meaning of the question, nonetheless, I would like to inform the Committee that habeas corpus petitions and Section 1983 cases are routinely referred to Magistrate Judges for report and recommendation. As a consequence of those

referrals I have had a broad exposure to a variety of federal constitutional issues.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. **Legal Career:**

- a. Describe chronologically your law practice and experience after graduation from law school including:
1. 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;
 2. whether you practiced alone, and if so, the addresses and dates;
 3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

Upon graduation from Columbia Law School in 1968, I joined the firm of Marshall, Bratter, Greene, Allison & Tucker (430 Park Avenue, New York, New York) as an associate in the litigation department. I remained at Marshall Bratter until 1973 when I joined the United States Attorney's Office for the Southern District of New York (One St. Andrew's Plaza, New York, New York) as an Assistant United States Attorney in the Civil Division. I was appointed Deputy Chief of the Civil Division in 1976 and Chief of the Civil Division in 1979, a position I held until I became a United States Magistrate Judge in 1980.

- b. 1. **What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?**
2. **Describe your typical former clients, and mention the areas, if any, in which you have specialized.**

Throughout my legal career, I have specialized in litigation. My experience at the Marshall Bratter firm, at which I spent four and a half years, was that of a litigation associate at a fairly large metropolitan law firm. I worked exclusively for the firm's clients, who ranged from individuals to publicly-traded companies. Most of the cases to which I was assigned involved contracts, securities and antitrust law issues. Fortunately, at Marshall Bratter, cases were not staffed heavily so that most of the time I worked directly with one of the firm's partners with the consequence that I had significant brief drafting responsibilities, exposure to clients, co-counsel and opposing counsel, and even the opportunity as a junior associate to second seat partners at a lengthy jury trial, arbitration and reference hearing.

My experience as a member of the Civil Division at the United States Attorney's Office was significantly different from my private practice exposure at Marshall Bratter. At the United States Attorney's Office, an assistant typically had sole responsibility for the cases assigned to them, which were both greater in number and in variety than at the law firm. Civil Division assistants represented the United States, its agencies and their officers, most typically when those parties were sued in cases ranging from challenges to regulatory action to tort actions arising from accidents with government vehicles. The Civil Division also represented the United States as plaintiff in cases ranging from actions to enforce consent decrees to actions to collect debts owed the Government in a variety of contexts.

My tenure at the United States Attorney's Office was marked not by specialization but rather by the breadth of exposure the experience afforded. As I have described, as a line assistant my experience was broad, but in addition as Deputy Chief of the Civil Division, a position I held from 1976 to 1979, I was responsible for reviewing all legal documents and correspondence drafted by the other thirty-five Civil Division Assistants. Later, as Chief of the Civil Division, I assigned all work for the Division, consulted with members of the Division concerning the handling of the cases assigned, and was the liaison between the Civil Division and the United States Attorney, the Justice

Department, other government agencies, and the courts before whom our assistants appeared.

- c. 1. **Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearance in court varied, describe each such variance, giving dates.**

My courtroom appearances increased when I joined the United States Attorney's Office, although I believe I had somewhat greater in-court exposure at Marshall Bratter than do most associates at large law firms.

2. **What percentage of these appearances was in:**
 (a) federal courts;
 (b) state courts of record;
 (c) other courts.

At Marshall Bratter, my courtroom appearances were divided approximately fifty/fifty between state and federal court, while at the United States Attorney's Office, my appearances were almost exclusively in federal court.

3. **What percentage of your litigation was:**
 (a) civil;
 (b) criminal.

With one significant exception, which will be described in response to Question 18, my professional experience as a lawyer was exclusively civil.

4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

In private practice (as associate counsel) and at the United States Attorney's Office (as chief counsel with two exceptions), I tried approximately ten cases.

5. **What percentage of these trials was:**
 (a) jury. 10%
 (b) non-jury. 90%

18. **Litigation:** Describe the ten most significant litigated matters which you personally handled. 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.

NOTE: These cases are listed in alphabetical order.

1. **Braxton v. Poughkeepsie Housing Authority, et al.**
382 F. Supp. 992 (S.D.N.Y. 1974)(Charles M. Metzner, U.S.D.J.).

Case Summary

This class action was brought by tenants living in housing operated by the Poughkeepsie Housing Authority to challenge the procedures employed when rents were raised, fines and service charges imposed and tenancies terminated. As some of the tenants lived in federally financed or leased housing, the Department of Housing and Urban Development ("HUD") and various HUD officials were named as defendants. As an Assistant U.S. Attorney, I represented the Federal defendants. Following our motion to dismiss, these defendants were dismissed from the case.

Counsel for Other Parties:

John D. Gorman, Esq.
Monroe County Legal Assistance Corp.
Mid-Hudson Valley Legal Services Corp.
Poughkeepsie, New York
(Counsel for plaintiffs)
Current address: unknown

Joseph Worona, Esq.
(Counsel for Poughkeepsie Housing Authority)
Current address: unknown

A. Seth Greenwald, Esq.
Assistant Attorney General
(Counsel for New York State Division of Housing and Community
Renewal),
Current address:
Principal Court Attorney
Supreme Court - Appellate Division
First Department
27 Madison Avenue
New York, New York 10010
(212) 340-0400

**2. Ciba-Geigy Corp. v. Mathews [Secretary of Health, Education and
Welfare]**
428 F. Supp. 523 (S.D.N.Y. 1977)(Charles H. Tenney, U.S.D.J.).

Case Summary

In connection with the FDA's proposed revised labeling requirement for oral hypoglycemic drugs used in the treatment of maturity-onset diabetes, Ciba-Geigy, a manufacturer of one of those drugs, sought data under the Freedom of Information Act ("FOIA") of the research results of a project funded by the National Institutes of Health. The issue raised by the case was whether the research entity was an "agency" within the meaning of FOIA, and if not, whether the records created were nonetheless Government "agency records." Summary judgment was awarded to the Government. I was responsible for the presentation of the Government's case and its written submissions. I coordinated my efforts with Stuart M. Pape of the then Department of Health, Education and Welfare. The Attorney General of Maryland represented the University of Maryland, another named defendant.

Counsel for Other Party:
Daniel F. Kolb, Esq.
Davis, Polk & Wardwell
450 Lexington Avenue
New York, New York 10019
(212) 450-4000
(Counsel for Plaintiff)

3. Corum v. Beth Israel Medical Center, et al.

359 F. Supp. 909 (S.D.N.Y. 1973); 373 F. Supp. 550 (S.D.N.Y. 1974); 373 F. Supp. 558 (S.D.N.Y. 1974) Civ. 2654 (Morris E. Lasker, U.S.D.J.).

Case Summary

This action challenged the substance of certain regulations promulgated by the Secretary of Health, Education and Welfare ("Secretary") under the Hill-Burton Act and further challenged the involvement of the Federal Hospital Council ("Council") in the issuance of those regulations as an unconstitutional delegation of legislative authority. The primary purpose of the Hill-Burton Act was to provide capital to the States to promote the construction and modernization of nonprofit hospitals and related facilities and research. A condition of receiving federal funds was that a "reasonable volume of services [be made available] to persons unable to pay therefor...." The challenged regulations concerned compliance with that condition of funding. Judge Lasker found one regulation invalid, sustained the others and found that the involvement of the Council was not unconstitutional. In my capacity as an Assistant United States Attorney, I represented the Secretary and the Council.

Counsel for Other Parties:

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Lipkowitz, Plant, Salberg & Harris
(Counsel for Beth Israel Hospital)
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**4. Dwyer, et al. v. Kane-Miller Corp.
Civil Action No. 60-70 (W.D.Pa.) (Erie) (Joseph P. Willson, Senior D.J.),
487 F.2d 1394 (3d Cir. 1973) (Table of Decisions Without Reported
Opinions).**

Case Summary

Plaintiffs, members of the Dwyer family and formerly owners of the Firch Baking Company ("Firch") in Erie, Pennsylvania, sued Marshall Bratter's client, Kane-Miller Corp. ("Kane-Miller"), after a decline in the price of Kane-Miller stock followed a stock for stock acquisition by Kane-Miller of Firch. Plaintiff's complaint alleged that Kane-Miller had breached its warranty in the Merger Agreement, had violated §§ 12(2) and 17(a) of the Securities Act of 1933 and § 10(b) of the Securities Exchange Act of 1934. A month long trial of this case was held in Federal District Court in January-February 1973. A verdict for Kane-Miller was returned by the jury after a few hours of deliberation. I assisted Richard L. Bond, a partner of the firm, on the case. I was involved in all phases of the pretrial proceeding and trial preparation, and examined two witnesses at trial.

Co-counsel:

Richard L. Bond, now deceased, was the Marshall Bratter partner in charge of this case.

Counsel for Other Party:

James E. Blackwood, Esq.
23 West 10th Street, 3rd Floor
Erie, PA 16501
(Counsel for Plaintiffs)

5. Estate of Arthur K. Watson v. Blumenthal
442 F. Supp. 1000 (S.D.N.Y. 1977) (Thomas P. Griesa, U.S.D.J.), rev'd,
586 F.2d 925 (2d Cir. 1978).

Case Summary

After former Ambassador Arthur K. Watson fell down the stairs in his home, fracturing his skull and entering an irreversible coma, \$8 million of Flower Bonds were purchased on his behalf by his attorneys-in-fact. Flower Bonds, which are issued by the Treasury Department's Bureau of Public Debt (the "Bureau"), may be redeemed at par for the payment of federal estate taxes, hence the term flower bonds. The Bureau rejected the Estate's tender of the bonds on the ground that Mr. Watson's comatose condition vitiated the power of attorney and thus that the condition that the bonds be owned by the decedent at the time of his death could not be met. The estate brought this action to compel the redemption of the bonds. The Second Circuit, reversing the district court, concurred with the Government's argument that exclusive jurisdiction lay in the Court of Claims. As Government counsel throughout the litigation, I briefed and argued both the jurisdictional and agency law issues.

Co-counsel (on appeal only):

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Louis G. Corsi, Esq.
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6. National Maritime Union of America, AFL-CIO v. Commerce Tanker Corp. v. Vantage Steamship Corp.
McLeod v. National Maritime Union of America, AFL-CIO and Commerce Tankers Corp.
 325 F. Supp. 360 (S.D.N.Y. 1971)(Marvin E. Frankel, U.S.D.J.); 329 F. Supp. 151 (S.D.N.Y. 1971) (Croake, U.S.D.J.); 457 F.2d 1127 (2d Cir. 1971).
Commerce Tankers Corp. v. Vantage Steamship Corp.
 41 A.D.2d 813, 342 N.Y.S.2d 281 (1st Dept. 1973).

Case Summary

In late 1970, my firm's client, Commerce Tankers Corporation ("Commerce"), a subsidiary of Vernitron Corp., decided to sell its two vessels. Commerce contracted to sell one of the vessels, the "Barbara," to Vantage Steamship Corporation ("Vantage"). As a result of that contract, Commerce walked into a minefield created by the rivalry between the two unions representing unlicensed seamen on American-flag ships. The National Maritime Union ("NMU"), the union representing Commerce's unlicensed seamen, obtained an arbitral award restraining the transfer of the vessel. The NMU went to federal district court to confirm the arbitral award, while its rival union, the Seafarers International Union ("SIU"), commenced a proceeding before the NLRB accusing Commerce and the NMU of engaging in an unfair labor practice. Before the litigation ended, the case had been to the Second Circuit twice, the full NLRB (196 N.L.R.B. No. 165) and had spawned a litigation in New York state court arising out of a contractual agreement between Commerce and Vantage to arbitrate. I was the primary associate on the federal court proceedings in 1971 and the subsequent state court proceedings until the time I left Marshall, Bratter to become an Assistant United States Attorney. The contractual dispute between Commerce and Vantage was settled just before the case was to be presented to the New York State Court of Appeals. The federal case continued. See 411 F. Supp. 1224 (S.D.N.Y. 1976), aff'd in part and rev'd in part, 553 F.2d 793 (2d Cir. 1977).

Co-counsel:

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Charles Sovel, Esq.
Freedman & Lorry, P.C.
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(Counsel for the NMU)

7. National Nutritional Foods Association v. Weinberger [Secretary of Health, Education and Welfare] and Schmidt [Commissioner of Food and Drugs].
366 F. Supp. 1341 (S.D.N.Y. 1973) (denying preliminary injunction), aff'd, 491 F.2d 845 (2d Cir. 1973); 376 F. Supp. 142 (dismissing complaint), remanded, 512 F.2d 688 (2d Cir. 1975) (Marvin E. Frankel, U.S.D.J.).
(Judge Frankel resigned from the bench in 1978. He is now a member of the firm of Kramer, Levin, Naftalis & Frankel, 919 Third Avenue, New York, New York 10022 (212) 715-9430).

Case Summary

This action was brought by a trade association of manufacturers, wholesalers and retailers of vitamins and dietary supplements, and a manufacturer to enjoin the effectiveness of regulations issued by the Food and Drug Administration ("FDA") restricting to prescription sale massive dosages of vitamins A and D on the basis of the toxicity of such dosages. I was Government counsel throughout the litigation and in large measure for my work on this case, I was awarded the FDA Commissioner's Special Citation in 1978, which is given to the Department of Justice attorney who was of greatest assistance to the FDA. The last decision in the case held that the FDA had not assembled a record sufficient to support the regulations.

Co-counsel:

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Counsel for Other Party:

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8. United States v. Amrep Corp.
405 F. Supp. 1053 (S.D.N.Y. 1976) (Charles M. Metzner, U.S.D.J.); 545 F.2d 797 (2d Cir. 1976); 506 F.2d 539 (2d Cir. 1977).

Case Summary

The indictment in this case charged the defendants with mail fraud and violations of the fraud provisions of the Interstate Land Sales Disclosure Act arising out of the sale of some 77,000 lots from a 91,000 acre tract of land known as Rio Rancho Estates, northwest of Albuquerque, New Mexico. While I did not participate in the trial of the case which resulted in the convictions of most defendants, I did participate in the investigative and grand jury phase of

the case (in a secondary capacity) and researched a possible parallel civil injunctive action under the Interstate Land Sales Act. I also represented the Federal Trade Commission ("FTC") when Amrep Corporation sought to stay the FTC's proceeding which sought a cease and desist order and contemplated restitution to purchasers of lots at Rio Rancho Estates.

Co-counsel:

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Counsel for Other Parties:

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Criminal Case

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9. United States v. Ancorp National Services

367 F. Supp. 1221 (S.D.N.Y. 1973) (Dudley Bonsal, U.S.D.J.), aff'd, 516 F.2d 198 (2d Cir. 1975).

Case Summary

This action was commenced by the United States seeking penalties from Ancorp National Services, Inc. ("Ancorp") for violating a Cease and Desist Order issued by the Federal Trade Commission. Specifically, Ancorp, which

owned newsstands, was enjoined from receiving any compensation from any supplier in consideration for display or promotional services when such consideration was not offered to other customers of such suppliers on a proportionally equal basis. After a non-jury trial, the District Court awarded \$204,200 in penalties and issued a permanent injunction. That judgment was upheld on appeal.

As I recall, this was my first trial at the United States Attorney's Office. I second seated Gerry Rosenberg, another assistant in the Civil Division, who had filed the case some years before.

Co-counsel:
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Counsel for Other Party:
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Delson & Gordon
(Counsel for Ancorp National Services, Inc.)
Current address: Unknown

10. United States v. Olin Ski Co., Inc.
503 F. Supp. 141 (S.D.N.Y. 1980) (Abraham D. Sofaer, U.S.D.J.). (Judge Sofaer resigned from the bench in 1985. He is now at The Hoover Institution, Stanford University, Stanford, CA 94305-6010, (650) 723-1687.)

Case Summary

The Federal Trade Commission ("FTC") determined that Olin Ski Company ("Olin Ski"), a wholly owned subsidiary of Olin Corporation, had violated an FTC Consent Order, which followed the FTC's determination that Olin Ski had attempted to fix resale prices. This action was commenced to obtain injunctive relief and civil penalties. The District Court rejected the Government's contention that Olin Ski's distribution to dealers, among others, of brochures with price lists, including an order form with prices, violated the Consent Decree's prohibition on the circulation of suggested resale prices "by price list...or by any other such means...." I was the Assistant United States Attorney responsible for this case from its inception in 1978 to the time I left the Office in 1980. I coordinated the Government's case with Edward Shumsky, then with the FTC.

Co-counsel:

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Federal Trade Commission
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NOTE: Given the age of the cases just described, I am providing a list of members of the legal community who have had recent contact with me.

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Honorable Zachary W. Carter
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Honorable Mary Jo White
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George B. Yankwitt, Esq.
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In addition, Chief Judge Griesa, and Southern District Judges Cedarbaum, Cote, Haight, Jones, Koeltl, Knapp, Martin, Preska, Owen, Rakoff, Sand, Scheindlin, and Stein are very familiar with my work as a Magistrate Judge.

19. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant ligation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

To supplement the information elicited by the previous questions, I would add that as a Magistrate Judge, I have presided over approximately 20 jury trials, 25 non-jury trials, and 25 evidentiary hearings.

Also, I would like to briefly describe the work of the Joint Committee on Local Rules of the Eastern and Southern Districts since I was particularly involved in its efforts. Since its formation in 1996, the Committee has completed a full review of the local rules of the two districts and recommended revisions thereto. In addition, the Committee, in response to the views of the bar, drafted a standard form of individual practices (with a few variations) that were adopted in whole or large part by the vast majority of judges, thus reducing the burden on counsel (and parties) caused by the diversity of individual rules.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

- 1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

As a Magistrate Judge I am a member of the Judicial Retirement System. I understand that I am not required to withdraw from JRS if I am appointed an Article III Judge. I do not intend to withdraw from JRS.

- 2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts of interest during your initial service in the position to which you have been nominated.**

As a Magistrate Judge I have been bound by the Code of Judicial Conduct and 28 U.S.C. § 455 requiring disqualification in cases of conflict of interest. I believe that I have always conducted myself in compliance with those rules. None.

- 3. 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.

- 4. 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, patents, 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 Financial Disclosure Reports annexed.

5. **Please complete the attached financial net worth statement in detail. (Add schedules as called for).**

See net worth statement annexed.

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

No.

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.

NET WORTH STATEMENT ATTACHED

AO-10 (n)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub L No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) BUCHWALD, NAOMI R.		2. Court or Organization SOUTHERN DISTRICT OF NEW YORK	3. Date of Report 02/17/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. DISTRICT JUDGE NOMINEE		5. Report Type (check type) <input checked="" type="checkbox"/> Nomination, Date 02/12/1999 Initial _____ Annual _____ Final _____	6. Reporting Period 01/01/1999 to 02/14/1999
7. Chambers or Office Address UNITED STATES COURTHOUSE 500 PEARL STREET NEW YORK, NEW YORK 10007		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
<i>IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.</i>			

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

<input checked="" type="checkbox"/> NONE (No reportable positions.)	POSITION	NAME OF ORGANIZATION / ENTITY
1		
2		
3		

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

<input checked="" type="checkbox"/> NONE (No reportable agreements.)	DATE	PARTIES AND TERMS
1		
2		
3		

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

<input type="checkbox"/> NONE (No reportable non-investment income.)	DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
1		Spouse's income from law partnership (S)	
2			
3			
4			

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Quick & Reilly (U.S. Clearing Corp.)	Margin Debt Balance	J
2			
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 0=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 Insured Money Rate Accounts Citibank, Larchmont, NY (J)	A	Interest	J	T					
2 Savings & Checking Accounts Citibank, Larchmont, NY (J)	A	Interest	M	T					
3 Insured Money Rate & Savings Accounts Citibank, (DC)	A	Interest	M	T					
4 Individual Retirement Account Citibank Larchmont, NY	A	Interest	K	T					
5 Individual Retirement Account Citibank, Larchmont, NY (S)	A	Interest	J	T					
6 Keogh, Citibank, Larchmont, NY (S)	C	Interest							
7	A	Dividend	P1	T					
8 Money Market Account, Republic National Bank (J)	A	Interest	J	T					
9 Smith Barney Money Funds (J)	A	Dividend	L	T					
10 Smith Barney Money Funds (DC)	A	Dividend	J	T					
11 Insured Money Rate a/c - CD Chase Manhattan Bank (J)	A	Interest	J	T					
12 Galaxy Prime Reserve, Quick & Reilly (J)	A	Dividend	K	T					
13 Galaxy Prime Reserve, Quick & Reilly (DC)	A	Dividend	M	T					
14 Tweedy Brown Global Funds (DC)		None	J	T					
15 J.P. Morgan U.S. Equity Fund (DC)		None	J	T					
16 Blount Class A (S)	B	Dividend	J	T					
17 Blount Class B (S)	A	Dividend	J	T					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000					
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more					
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market						

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 2 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)					
NONE (No reportable income, assets, or transactions.)									
18 Kinark Common Stock (DC)		None	J	T					
19 Intel Common Stock (J) (S-Keo) (DC)	A	Dividend	P1	T					
20 Cisco Systems Common Stock		None	N	T					
21 Compac Computer Common Stock (J) (S-Keo)	A	Dividend	N	T					
22 Earthweb.com Common Stock (S-Keo) (DC)		None	K	T					
23 Hancock Fabrics Common Stock (DC)	A	Dividend	J	T					
24 Internet America, Inc. Common Stock (S-Keo)		None	J	T					
25 Maytag Common Stock	A	Dividend	M	T					
26 Medware Common Stock (S)		None	K	T					
27 Netscape Common Stock (J)		None	M	T					
28 Ubid Common Stock (S-Keo) (S-IRA)		None	L	T					
29 America on Line Common Stock		None							
30 Broadcast Common Stock		None							
31 Excite Common Stock		None							
32 Infoseek Common Stock		None							
33 Inprise Common Stock		None							
34 Lycos Common Stock		None							

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHNALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 3 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-F)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
35 Merrill Lynch Common Stock	A	Dividend							
36 The Globe.com Common Stock		None							
37 Yahoo Common Stock		None							
38 zoom.com Common Stock		None							
39									
40									
41									
42									
43									
44									
45									
46									
47									
48									
49									
50									
51									
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$30,001-\$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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

* Item 7C1. Value Code "P1" includes stock in spouse's KEOGH brokerage account listed thereafter ("Keo")

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature

Naomi Ruth Buchwald

Date 2/17/99

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

2-10 (iv)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Calendar Year 1998

Report Required by the Ethics Reform Act of 1989, Pub L No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) BUCHWALD, NAOMI R.		2. Court or Organization SOUTHERN DISTRICT OF NEW YORK	3. Date of Report 02/17/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) MAGISTRATE JUDGE FULL-TIME		5. Report Type (check type) Nomination, Date / / Initial <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Final <input type="checkbox"/>	6. Reporting Period 01/01/1998 to 12/31/1998
7. Chambers or Office Address UNITED STATES COURTHOUSE 500 PEARL STREET NEW YORK, NEW YORK 10007		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.			

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1	
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1	Spouse's income from law partnership (S)	
2		
3		
4		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			
2			
3			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Quick & Reilly (U.S. Clearing Corp.)	Margin Debt Balance	J
2			
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
1 Insured Money Rate Accounts Citibank, Larchmont, NY (J)	A	Interest	J	T						
2 Savings & Checking Accounts Citibank, Larchmont, NY (J)	C	Interest	M	T						
3 Insured Money Rate & Savings Accounts Citibank, (DC)	C	Interest	L	T						
4 Individual Retirement Account Citibank Larchmont, NY	B	Interest	K	T						
5 Individual Retirement Account Citibank, Larchmont, NY (S)	A	Interest	J	T						
6 Keogh, Citibank, Larchmont, NY (S)	D	Interest								
7	B	Dividend	P1	T						
8 Money Market Account, Republic National Bank (J)	A	Interest	J	T						
9 Smith Barney Money Funds (J)	C	Dividend	L	T						
10 Smith Barney Money Funds (DC)	A	Dividend	J	T						
11 Insured Money Rate a/c - CD Chase Manhattan Bank (J)	A	Interest	J	T						
12 Galaxy Prime Reserve, Quick & Reilly (J)	D	Dividend	K	T						
13 Galaxy Prime Reserve, Quick & Reilly (DC)	D	Dividend	M	T						
14 Dryfuss - General Money Market (Hampshire Securities)	A	Dividend			B (S)	5/15	K			
15 Tweedy Brown Global Funds (DC)	A	Dividend	J	T						
16 J.P. Morgan U.S. Equity Fund (DC)	A	Dividend	J	T						
17 Blount Class A (S)	B	Dividend	J	T	B (S-Keo)	1/2	J			
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 2 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18					S (S-Keo)	4/2	J	A	
19					B (DC)	4/14	L		
20					S (DC)	4/15	L	B	
21					B (S-Keo)	4/17	L		
22					S (DC)	6/17	M	C	
23					S (S-Keo)	8/6	L		
24 Blount Class B (S)	A	Dividend	J	T					
25 Kinark Common Stock (DC)		None	J	T					
26 Andrea Electronics Common Stock		None			S (DC)	2/2	K	D	
27 Ben & Jerry's Ice Cream Common Stock		None			S (J)	3/19	K	C	
28 Intel Common Stock (J) (S-Keo) (DC)	A	Dividend	O	T	B (S-Keo)	4/7	L		
29					S (S-Keo)	4/22	M	D	
30					B (S-Keo)	12/21	L		
31					B (DC)	12/23	M		
32 International Rectifier Common Stock		None			B (S-Keo)	1/2	M		
33					S (S-Keo)	2/9	M	E	
34					B (S-Keo)	4/15	L		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 3 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
35					B(S-Keo)	4/17/	L		
36					B(J)	4/22	K		
37					B(S-Keo)	5/7	L		
38					B(S-Keo)	6/9	L		
39					B(S-Keo)	6/26	K		
40					S(DC)	7/13	K		
41					S(S-Keo)	8/5	M		
42					S(J)	8/5	L		
43					S(S-Keo)	8/7	K		
44					B(S-IRA)	10/6	J		
45					S(S-IRA)	10/13	J	A	
46 Intel Warrants		None			S(DC)	2/20	M	B	
47 Ogden Common Stock	D	Dividend			B(DC)	3/11	L		
48					B(S-Keo)	4/15	L		
49					S(S-Keo)	4/20	L	A	
50					B(S-Keo)	4/29/	M		
51					S(S-Keo)	4/29	M	C	
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 4 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
52					B(S-Keo)	5/1	M	F	
53					S(S-Keo)	5/4	M	E	
54					B(S-Keo)	5/5	L		
55					B(S-Keo)	5/20	L		
56					B(S-Keo)	5/22	L		
57					S(S-Keo)	5/26	L	B	
58					S(DC)	6/2	L	B	
59					S(S-Keo)	6/3	L	B	
60					B(S-Keo)	6/9	M		
61					B(S-Keo)	6/10	L		
62					B(S-Keo)	6/17	J		
63					B(S-Keo)	7/7	L		
64					B(S-Keo)	7/10	K		
65					S(S-Keo)	8/5	N		
66	Fleet Bank Common Stock (Quick & Reilly taken over by Fleet)	C	Dividend		B(J)	2/2	M		
67					B(S-Keo)	2/6	M		
68					B(J)	2/25	N		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 5 INVESTMENTS and TRUSTS -- income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					(1) Type	If not exempt from disclosure			
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)		(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)
NONE (No reportable income, assets, or transactions.)									
69					B (S-Keo)	2/27	L		
70					S (J)	3/5	N		
71					S (S-Keo)	3/19	N	G	
72					B (J)	5/6	L		
73					B (S-Keo)	5/7	M		
74					S (S-Keo)	5/14	M	C	
75					B (S-Keo)	5/19	N		
76					S (S-Keo)	5/20	N	D	
77					S (J)	5/20	L	B	
78					S (J)	8/6	M	D	
79					B (DC)	8/18	M		
80					S (DC)	8/28	M		
81					B (S-Keo)	9/3	L		
82					S (S-Keo)	9/17	L	D	
83					B (S-Keo)	9/28	L		
84					B (S-Keo)	10/2	L		
85					S (S-Keo)	10/12	M		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 6 INVESTMENTS and TRUSTS -- income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
86					B(S-Keo)	10/19	L		
87					S(S-Keo)	11/4	L	A	
88 Visigenic Software Common Stock (Merged into Borland)		None							
89 Compaq Computer Common Stock (J) (S-Keo)	A	Dividend	M	T	B(J)	2/5	M		
90					S(J)	2/5	M		
91					B(J)	6/26	L		
92					B(J)	7/7	K		
93					S(J)	7/7	K	A	
94					S(J)	7/8	L	B	
95					B(DC)	7/8	M		
96					S(DC)	7/13	M	D	
97					B(J)	7/21	L		
98					S(J)	8/4	L		
99					B(S-Keo)	9/3	L		
100					S(S-Keo)	9/14	L	C	
101					B(DC)	9/21	L		
102					S(DC)	9/22	L	A	
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 7 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
103					B (DC)	10/2	L		
104					S (DC)	10/2	L	A	
105					B (DC)	10/20	L		
106					S (DC)	10/22	L	B	
107					B (J)	11/23	M		
108					S (J)	12/4	M	D	
109					B (S-Keo)	12/21	L		
110	Earthweb.com Common Stock (S-Keo) (DC)	None	K	T	B (S-Keo)	11/13	K		
111					B (S-Keo)	11/16	K		
112					S (S-Keo)	11/16	K	C	
113					S (S-Keo)	11/19	K		
114					B (S-Keo)	12/21	K		
115					B (DC)	12/24	K		
116	Excite Common Stock (DC) (S-Keo)	None	M	T	B (DC)	7/21	L		
117					S (DC)	7/21	M	D	
118					B (DC)	7/22	M		
119					S (DC)	7/28	M		
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 8 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
120					B (DC)	9/9	J			
121					B (S-Keo)	9/28	L			
122					B (S-Keo)	10/27	L			
123					B (S-Keo)	11/6	M			
124					B (DC)	11/6	L			
125					S (DC)	11/9	L	D		
126					B (S-Keo)	11/10	L			
127					S (S-Keo)	11/10	L	B		
128					B (S-Keo)	11/11	M			
129					S (S-Keo)	11/11	M	D		
130					S (S-Keo)	11/12	L	D		
131					B (S-Keo)	11/16	M			
132					S (S-Keo)	11/17	L	B		
133					S (S-Keo)	11/18	L	C		
134					B (S-Keo)	11/18	M			
135					S (S-Keo)	11/19	L	C		
136					S (S-Keo)	11/24	L	D		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 9 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
					(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure
	(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)						
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
137					S (S-Keo)	11/27	L	D		
138					B (S-Keo)	12/1		K		
139					S (S-Keo)	12/1		K	A	
140					B (S-Keo)	12/3		K		
141					S (S-Keo)	12/3		K	A	
142					B (S-Keo)	12/4		M		
143					S (S-Keo)	12/7		L	A	
144					S (S-Keo)	12/8		L	B	
145					S (S-Keo)	12/9		L	D	
146					B (S-Keo)	12/9		M		
147					B (J)	12/9		M		
148					S (S-Keo)	12/11		M	B	
149					S (S-Keo)	12/14		L		
150					S (J)	12/18		M		
151					B (S-Keo)	12/23		L		
152					B (S-Keo)	12/28		J		
153					B (S-Keo)	12/30		K		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 10 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
154 Hancock Fabrics Common Stock (DC)		None	J	T	B (DC)	11/2	J		
155 Infoseek Common Stock (S-Keo)		None	L	T	B (S-Keo)	12/16	L		
156					S (S-Keo)	12/18	L	A	
157					B (S-Keo)	12/21	L		
158					B (S-Keo)	12/22	K		
159					S (S-Keo)	12/28	M	D	
160					B (S-Keo)	12/28	L		
161 Internet America, Inc. Common Stock (S-Keo)		None	J	T	B (S-Keo)	12/28	K		
162 Lycos Common Stock (S-Keo)		None	L	T	B (DC)	7/27	L		
163					S (DC)	7/29	L		
164					B (DC)	9/25	L		
165					S (DC)	9/28	K	B	
166					S (DC)	10/27	K	B	
167					B (S-Keo)	10/27	L		
168					S (S-Keo)	11/3	L	D	
169					B (S-Keo)	12/28	L		
170 Maytag Common Stock (DC)	A	Dividend	L	T	B (S-Keo)	9/9	L		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less (Col. C1, D3) K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHNALD, NAOMI R.	Date of Report 02/17/1999
	<i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>	

VII. Page 11 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
171					S (S-Keo)	9/17	M	D		
172					B (S-Keo)	9/21	L			
173					S (S-Keo)	9/22	K	A		
174					B (DC)	9/25	K			
175					B (S-Keo)	10/19	L			
176					B (S-Keo)	11/3	M			
177					S (S-Keo)	11/3	M	B		
178					S (S-Keo)	11/5	M	D		
179 Mediware Common Stock (S)		None	K	T	B (S-Keo)	2/27	X			
180					B (S)	3/2	K			
181					S (S-Keo)	7/8	J			
182 Merrill Lynch Common Stock (DC)	A	Dividend	L	T	B (S-Keo)	4/7	L			
183					S (S-Keo)	7/2	L	B		
184					B (DC)	9/14	L			
185					B (J)	9/24	M			
186					S (J)	10/20	M	C		
187					B (J)	10/20	M			
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$500,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

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VII. Page 12 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
188					S (J)	11/3	M	D	
189					B (DC)	12/1	L		
190					S (DC)	12/2	L	B	
191					B (DC)	12/2	L		
192					B (S-Keo)	12/9	L		
193					S (DC)	12/18	L		
194					S (S-Keo)	12/18	L		
195	Netscape Common Stock (J)	None	M	T	B (J)	2/6	K		
196					B (S-Keo)	7/2	K		
197					S (S-Keo)	7/2	K	A	
198					B (S-Keo)	7/6	L		
199					B (DC)	7/14	L		
200					B (S-Keo)	7/21	K		
201					B (S-Keo)	8/4	K		
202					B (DC)	11/10	L		
203					S (DC)	11/18	K	D	
204					S (S-Keo)	11/18	K	D	

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4)	B=\$1,001-\$2,500 G=\$100,001-\$1,000,000	C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000 I2=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3)	K=\$15,001-\$50,000 O=\$500,001-\$1,000,000	L=\$50,001-\$100,000 P1=\$1,000,001-\$5,000,000	M=\$100,001-\$250,000 P3=\$250,001-\$500,000	N=\$250,001-\$500,000 P4=\$500,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2)	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 13 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
									If not exempt from disclosure
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
205					B (S-Keo)	11/19	K		
206					S (S-Keo)	11/20	K	B	
207					S (S-Keo)	11/23	K	D	
208					B (DC)	11/25	K		
209					B (S-Keo)	12/3	L		
210					S (S-Keo)	12/3	L	B	
211					S (S-Keo)	12/7	L	D	
212					S (S-Keo)	12/10	L		
213					S (DC)	12/14	L	D	
214					S (DC)	12/14	L	C	
215	The Globe.com (S-Keo)	None	K	T	B (S-Keo)	12/21	K		
216	Zoom.com Common Stock (DC)	None	K	T	B (S-Keo)	12/9	K		
217					S (S-Keo)	12/10	K	A	
218					B (DC)	12/11	J		
219					S (DC)	12/18	J	A	
220					B (DC)	12/24	K		
221	America on Line Common Stock	None			B (S-Keo)	12/16	L		

1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4)	F=\$50,001-\$100,000	B=\$1,001-\$2,500	G=\$100,001-\$1,000,000	C=\$2,501-\$5,000	H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000	H2=\$5,000,001 or more	E=\$15,001-\$50,000	
2 Val Codes: J=\$15,000 or less (Col. C1, D3)	O=\$500,001-\$1,000,000	K=\$15,001-\$50,000	P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000	P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000	P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000	P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2)	U=Book Value	R=Cost (real estate only)	V=Other	S=Assessment	W=Estimated	T=Cash/Market			

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 14 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
222					S(S-Keo)	12/18	M	D	
223 Apple Computer Common Stock	None				B(S-Keo)	1/2	L		
224					S(S-Keo)	3/5	L	E	
225 Applied Materials Common Stock	None				B(DC)	2/5	M		
226					B(S-Keo)	4/24	L		
227					S(S-Keo)	5/13	L	D	
228					B(S-Keo)	5/22	L		
229					B(S-Keo)	6/2	L		
230					B(DC)	6/12	L		
231					S(DC)	6/17	L	D	
232					B(S-Keo)	6/17	L		
233					S(S-Keo)	6/24	L	C	
234					S(DC)	7/13	L		
235					S(S-Keo)	7/21	L	C	
236					B(S-Keo)	7/23	K		
237					S(S-Keo)	7/29	M	A	
238					B(S-Keo)	8/31	L		

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 15 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					if not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
239					S (S-Keo)	10/22	L	D	
240 Bear Sterns	None				B (S-Keo)	10/22	L		
241					S (S-Keo)	11/4	L	B	
242 Broadcast Common Stock	None				B (S-Keo)	9/28	L		
243					B (S-Keo)	11/2	K		
244					S (S-Keo)	11/2	L	B	
245					S (S-Keo)	11/19	M	D	
246					B (S-Keo)	12/3	K		
247					B (S-Keo)	12/4	K		
248					S (S-Keo)	12/4	J	A	
249					S (S-Keo)	12/9	L	D	
250 Chase Manhattan Bank Common Stock	A	Dividend			B (S-Keo)	9/7	L		
251					S (S-Keo)	9/14	L	B	
252					B (S-Keo)	9/21	L		
253					S (S-Keo)	9/23	L	C	
254					B (J)	9/25	L		
255					B (S-Keo)	10/2	L		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 C=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more E=\$15,001-\$50,000 C=\$2,501-\$5,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 2 Val Codes: J=\$15,000 or less O=\$500,001-\$1,000,000 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 16 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
256					B (S-Keo)	10/14	L		
257					S (S-Keo)	10/15	L	C	
258					S (S-Keo)	10/19	M	B	
259					S (J)	10/19	M	D	
260	Cisco Systems Common Stock	None			B (J)	11/3	L		
261					S (J)	11/5	L	D	
262					B (S-Keo)	11/9	M		
263					S (S-Keo)	11/17	M	B	
264					S (S-Keo)	11/18	M	D	
265	Citibank Common Stock	None			B (S-Keo)	9/7	L		
266					S (S-Keo)	9/14	M	C	
267					B (S-Keo)	9/17	L		
268					S (S-Keo)	9/18	L	A	
269					B (S-Keo)	9/21	L		
270					S (S-Keo)	9/22	L	C	
271					B (DC)	9/30	L		
272					B (S-Keo)	10/19	L		

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 17 INVESTMENTS and TRUSTS— income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
273					S (DC)	10/20	M	B		
274					B (DC)	10/20	M			
275					S (DC)	10/21	M	C		
276					B (DC)	10/21	N			
277					S (DC)	10/22	M	B		
278					S (S-Keo)	10/23	L	D		
279					B (S-Keo)	10/27	L			
280					S (S-Keo)	11/17	L			
281	Crystal Systems Solutions Common Stock	None			B (S-Keo)	2/27	K			
282					S (S-Keo)	4/20	K	C		
283	Dell Computer Common Stock	None			B (S-Keo)	6/1	L			
284					S (S-Keo)	6/3	L	C		
285					B (S-Keo)	12/21	L			
286					S (S-Keo)	12/29	L	B		
287	Gateway Computer Common Stock	None			B (DC)	6/17	L			
288					S (DC)	6/25	L	C		
289	Inprise Common Stock	None			B (S-Keo)	1/2	L			

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000	B=\$1,001-\$2,500 G=\$100,001-\$1,000,000	C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000	D=\$5,001-\$15,000 H2=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 18 INVESTMENTS and TRUSTS – income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month/Day	(3) Value: Gain Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
290					S (S-Keo)	4/20	L	E	
291					B (S-Keo)	4/24	L		
292					B (S-Keo)	4/29	K		
293					S (S-Keo)	8/5	L		
294					S (J)	8/7	K		
295	Loral Space & Communications Common Stock	None			B (S-Keo)	3/11	L		
296					B (S-Keo)	4/1	L		
297					S (S-Keo)	4/2	M	D	
298					S (S-Keo)	4/13	M	D	
299					B (S-Keo)	4/24	L		
300					S (S-Keo)	5/15	L	C	
301					B (S-Keo)	5/18	L		
302					S (S-Keo)	5/18	L	B	
303					B (S-Keo)	5/20	L		
304					B (S-Keo)	5/22	L		
305					S (S-Keo)	5/22	M	C	
306					B (S-Keo)	5/26	L		
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHNALD, NACMI R.	Date of Report 02/17/1999
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VII. Page 19 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
307					S(S-Keo)	6/9	L	C	
308					B(S-Keo)	9/15	L		
309					S(S-Keo)	9/17	L	D	
310					B(S-Keo)	10/15	L		
311					S(S-Keo)	10/20	L	D	
312 Mellon Bank Common Stock		None			B(DC)	5/27	L		
313					S(DC)	5/29	L	B	
314 Rockwell Medical Common Stock		None			B(S-IRA)	2/6	J		
315					S(S-IRA)	6/2	J		
316 Sunquest Information Common Stock		None			B(DC)	2/5	K		
317					S(DC)	7/27	K	A	
318 Whirlpool Common Stock		None			B(S-Keo)	9/16	L		
319					S(S-Keo)	9/18	L	A	
320 Yahoo Common Stock		None			B(S-Keo)	12/7	L		
321					B(S-Keo)	12/9	L		
322					S(S-Keo)	12/9	M	C	
323					S(S-Keo)	12/10	L	C	
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 02/17/1999
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VII. Page 20 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date: Month/Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
324					B (S-Keo)	12/11	L		
325					S (S-Keo)	12/11	L	A	
326					B (S-Keo)	12/16	M		
327					S (S-Keo)	12/18	N	D	
328									
329									
330									
331									
332									
333									
334									
335									
336									
337									
338									
339									
340									

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

Item 7C1. Value Code P1 includes stock in spouse's KEOGH brokerage and listed thereafter ("Keo")

Line 66: Fleet Bank Common Stock (Quick & Reilly taken over by Fleet Bank on 1/30/98)

Line 88: Visigenic Software Common Stock (Merged into Borland which changed its name to Inprise)

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/17/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature *Naomi R. Buchwald* Date 2/17/99

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Calendar Year 1997

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (3 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) BUCHWALD, NAOMI R.	2. Court or Organization SOUTHERN DISTRICT OF NEW YORK	3. Date of Report 05/14/1998
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) MAGISTRATE JUDGE FULL-TIME	5. Report Type (check type) ___ Nomination, Date ___ / ___ / ___ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final	6. Reporting Period 01/01/1997 to 12/31/1997
7. Chambers or Office Address UNITED STATES COURTHOUSE 500 PEARL STREET NEW YORK, NEW YORK 10007	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1	
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1	Spouse's income from law partnership (\$)	
2		
3		
4		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	02/20/1998

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 23-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS

(Includes those of spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			
2			
3			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Quick & Reilly (U.S. Clearing Corp.)	Margin Debt Balance	None
2			
3			
4			
5			
6			

* VAL CODES J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 05/14/1998
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VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 Insured Money Rate Accounts Citibank, Larchmont, NY (J)	A	Interest	J	T					
2 Savings & Checking Accounts Citibank, Larchmont, NY (J)	C	Interest	M	T					
3 Insured Money Rate & Savings Accounts Citibank, (DC)	C	Interest	L	T					
4 Individual Retirement Account Citibank Larchmont, NY	B	Interest	K	T					
5 Individual Retirement Account Citibank, Larchmont, NY (S)	A	Interest	J	T					
6 Keogh, Citibank, Larchmont, NY (S)	D	Interest							
7	D	Dividend	O	T					
8 Money Market Account, Republic National Bank (J)	A	Interest	J	T					
9 Smith Barney Daily Dividend (J)	C	Dividend	L	T					
10 Smith Barney Daily Dividend (DC)	A	Dividend	J	T					
11 Insured Money Rate a/c - CD Chase Manhattan Bank (J)	A	Interest	J	T					
12 Alliance Money Reserve, Quick & Reilly (J)	C	Dividend	M	T					
13 Alliance Money Reserve, Quick & Reilly (DC)	D	Dividend	M	T					
14 Dryfus - General Money Market (Hampshire Securities)	A	Dividend	K	T					
15 Blount Class A (S) (DC)	A	Dividend	M	T	B (DC)	12/5	M		
16 Blount Class B (S)	A	Dividend	J	T					
17 Kinark Common Stock (DC)		None	J	T					

1 Inc/Gain Codes: A=\$1,000 or less (Col B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col C2) U=Book Value V=Other W=Estimated

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VII. Page 2 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18 Haytag Common Stock		None			S (DC)	1/23	L	C	
19					B (DC)	1/31	L		
20					S (DC)	2/3	L	B	
21 Hancock Fabrics Common Stock	A	Dividend			S (J)	2/10	M	D	
22					B (J)	8/7	K		
23					S (J)	10/1	J	A	
24					S (J)	10/17	J	A	
25 Andrea Electronics Common Stock (DC)		None	K	T	B (DC)	4/7	L		
26					S (DC)	8/18	M	F	
27					S (S-Keo)	8/18	K	E	
28					S (S-Keo)	8/20	K	D	
29					B (J)	8/27	M		
30					S (J)	9/15	L	D	
31					S (J)	9/18	J	C	
32					S (J)	9/22	K	C	
33					S (J)	10/14	L	C	
34					B (DC)	10/31	K		

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 3 INVESTMENTS and TRUSTS -- income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
35					S (DC)	11/4	K	B	
36					B (DC)	11/7	K		
37					S (DC)	11/17	K	A	
38 Ben & Jerry's Ice Cream Common Stock (J)		None	K	T					
39 Borland Common Stock		None			S (DC)	2/26	K	A	
40					S (DC)	2/26	K		
41					B (DC)	9/22	K		
42					S (DC)	11/5	K	C	
43					S (S Keo)	11/12	M		
44 Intel Common Stock (J)	A	Dividend	M	T	B (DC)	2/6	M		
45					S (DC)	2/10	M	C	
46					B (DC)	2/10	M		
47					S (DC)	2/13	M	C	
48					B (DC)	2/19	M		
49					S (DC)	3/24	M		
50 Dell Common Stock		None			S (J)	1/9	M		
51					S (DC)	1/15	L	D	

1 Inc/Gain Codes A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes I=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 05/14/1998
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VII. Page 4 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
					B (DC)	1/20	L	D	
					S (DC)	1/22	L	A	
					B (J)	7/28	M		
					B (J)	7/29	M		
					S (J)	7/30	N	E	
					B (DC)	11/6	K		
					B (DC)	11/10	L		
					S (DC)	11/14	M	B	
60 International Rectifier Common Stock (J) (DC)		None	M	T	S (DC)	1/9	M	E	
61					S (J)	1/9	N	B	
62					S (S Keo)	1/9	M		
63					B (DC)	2/6	M		
64					B (J)	3/10	L		
65					B (DC)	5/22	K		
66					S (DC)	5/28	L	C	
67					S (DC)	5/30	K	C	
68					B (J)	6/17	M		

1 Incr/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cpst (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 05/14/1998
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VII. Page 5 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (I-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
69					S (J)	6/30	L	D	
70					B (DC)	7/1	L		
71					S (DC)	7/18	L	D	
72					S (DC)	7/25	K	D	
73					B (DC)	10/10	K		
74					S (DC)	12/31	K		
75					S (J)	12/31	L		
76 Amre Common Stock		None			S (DC)	1/7	J		
77 America On Line Common Stock		None			B (J)	1/30	L		
78					S (J)	2/3	L	A	
79 Apple Computer Common Stock		None			B (J)	8/11	L		
80					B (DC)	11/10	K		
81					S (J)	12/26	K		
82					S (DC)	12/31	K		
83 Bell Sports Common Stock		None			B (S Keo)	1/2	K		
84					B (DC)	1/2	K		
85					S (DC)	1/23	K	A	

1 Inc/Gain Codes A=\$1,000 or less (Col B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes I=\$15,000 or less (Col C1, D3) O=\$50,001-\$1,000,000 K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes Q=Appraisal (Col C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

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VII. Page 6 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 16-14 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
86					S(S K)	5/6	K	B	
87 Compaq Computer Common Stock		None			B(J)	7/29	M		
88					S(J)	7/30	M	D	
89 Computer Associates Common Stock		None			B(J)	1/2	L		
90					B(J)	1/6	L		
91					S(J)	1/6	L		
92					S(J)	1/8	L	D	
93					B(J)	1/27	L		
94					S(J)	1/27	L	A	
95 Crystal Systems Common Stock		None			B(S)	1/31	J		
96					S(S)	5/9	K	D	
97 Gateway Commos Stock		None			B(S Keo)	1/2	M		
98					B(J)	1/3	M		
99					S(J)	1/6	M	D	
100					B(J)	1/7	M		
101					B(S Keo)	1/9	M		
102					B(J)	1/17	M		

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Meth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

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VII. Page 7 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
					S (J)	1/17	N	D	
					B (J)	1/21	M		
					S (J)	1/22	M		
					S (S Keo)	1/22	M	E	
					B (J)	2/4	M		
					S (J)	2/6	M	C	
					B (S Keo)	3/24	L		
					S (S Keo)	3/24	L	A	
					B (S Keo)	3/26	N		
					S (S Keo)	4/4	N	E	
					B (S Keo)	4/8	M		
					S (S Keo)	4/8	M	B	
					B (S Keo)	4/18	M		
					B (S Keo)	4/23	M		
					S (S Keo)	4/24	M	D	
					B (S Keo)	4/28	M		
					S (S Keo)	4/29	M	C	

1 Inco Gain Codes A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Meth Codes Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

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VII. Page 8 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-34 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
120					S (DC)	5/14	K	D	
121					B (J)	7/23	L		
122					B (J)	7/24	N		
123					S (J)	7/24	M	D	
124					S (J)	7/25	M		
125 Intel Warrants (DC)		None	L	T	B (S Keo)	5/6	M		
126					B (J)	6/17	M		
127					S (J)	7/15	M	E	
128					S (S Keo)	7/18	M	S	
129					B (J)	8/7	M		
130					B (J)	8/21	N		
131					S (J)	8/22	N		
132					B (J)	11/4	M		
133					S (J)	11/14	M	D	
134					B (DC)	11/24	M		
135					B (DC)	12/1	M		
136					B (J)	12/2	M		

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 (Col. C2) U=Book Value V=Other W=Estimated

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VII. Page 9 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
137					S (DC)	12/31	L		
138					S (J)	12/31	L		
139 Kelloggs	A	Dividend			B (DC)	8/25	M		
140					S (DC)	11/11	M		
141 Living Centers of America		None			B (S Keo)	5/1	L		
142					S (S Keo)	5/8	L	C	
143 Loral Common Stock		None			B (J)	1/2	M		
144					S (J)	1/3	M	C	
145					B (J)	1/21	J		
146					B (J)	2/10	K		
147					B (J)	2/11	K		
148					S (J)	5/30	L	C	
149					B (J)	7/16	K		
150					S (J)	7/22	K	A	
151 Medware Information Systems Common Stock		None			B (J)	8/7	J		
152					S (J)	10/14	K	C	
153 MER TeleManagement Common Stock		None			B (DC)	5/21	K		

1 In/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more

3 Val Meth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting BUCHWALD, NAOMI R.	Date of Report 05/14/1998
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VII. Page 10 INVESTMENTS and TRUSTS – income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (I-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)										
154					B(S)	5/21	J			
155					S(DC)	6/17	K	B		
156					S(S)	7/25	J	A		
157	Netscape Common Stock	None			B(J)	1/30	L			
158					B(J)	2/27	L			
159					B(J)	3/26	L			
160					B(DC)	5/7	L			
161					S(DC)	5/12	L	D		
162					B(J)	5/14	L			
163					S(J)	5/14	L			
164					B(J)	5/15	L			
165					B(DC)	5/21	L			
166					S(DC)	6/6	L	C		
167					S(J)	6/12	M			
168					S(J)	6/13	M	C		
169					B(J)	12/15	L			
170					S(J)	12/17	L			

1 Inc/Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000
 (Col. B1, D4) F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H1=\$1,000,001-\$5,000,000; H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000
 (Col. C1, D3) O=\$500,001-\$1,000,000; P1=\$1,000,001-\$5,000,000; P2=\$5,000,001-\$25,000,000; P3=\$25,000,001-\$50,000,000; P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market
 (Col. C2) U=Book Value; V=Other; W=Estimated

VII. Page 11 INVESTMENTS and TRUSTS -- income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
171 Ogden Common Stock (S-Keo)	D	Dividend	N	T	B (S-Keo)	1/2	K		
172					B (S-Keo)	8/19	N		
173 Quick & Reilly Common Stock Common Stock (S-Keo) (DC)	A	Dividend	N	T	B (S-Keo)	5/13	M		
174					B (DC)	8/12	M		
175					S (DC)	8/18	M	D	
176 Sun Microsystems Common Stock		None			B (J)	1/21	M		
177					S (J)	1/22	M		
178 Visigenic Software		None	K	T	B (J)	12/1	K		
179									
180									
181									
182									
183									
184									
185									
186									
187									

1 Inc/Gain Codes: A=\$1,000 or less
(Col. B1, D4) 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 H2=\$5,000,001 or more D=\$5,001-\$15,000 E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
(Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
(Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	05/14/1998

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

* Item 7C1. Value Code "0" includes stock in spouse's KEOGH brokerage account listed thereafter ("Keo")

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	BUCHWALD, NAOMI R.	05/14/1998

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature

Naomi Buchwald

Date 5/14/98

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

874

July 21, 1998

Judge Frank Magill, Chair
Committee on Financial Disclosure
Judicial Conference of the United States
One Columbus Circle, N.E.
Washington, D.C. 20544

Re: Calendar Year 1997 Filing

Dear Judge Magill:

This is in response to your letter of July 8, 1998. Your letter raises three questions about my 1997 Financial Disclosure Filing. With respect to the first two observations, you have accurately adduced the actual situation and therefore I will simply follow your advice with respect to future filings. With respect to the third question, I am submitting herewith an amended entry for line 14 for Part VII.

I trust that this response fully addresses your letter. However, should you have any further questions, I will, of course, do my best to respond to them promptly.

Very truly yours,

Naomi Reice Buchwald
United States Magistrate Judge

AMENDED
FINANCIAL DISCLOSURE REPORT Name of Person Reporting: BUCHWALD, NAOMI R. Date of Report: 05/14/1998

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
1 Insured Money Rate Accounts Citibank, Larchmont, NY (J)	A	Interest	J	T					
2 Savings & Checking Accounts Citibank, Larchmont, NY (J)	C	Interest	M	T					
3 Insured Money Rate & Savings Accounts Citibank, (DC)	C	Interest	L	T					
4 Individual Retirement Account Citibank Larchmont, NY	B	Interest	K	T					
5 Individual Retirement Account Citibank, Larchmont, NY (S)	A	Interest	J	T					
6 Keogh, Citibank, Larchmont, NY (S)	D	Interest							
7	D	Dividend	O	T					
8 Money Market Account, Republic National Bank (J)	A	Interest	J	T					
9 Smith Barney Daily Dividend (J)	C	Dividend	L	T					
10 Smith Barney Daily Dividend (DC)	A	Dividend	J	T					
11 Insured Money Rate a/c - CD Chase Manhattan Bank (J)	A	Interest	J	T					
12 Alliance Money Reserve, Quick & Reilly (J)	C	Dividend	M	T					
13 Alliance Money Reserve, Quick & Reilly (DC)	D	Dividend	M	T					
14 Dryfus - General Money Market (Hampshire Securities)	A	Dividend	K	T	B (S)	5/15	K		
15 Blount Class A (S) (DC)	A	Dividend	M	T	B (DC)	12/5	M		
16 Blount Class B (S)	A	Dividend	J	T					
17 Kinark Common Stock (DC)		None	J	T					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$15,001-\$50,000 E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL STATEMENT

BUCHWALD FAMILY

NET WORTH

(As of 2/14/99)

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	749,	215	.00	Notes payable to banks—secured			
U.S. Government securities—add schedule				Notes payable to banks—unsecured			
Listed securities—add schedule *	865,	502	.75	Notes payable to relatives			
Unlisted securities—add schedule				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 tax and interest			
Doubtful				Real estate mortgages payable—add schedule			
Real estate owned—add schedule				Charged mortgages and other liens payable			
Residence	600,	000	.00	Other debts—itemize:			
Real estate mortgages receivable							
Automobile and other personal property (est)	100,	000	.00				
Cash value—life insurance							
Other assets—itemize:							
IRA	24,	209	.88				
Spouse's IRA **	3,	520	.35				
Spouse's Keogh **	1,392,	270	.19	Total Liabilities	562,	330	.17
				Net Worth	3,172,	398	.00
Total Assets	3,734,	718	.17	Total Liabilities and net worth	3,734,	718	.17
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor	None			Are any assets pledged? (Add schedule)	No		
On leases or contracts	None			Are you defendant in any suits or legal actions?	No		
Legal Claims	None			Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax ***	562,	320	.17				
Other special debt	None						

* Excluding securities in Spouse's Keogh (see schedule attached)

** Including securities (see schedule attached)

*** Assumes 39.6% tax rate on retirement funds (Keogh and IRA's)

Schedule of Buchwald Family Security Holdings as of 2/14/99

	Joint <u>Don/Naomi</u>	(Spouse) <u>Don</u>	(Dependent Children) <u>David</u>	<u>Jennifer</u>	Spouse's <u>Keogh</u>	Spouse's <u>IRA</u>
Blount A		198 (\$5,098.50)				
Blount B		198 (\$5,148.00)				
Cisco					3,000 (\$297,187.50)	
Compaq	600 (\$25,800.00)				8,000 (\$344,000.00)	
Earthweb				500 (\$19,906.25)		
Hancock Fabric				1,200 (\$8,775.00)		
Intel	3,100 (\$392,150.00)			1,600 (\$202,400)	3,500 (442,750.00)	
Internet America					500 (\$15,500)	
Kinark				200 (\$600.00)		
Maytag	1,000 (\$57,250.00)				1,000 (\$57,250.00)	
Mediware		2,000 (\$14,500.00)				
Netscape	2,000 (\$133,875.00)					
Ubid					800 (\$50,000.00)	55 (((\$3,437.50)
TOTALS:	\$609,075.00	\$24,746.50	-0-	\$231,681.25	\$1,206,687.00	\$3,437.50
Total Household Value of Securites Including Spouse's Keogh and IRA: \$2,075,627.25						
Total Household Value of Securites Excluding Spouse's Keogh and IRA: \$865,502.75						

III. GENERAL (PUBLIC)

1. **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.**

As a Magistrate Judge, I am prohibited from engaging in the practice of law pursuant to 28 U.S.C. § 632(a). However, as part of my view of my public responsibilities, I have accepted numerous invitations to be a panelist on law-related programs and to serve as a moot court judge.

I have also been active in the schools in my community. Specifically, I have served in the following capacities:

Parent-Representative, Mamaroneck High School Planning Council - a school-based management committee created pursuant to New York State's Compact for Learning, 1994-1996.

Co-Chair, Larchmont Mamaroneck Board of Education Bicentennial Advisory Committee - a group of attorneys who presented constitutional law cases to elementary school students, 1987-1990. I also created the teaching materials for several of the programs.

Member, Chatsworth Avenue School RSIAP/EAP (Regents School Improvement and Accountability Program/Excellence and Accountability Program) Committee - a pilot program for the establishment of school based standards of excellence, 1989-1991.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates - through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

I have never belonged to any such organization.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
Kermit Edward Bye
2. List current place of residence and office address(es).
Place of Residence: Fargo, North Dakota
Office Address: Vogel, Weir, Bye, Hunke & McCormick, Ltd.
502 First Avenue North
Fargo, North Dakota 58102
3. Date and place of birth.
January 13, 1937
Hatton, North Dakota 58240
4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).
Married to Carol Beth Soliah on August 23, 1958, at Hatton, North Dakota.
Spouse is not employed outside of the home.
5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
University of North Dakota, September, 1954 - January, 1959, Bachelor of Science in Business Administration conferred on January 31, 1959.
University of North Dakota Law School, September, 1959 - June, 1962, Degree of Juris Doctor with Distinction conferred on June 3, 1962.

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Summer, 1953 - Summer, 1959

Milk Route Truck Driver, Hatton Cooperative Creamery, Hatton, North Dakota 58240

January, 1958 - May, 1959

Radio Time Salesman, KNOX Radio, Old South Belmont Road, Grand Forks, North Dakota 58201.

September, 1959 - June, 1962

Law Clerk, Grand Forks County States Attorney, 124 South Fourth Street, Grand Forks, North Dakota 58201.

September, 1959 - June, 1962

Law Clerk, Nelson & Mack, 311 South Fourth Street, Grand Forks, North Dakota 58201.

April, 1960 - July, 1960

Catalog Sales, Montgomery Ward, South Third Street, Grand Forks, North Dakota 58201.

July 1, 1962 - February 28, 1966

North Dakota Deputy Securities Commissioner and Special Assistant Attorney General, State Capitol Building, Bismarck North Dakota.

March 1, 1966 - August 31, 1968

Assistant United States Attorney, District of North Dakota, United States Department of Justice, United States Attorneys Office, 655 First Avenue North, Fargo, North Dakota.

September 1, 1968 - Present

Partner/Member/Stockholder of Vogel, Weir, Bye, Hunke & McCormick, Ltd., 502 First Avenue North, Fargo, North Dakota 58102.

1971 - 1974

Member, North Dakota Combined Law Enforcement Council.

1981 - 1983

President, East Central Judicial District Bar Association.

- 1981 - 1984**
Vice Chair and Member, Board of Trustees, Hope Foundation
- 1981 - 1985**
Board of Governors, State Bar Association of North Dakota.
- 1983 - 1984**
President, State Bar Association of North Dakota.
- 1983 - 1989**
Board of Directors, North Dakota Bar Foundation.
- 1983 - 1996**
Founder, Member of Board of Directors, and Vice President, North Dakota State University Bison Hockey Club, Inc.
- 1984 - 1986**
Chair and Member, Board of Directors, Red River Human Services Foundation.
- 1984 - 1991**
Chairman, Law School Committee of the State Bar Association of North Dakota.
- 1987 - 1990**
Board of Directors, Greater North Dakota Association.
- 1987 - 1994**
President and Member, Board of Directors, Myron G. Nelson Fund, Incorporated
- 1989 - 1993**
Member, State Executive Board of U.S. West, Inc.
- 1993 - Present**
Member, Executive Committee; and former Chair of National Caucus of State Bar Associations, 1997-1998.
- 1994 - Present**
Chair and Member, Advisory Board, North Dakota Small Business Investment Company
- 1995 - Present**
State Chairman, Fellows of the American Bar Foundation.

1995 - 1996

President, Western States Bar Conference.

1995 - 1997

Member, Board of Directors, Fargo Downtown Business Improvement District

1997 - Present

Board of Trustees, Dakota Real Estate Investment Trust

1998 - Present

American Bar Association Board of Governors.

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Recipient, Distinguished Service Award, State Bar Association of North Dakota, 1996.

Student Editorial Board, North Dakota Law Review, selected by Law School faculty.

Phi Delta Phi Legal Fraternity, Clerk, Elected by Members.

Bancroft-Whitney Award in Trial Practice, selected by Law School faculty.

Staff Member, UND Law School Newspaper, appointed by editor.

The State Bar Association of North Dakota tracks the pro bono activities of its lawyers and each year recognizes those who have made certain and significant contributions by publishing their names in a written report and by recognizing them during the annual meeting banquet. I have been included among those so recognized for several years.

9. Bar Associations: List all bar associations, legal or judicial-related committees 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

Elected Member of American Bar Association Board of Governors, 1998-present; Elected Delegate-at-Large to the American Bar Association House of Delegates, 1996-1998; Elected State Delegate to the American Bar Association House of Delegates, 1986-1995; Member of Standing Committee on Bar Activities and Services of American Bar

Association, 1992-1995; Member, ABA Standing Committee on Membership, 1996-1998; Member, American Bar Association Sections on General Practice; Administrative Law; Business Law; Litigation; and Intellectual Property Law. Member, ABA Nominating Committee, 1986-1995; Member, American Bar Association, 1962-present.

State Bar Association of North Dakota

President, State Bar Association of North Dakota, 1983-1984; Member of Board of Governors, State Bar Association of North Dakota, 1981-1985; Member, State Bar Association of North Dakota (SBAND) Section on Corporations and Business; Chairman, Law School Committee of the State Bar Association, 1984-1991; Past Member, SBAND Inquiry Committee East; Past Member, SBAND Legislative Committee; Past Member, SBAND Procedure Committee; Past Member, SBAND Special Committee on Drafting Rules of Appellate Procedure; Chairman, Fee Arbitration Committee, 1980-1983.

Fellows of the American Bar Foundation

Member, American Bar Foundation, 1962-present; Life Fellow: American Bar Foundation; Member, Advisory Research Committee, Fellows of the American Bar Foundation, 1992-1995; State Chairman, Fellows of the American Bar Foundation, 1995-present.

Various Other Bar Related Organizations

Member, Executive Committee, 1993-present, and former Chair of National Caucus of State Bar Associations, 1997-1998. Member, Burleigh County Bar Association, 1962-1966; Member, Cass County Bar Association, 1966-present; Former Member of Executive Council of the National Conference of Bar Presidents, 1986-1989; North Dakota Defense Lawyers Association; North Dakota Trial Lawyers Association; Listed in *Who's Who in American Law* and *"Best Lawyers in America"* under several categories; Patron, North Dakota Bar Foundation; Member, Board of Directors, North Dakota Bar Foundation, 1983-1989; President, Western States Bar Conference, 1995-1996; Member, American Judicature Society; Former Member, North Dakota Joint Commission on Lawyer Discipline and Admissions; President, East Central Judicial District Bar Association, 1981-1983.

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

The only organizations to which I belong that are active in lobbying before public bodies, to the best of my knowledge and recollection, are the Greater North Dakota Association, American Bar Association, and State Bar Association of North Dakota.

Other organizations to which I now belong are: Chair and Member, Advisory Board, North Dakota Small Business Investment Company, 1994-present; Member, Benevolent and Protective Order of Elks, 1964-present; Member, Fargo Rotary Club, 1991-present.

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Admitted to practice before the North Dakota Supreme Court and all Lower courts within the State of North Dakota on July 13, 1962. Admission has been continuous to the present time.

Admitted to practice before the United States District Court for the District of North Dakota on September 29, 1964. Admission has been continuous to the present time.

Admitted to practice before the United States Court of Appeals for the Eighth Circuit on September 8, 1969. Admission has been continuous to the present time.

Admitted to practice before the United States Court of Claims on March 4, 1971. Admission has been continuous to the present time.

Admitted to practice before the Supreme Court of the United States of America on March 25, 1974. Admission has been continuous to the present time.

Admitted to practice before the Minnesota Supreme Court and all Lower Courts within the State of Minnesota on June 12, 1984. Admission has been continuous to the present time.

Admitted to practice before the United States Tax Court on October 7, 1986. Admission has been continuous to the present time.

There have been no lapses in any of the above admissions, and I have continuously remained fully admitted and in good standing in each such Court since initial admission as outlined above.

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Except as otherwise noted, copies of the following articles, reports, and speeches are attached as Attachment A:

Member, Editorial Board, *North Dakota Law Review*, 1961-1962.

Author of following Law Review articles:

"Gas-Franchises, Privileges, and Powers in General," 37 N. Dak. L. Rev. 115;

"Some Problems and Aspects of Interstate Extradition," 38 N. Dak. L. Rev. 322;

Book Note - "The Tax Exemption of Cooperatives," 38 N. Dak. L. Rev. 539.

Remarks of Kermit Edward Bye, President of the State Bar Association of North Dakota, to the Members Assembled for the Eighty-fourth Annual Meeting on Thursday, June 14, 1984, Hospitality Inn, Dickinson, North Dakota. These remarks also appear in 61 N. Dak. L. Rev. 146 (1985).

An outline of a seminar presentation on new and emerging cooperatives given during a training program for directors, CEOs, and key personnel at the Association of Statewide Rural Electric Cooperatives in Mandan, North Dakota, on June 28-29, 1994.

Responsive Presentation upon receiving as the 13th recipient in the 67-year history of the State Bar Association of North Dakota its Distinguished Service Award in Fargo, North Dakota, June 13, 1996. This Responsive Presentation also appears in 72 N. Dak. L. Rev. 901 (1996).

Kermit Edward Bye Presentation To New Members of the State Bar Association of North Dakota Upon the Occasion of Their Admission to the Bar on September 27, 1996, Amphitheater—North Dakota Heritage Center, State Capitol Building Grounds, Bismarck, North Dakota.

An outline of a eulogy given for a friend, school classmate, and thirty-year law partner, David Foster Knutson, at his funeral on May 16, 1997, at Fargo, North Dakota.

Over the years, I have given additional speeches or spoken presentations to various bar associations, committees, task forces, continuing legal education seminars, civic groups, school classes, and other public-spirited organizations. However, I do not have records of any of those additional speeches or spoken presentations.

"President's Page" of *The Gavel*, a monthly publication of the State Bar Association of North Dakota, September, 1983, to April-May, 1984. The "President's Page" was authored by me while I served as the Association's President from June, 1983, to June, 1984. Copies of the articles that can now be located are attached.

Although I was not personally the author, I was a member of the committees that issued the following reports:

ABA Standing Committee on Bar Activities and Services: Informational Report to the House of Delegates, prepared 12/1/94 for the 1995 Midyear Meeting.

ABA Standing Committee on Bar Activities and Services: Informational Report to the House of Delegates, prepared 6/1/94 for the 1994 Annual Meeting.

ABA Standing Committee on Bar Activities and Services: Informational Report to the House of Delegates, prepared 12/1/93 for the 1994 Mid-year Meeting.

ABA Standing Committee on Bar Activities and Services: Informational Report to the House of Delegates, prepared 6/16/93 for the 1993 Annual Meeting.

ABA Standing Committee on Bar Activities and Services: Informational Report to the House of Delegates, prepared 12/8/92 for the 1993 Midyear Meeting.

The Fellows of the American Bar Foundation, Thirty-ninth Annual Meeting, February 10-12, 1995, Miami, Florida.

The Fellows of the American Bar Foundation, Thirty-eighth Annual Meeting, February 4-6, 1994, Kansas City, Missouri.

The Fellows of the American Bar Foundation, Thirty-seventh Annual Meeting, February 5-7, 1993, Boston, Massachusetts

The Fellows of the American Bar Foundation, Thirty-sixth Annual Meeting, January 31-February 2, 1992, Dallas, Texas.

ABA Standing Committee on Membership: Informational Report to the House of Delegates, February, 1996.

ABA Standing Committee on Membership: Informational Report to the House of Delegates, February, 1997.

ABA Standing Committee on Membership: Informational Report to the House of Delegates, August, 1997.

ABA Standing Committee on Membership: Informational Report to the House of Delegates, February, 1998.

ABA Standing Committee on Membership: Proposal to change the current bylaw (SS21.6) which allows members who have reached the age of 70 and been members for 25 years to request a dues exemption.

ABA Standing Committee on Membership: Proposal to amend Section 21.12 of the Bylaws to revise the requirements for the Associate category of membership.

Memorandum from the ABA Standing Committee on Membership to the Board of Governors re: Member Benefit and Corporate Support Guidelines, dated October 30, 1996.

American Bar Association: Strategic Membership Plan, Updated to February, 1997.

Memorandum from Karen Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request to Pursue a New Member Benefit Program for Equipment Leasing Financing, dated October 29, 1996.

Memorandum from Karen Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request to Pursue a New Member Benefit Program for Home Equity with Norwest Mortgage, Inc., dated January 8, 1997.

Memorandum from Karen J. Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Report, dated January 8, 1997.

Memorandum from Karen J. Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Report, dated April 9, 1997.

Memorandum from Karen J. Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request to Pursue a New

Member Benefit Program for Office Furniture with Steelcase, dated July 10, 1997.

Memorandum from Karen J. Mathis, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request for One Year Pilot Program for Simplified Associate Membership, dated July 10, 1997.

Memorandum from Karen Mathis, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Status Update on Member Benefit Programs, dated July 10, 1997.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request to Pursue a New Member Benefit Program for Portable Document Format Software with Adobe Systems Incorporated, dated October 7, 1997.

American Bar Association: Report of the Standing Committee on Membership as of August 31, 1997.

Memorandum from the ABA Standing Committee on Membership to the ABA Board of Governors re: Bylaws Change on Associate Membership Category, dated January 14, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Request to Pursue a Telecommunications Member Benefit Program with Spring, dated January 8, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Status Update on Member Benefit Programs, dated January 8, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Reports, dated January 26, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Update, dated April 13, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Computer Hardware/Software Program with IBM, dated May 26, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Update, dated June 9, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership to the ABA Board of Governors re: Proposal to Simplify Section Dues Discounts, dated June 6, 1998.

Memorandum from Robert E. Hirshon, Chair, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Updated, dated July 21, 1998.

Memorandum from Robert E. Hirshon, ABA Standing Committee on Membership, to the ABA Board of Governors re: Membership Directory with Harris Publishing Company, Inc., dated November 6, 1998.

In addition, from time to time, I have been a member of bar association committees and/or task forces that have issued written reports. However, these reports have been researched and written by staff members, and were not written or edited by any individual committee or task force members, including me.

13. Health: What is the present state of your health? List the date of your last physical examination.

**Good.
January, 1999.**

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. Legal Career:

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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;

No.

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

No.

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

July 1, 1962 - February 28, 1966

North Dakota Deputy Securities Commissioner and Special Assistant Attorney General, State Capitol Building, Bismarck North Dakota.

March 1, 1966 - August 31, 1968

Assistant United States Attorney, District of North Dakota, United States Department of Justice, United States Attorneys Office, 655 First Avenue North, Fargo, North Dakota.

September 1, 1968 - Present

Partner/Member/Stockholder of Vogel, Weir, Bye, Hunke & McCormick, Ltd., 502 First Avenue North, Fargo, North Dakota 58102.

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

My legal career can be generally divided into three phases spanning a period of 36 years.

I spent my first six years as a lawyer (1962-1968) in state and federal government service. I sought out and obtained legal positions in government service to better understand its role and function in society. Government service also provided me an opportunity to gain valuable experience as a lawyer I may not otherwise have been able to obtain that early in my legal career in the private sector. This has proved to be very valuable to me in my private law practice which followed.

As a Special Assistant Attorney General and Deputy Securities Commissioner in North Dakota for more than three years between 1962 and 1966, I was given the opportunity to litigate a series of criminal cases, as well as civil enforcement matters. Additionally, I learned the fundamental workings of the capital markets, received an education about the business world of publicly held companies, and studied the organization and structure of various business entities. I was able to appreciate how business people utilize their talents, skills, personnel, and investment capital.

As an Assistant United States Attorney for the District of North Dakota, between 1966 and 1968, I had one of the most rewarding legal positions in federal government. I was fortunate to be entrusted with prosecuting several important civil and criminal cases, many of them with unusual legal and factual issues, that required considerable research, fact assessment, trial preparation, and case management. It was as an Assistant United States Attorney for the District of North Dakota that provided me my first opportunity to experience federal appellate practice.

The next phase of my career has been in the private practice of law. Since 1968, I have been with the same law firm. I am currently one of the firm's senior members. I have always considered myself a general practitioner, and I have purposely aspired to obtain and conduct as wide and as varied a private law practice experience as my abilities and the ethics of the profession permit.

In the late 1960s, 1970s, and early 1980s, a good deal of my time was involved in representing various clients in automobile and casualty liability cases, usually representing defendants on behalf of their insurance companies, with a smaller portion of my time being involved in the representation of plaintiffs. With the

advent of no-fault insurance, this area of litigation gradually declined, and my practice tended to gravitate to matters involving business litigation, products liability, some limited family law, and regulatory administrative practice. At the same time, I continued with a broad variety of other general practice matters.

In the latter part of the 1980s and until the present time, my law practice has evolved to include defending professional liability claims against lawyers, accountants, architects, and engineers. It has also included substantially more transactional work. I have provided legal services to the business community, and have been involved with a substantial amount of business litigation. To the extent that I have concentrated in any area of the law in the last dozen years, I have focused on capital formation, the creation of business organizations, and professional liability and business litigation. In addition, I have represented several lawyers and other professionals in disciplinary matters in both Minnesota and North Dakota. I occasionally represent individuals and business entities in criminal matters involving white collar crime.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Typical former clients have been individuals, married couples, farming entities, partnerships, small businesses, and agricultural organizations, including farm cooperatives located in agricultural intensive areas such as the Red River Valley of the North. Areas of specialization include business litigation, securities regulation, corporate finance, and the representation of business organizations such as corporations, limited partnerships, limited liability companies, and real estate investment trusts in transactional legal work.

I have gravitated toward representing more business interests in recent years both in litigation and transactional matters, and have developed some specialized legal services not routinely provided by other lawyers in this locality.

As my law practice has matured, and clients have changed their focus, outlook, aspirations, goals, and interests, my private practice of law has also evolved into handling a greater variety of legal issues, many of which are more complex in nature and

have substantially larger socio-economic, financial, and environmental considerations at stake.

- c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

Frequently.

2. What percentage of these appearances was in:

(a) federal courts;

22 percent.

(b) state courts of record;

73 percent.

(c) other courts;

5 percent.

3. What percentage of your litigation was:

(a) civil;

91 percent.

(b) criminal.

9 percent.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Based on records available for the calendar years 1994 through 1998, both inclusive, by actual count, the number of cases I participated in trying to a jury verdict or court judgment to include summary judgments (rather than settled) in courts of record was 49. I was sole counsel in 27, chief counsel in 15, and associate counsel in 7 such cases.

While records are no longer available for comparable earlier periods in my legal career, I would judge that such numbers as stated above would be somewhat similar during earlier time periods.

5. What percentage of these trials was:

(a) jury;

19 percent – 9 cases.

(b) non-jury.

81 percent – 40 cases.

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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.

Significant litigated cases which I personally handled are set forth below. I was either lead or co-counsel for one or more of the parties and they are presented below under two categories: federal court cases and state court cases.

LITIGATED CASES TRIED IN FEDERAL COURT

1. **Bottineau Farmers Elevator v. Woodward-Clyde Consultants**, 963 F.2d 1064 (8th Cir. (N.D.), May 5, 1992) (NO. 90-5151).

This litigation arose against my client, Woodward-Clyde Consultants, Inc., an international soils and materials testing engineering firm, that conducted a soils survey and ran other tests on real estate owned by the plaintiff upon which it ultimately constructed a large grain storage facility that arose several hundred feet above the prairie at Bottineau, North Dakota.

The plaintiff's main complaint was that the structure was tilting toward the railroad tracks. Plaintiff alleged that the tilt at the top was six feet and that the tilt was increasing. The main thrust of the claim by the plaintiff was that Woodward-Clyde had prepared an erroneous soils survey, and that not all soils factors had been taken into consideration. The plaintiff produced evidence that demonstrated the building would eventually topple over if not corrected. A very expensive and time-consuming mud-jacking effort ensued. The jury ultimately returned a verdict in favor of plaintiff for \$277,626.70. On appeal, it was argued that the action was barred by the statute of limitations. The United States Court of Appeals for the Eighth Circuit held that: (1) the North Dakota malpractice statute of limitations applied; (2) the North Dakota statute which, prior to the 1989 amendment, tolled running of the limitations period in the case of nonresident defendants who were out of state when action accrued against them violated the commerce clause; and (3) the ruling regarding unconstitutionality of the statute applied retroactively. The Appellate Court set aside the jury award and entered a judgment of dismissal of the complaint in favor of my client.

- a. This litigation covered a period beginning in 1987 and was finally concluded in 1992. The actual jury trial, which was conducted in United States District Courts in both Minot and Bismarck, North Dakota, occurred over a several-week period in both those cities utilizing the same jury panel.
- b. United States District Court for the District of North Dakota, Honorable Bruce M. Van Sickle presiding.
- c. I was the lead lawyer on the case during the trial for Woodward-Clyde Consultants. I was assisted by my law partner, M. Daniel Vogel. Opposing counsel was Mr. Richard A. Clapp, assisted by Howard D. Swanson, then of the Letnes, Marshall, Fiedler, & Clapp law firm in Grand Forks, and now Mr. Clapp is with the Pearson Christianson, et al., law firm, P.O. Box 5758, Grand Forks, North Dakota 58206-5758, phone 701-775-0521, and Mr. Swanson is the Grand Forks City Attorney, P.O. Box 12909, Grand Forks, North Dakota 58208-2909, phone 701-772-3407.

2. U.S. v. Northern Imp. Co., 632 F.Supp. 1576, 1986-1 Trade Cases P 67,136 (D.N.D., Apr. 25, 1986), (NO. CR. C3-85-062).

I represented the Northern Improvement Company, a Fargo-based regional highway construction contractor, which, along with several other road contractors, was charged by the Department of Justice Antitrust Division with antitrust violations and conspiracy for bid rigging regarding the award of municipal street improvement projects.

At issue in the case as reported at 632 F.Supp. 1576 (D.N.D. 1986) was a motion to dismiss several counts in the indictment. We moved to dismiss because the purpose of the conspiracy was accomplished with submission of rigged bids, and the indictment was returned by the federal grand jury after five years had elapsed and thus were time barred. North Dakota Federal District Court Judge Patrick A. Conmy agreed, and those counts were dismissed.

By the time of the trial on the remaining counts, all the defendants other than Northern Improvement Company and Steve McCormick, one of the company's principal officers, had plead guilty. The case was thereafter tried to a jury against the two remaining defendants. In the trial lasting several weeks in October and November, 1987, the jury acquitted both Northern Improvement Company and Steve McCormick.

- a. 1987 and several years prior thereto. The jury trial occurred in October and November, 1987, resulting in the jury acquitting both defendants.
- b. United State District Court for the District of North Dakota, Southeastern Division; Chief Judge Patrick A. Conmy.
- c. I was co-counsel for defendant Northern Improvement Company with my law partner, Carlton J. Hunke, Fargo, North Dakota. Mary E. Jones, assisted by a staff of three other lawyers from the Antitrust Division's Midwest Office of the U.S. Justice Department, Chicago, Illinois, for plaintiff. David R. Melincolff, O'Connor & Hannan, 1919 Pennsylvania Avenue, Suite 800, Washington, D.C. 20006-3483, phone 202-887-1400, for F-M Asphalt, Inc. Richard J. Braun, Richard J. Braun & Associates, 501 Union

Building, Nashville, Tennessee 37202, phone 615-259-1550
for individual defendant, Steve McCormick.

3. U.S. ex rel. Chase v. Wald, 557 F.2d 157 (8th Cir. (N.D.), June 20, 1977) (NO. 76-1666). Rehearing and rehearing en banc were denied on July 21, 1977.

I represented appellants Wald and Thompson in this case, which resulted in a judicial declaration that a penalty provision for overgrazing on Indian lands promulgated by the Secretary of the Interior was invalid. The suit was brought by plaintiff as a *qui tam* action authorized by 25 U.S.C. § 201 to recover a civil penalty imposed by federal law for trespassing on Indian lands. Plaintiff also sought to recover compensatory damages measured by the value of the forage consumed by the defendants' cattle.

Plaintiff was an enrolled member of the Three Affiliated Tribes of the Arikara, Gros Ventre, and Mandan Indians and resided on the Fort Berthold, North Dakota, reservation. Grazing lands on the reservation are held by the government in trust for Native Americans, and individuals, like plaintiff, had beneficial interests in particular grazing allotments. The defendants were non-Native Americans.

The United States Court of Appeals for the Eighth Circuit ruled there was simply no basis in the statute for a per diem penalty that the Secretary had undertaken to impose by the 1969 regulation, and that to the extent that the regulation imposed a penalty in excess of the \$1.00 per head called for by § 179, it was invalid.

A petition for a writ of certiorari was filed in the United States Supreme Court. In a 5-4 vote, the United States Supreme Court denied the writ of certiorari.

- a. At various times between 1975 and 1977. The main trial was conducted with a jury present during the fall of 1976.
- b. The court venue was the United States District Court for the District of North Dakota, Northwestern Division. The trial judge was the Honorable Bruce M. Van Sickle, now Senior United States District Court Judge, P.O. Box 670, Bismarck, North Dakota 58502, phone 701-250-4293. Oral arguments were heard before Senior Circuit Judge

Matthes, and Webster and Henley, Circuit Judges on the appeal to the Eighth Circuit.

- c. I was the lead lawyer for Messrs. Wald and Thompson. I was assisted in the case by my law partner, M. Daniel Vogel. The opposing counsel was Judith A. Atkinson, 420 South Central #9, Pierre, South Dakota 57501, phone 605-773-6850, for appellee. Charles E. Biblowit, U.S. Department of Justice, Washington, D.C., amicus curiae for United States; Peter R. Taft, Assistant Attorney General, and Raymond N. Zagone, Attorney, Washington, D.C., on brief.

4. U.S. v. First Western State Bank of Minot, N.D., 491 F.2d 780 (8th Cir. (N.D.), Jan. 25, 1974) (NO. 73-1567.

I was selected by all six defendants and their separate lawyers to represent them jointly on a motion to suppress their state grand jury testimony based upon a grant of transactional immunity. The Senior District Court Judge Ronald N. Davies ruled in favor of the defendants and suppressed their previously given state grand jury testimonies. Judge Davies ordered suppression of any evidence relating to the testimonies, and any use by the government in relation to defendants' trial in federal court based upon a federal grand jury indictment alleging a violation of 18 U.S.C. § 610.

The United States appealed to the Circuit Court of Appeals for the Eighth Circuit, as permitted by 18 U.S.C. § 3731. The Eighth Circuit held that the federal government discharged its burden of providing independent sources by introducing testimony that there was no access by federal authorities to state grand jury transcripts and that federal authorities had no knowledge of testimony given by the defendants to a state grand jury, which had granted all of them transactional immunity.

The case is significant from a legal standpoint in that basic constitutional issues were presented and the case law on the subject, as set forth in Kastigar v. United States, 406 U.S. 441, 92 S.Ct. 1653, 32 L.Ed.2d 212 (1972) and Murphy v. Waterfront Commission, 378 U.S. 52, 84 S.Ct. 1495, 12 L.Ed.2d 678 (1964), was unclear.

The case arose from what was then known in North Dakota as "The First Western Bank Scandal." Among other charges, the bank was alleged to have been used as a conduit for funneling improper political contributions into the 1968 Hubert H. Humphrey Campaign for President.

The case against the defendants was ultimately resolved by their entering guilty pleas to reduced misdemeanor charges. Each defendant was placed on probation for a brief period of time.

- a. At various times between 1971 and 1974.
 - b. United States District Court for the District of North Dakota; Senior United States District Court Judge Ronald N. Davies. Before Gibson and Ross, Circuit Judges and Smith, Senior District Judge on appeal.
 - c. I represented the six individual appellees, and Harold O. Bullis, now deceased, U.S. Attorney, Fargo, North Dakota, represented the appellant.
5. Tarvestad v. U.S. and Wyum v. U.S., 418 F.2d 1043, Fed. Sec. L. Rep. P 92,530 (8th Cir. (N.D.), Dec. 10, 1969) (NO. 19110, 19111).

This case arose when I was at the United States Attorney's office and involved a federal prosecution of two criminal defendants, charging them in a multiple count indictment of securities fraud, mail fraud, fraud in the sale of securities, sale of unregistered securities, and conspiracy. The defendants had obtained control of a lumber yard and building materials center, created a financial division (Dalco American), and raised illegally several million dollars from unsuspecting investors who were lead to believe they were investing in a federally insured financial institution, when in fact they were not. There were 65 government witnesses and over 400 exhibits. The jury found both defendants guilty of all 22 counts in the indictment. The defendants were ultimately given a jail sentence of 18 months in federal prison, followed by five years probation. I was the lead prosecutor for the United States Attorney's office in the trial court. I also represented the defendants' appeal thereof for the United States in the Circuit Court of Appeals for the Eighth Circuit in 1969, a short time after I had left the employment of the United States Attorney's office to enter the private practice of law. The Circuit Court affirmed the District Court and certiorari

was denied in the United State Supreme Court on February 27, 1970.

- a. September 1, 1967, to December 10, 1967. The jury trial itself consumed six and one-half weeks during that time period.
 - b. United States District Court for the District of North Dakota; United States District Court Judge Ronald M. Davies, now deceased. In the appeal, oral argument was held before Chief Judge Van Oosterhout, and Donald Lay and Gerald Heaney, Circuit Judges.
 - c. I was assisted in the case by John High, a lawyer for the United States Securities and Exchange Commission at the Denver Regional Office at 1801 California Street, Denver, Colorado 80202, phone 303-391-6800, and was also assisted by then United States Attorney John O. Garaas, now deceased, Fargo, North Dakota. The lawyer who represented Defendant Tarvested was Lyle Huseby, Fargo, North Dakota, now deceased; the other defendant, George A. Wyum, was represented by lawyer Robert Vogel, who at that time practiced law at Mandan, North Dakota, but now has a law firm at P.O. Box 5576, Grand Forks, North Dakota 58206-5576, phone 701-775-3117.
6. Matter of Thompson, 642 F.2d 227, 7 Bankr.Ct.Dec. 492 (8th Cir. (N.D.), Feb. 25, 1981) (NO. 80-1140).

Matter of Investigation of Administration of Bankruptcy Court, 610 F.2d 547 (8th Cir. (N.D.), Dec. 14, 1979) (NO. 79-1828, 79-1745).

Matter of Investigation of Administration of Bankruptcy Court, 607 F.2d 797, 5 Bankr.Ct.Dec. 903 (8th Cir. (N.D.), Oct. 19, 1979) (NO.79-1828)

This series of three cited cases issued by the Circuit Court of Appeals for the Eighth Circuit emanate from the attempted removal of North Dakota's then Referee-in-Bankruptcy/ Bankruptcy Judge Gordon Charles Thompson by North Dakota's active federal judges in the late 1970's and early 1980's.

I represented Bankruptcy Judge Thompson in all matters surrounding the investigation into his removal, as well as the Circuit Court ordered supplemental removal hearing. Upon

Judge Thompson's initial removal, the District Court Judges made findings of fact and conclusions of law, and removed Judge Thompson, without a hearing. The appellate court ordered the matter to be reopened so as to allow Judge Thompson to supplement the record and call witnesses on his behalf, which he did. Various issues which arose during the removal process were appealed, and a vigorous defense was mounted by Judge Thompson. We presented some of the nation's leading experts on bankruptcy law practice and administration at that time, including other active bankruptcy judges who testified in support of Judge Thompson's administration of that office.

Judge Thompson voluntarily resigned his judgeship by making the announcement from the witness stand at the conclusion of his testimony. Judge Thompson later became a North Dakota judge and served in that capacity for several years.

- a. The hearing and other judicial proceedings were conducted at various times between 1979 and 1981.
- b. Magistrate J. Earl Cudd, sitting by designation at removal hearing; United States District Court for the District of North Dakota, Honorable Bruce M. Van Sickle and Honorable Paul Benson. On appeal before Lay, Heaney and Henley, Circuit Judges; before Lay, Chief Judge, Heaney, Ross, Stephenson, Henley, McMillian and Arnold, Circuit Judges.
- c. I represented Bankruptcy Judge Gordon Thompson. James R. Britton, then United States Attorney, P.O. Box 2505, Fargo, North Dakota 58108, phone 701-239-5671 (current address unknown), Robin Sjaastad, Legal Intern, Minneapolis, Minnesota, and Francis X. Hermann, Special Assistant United State Attorney, U.S. Federal Courthouse, Room 234, 110 South Fourth Street, Minneapolis, Minnesota 55401, phone 612-348-1500, for District Judges, Chief Judge Paul Benson and Judge Bruce M. Van Sickle.

LITIGATED CASES TRIED IN STATE COURT

7. Beavers v. Kaiser, 537 N.W.2d 653 (N.D. Sept. 11, 1995) (NO. 940154).
Beavers v. Walters, 537 N.W.2d 647 (N.D., Sept. 11, 1995) (NO. 940131).
Kiker v. Walters, 482 N.W.2d 626 (N.D., Mar. 27, 1992) (NO. CIV. 910027).

I was lead trial counsel for Russell L. Kiker, Jr., a farmer/rancher, a substantial minerals owner and one of the founders of the Little Knife Oil Field in Dunn County, North Dakota, in the early 1980s. There were a series of several cases. The first was an interpleader lawsuit. The two that followed were related to various issues that arose while development and exploration of the Little Knife Field was unfolding. This series of cases had considerable intrigue, including a family feud by a dysfunctional family (not involving my client). The case also related to claims by Kiker against large multi-national oil companies, including Chevron, Gulf, and the William Herbert Hunt Trust Estate of Dallas, Texas, as well as Imperial Oil of North Dakota, Inc.

Mr. Kiker was successful in his claims as evidenced by the North Dakota Supreme Court decisions that are cited above.

In one case, J. W. Beavers, Jr., as Trustee of William Herbert Hunt Trust Estate appealed from that part of the district court judgment ordering that Russell L. Kiker, Jr., and Marvin L. Kaiser recover damages of \$305,500, attorney fees of \$70,162.61, and costs and disbursements of \$1,579.53, for a total judgment of \$377,242.14. That damage award and the costs and disbursements were affirmed on appeal, and the attorney fee award was reversed.

In another of this series of cases, Imperial Oil of North Dakota and William D. Walters, Sr., appealed the district court order denying their motion for judgment notwithstanding the verdict or to alter and amend the judgment and from the amended judgment which ordered them to pay the William Herbert Hunt Trust Estate \$984,020.61, and to pay Russell L. Kiker, Jr., and Marvin L. Kaiser \$549,630.60.

- a. These complex cases were litigated in North Dakota between 1987 and 1996.

- b. Dunn County, North Dakota, District Court; Judge John T. Paulson. Billings County, North Dakota, District Court; Judge Allan L. Schmalenberger.
- c. I was the lead trial and appellate counsel for Mr. Kiker. I was assisted by law partner Steven A. Johnson. Other counsel for various parties included Ronald H. McLean and Maureen Holman of P.O. Box 6017, Fargo, North Dakota 58107-6017, phone 701-232-8957, who represented Marvin L. Kaiser; Ronald A. Reichert of P.O. Drawer K, Dickinson, North Dakota 58602-8305, phone 701-225-6711, who represented one of the parties; Charles S. Miller, Jr., John W. Morrison, Jr., and Craig C. Smith of P.O. Box 2798, Bismarck, North Dakota 58502-2798, phone 701-223-6585, represented the Hunt interests, J. W. Beavers, Jr., Trustee of the William Herbert Hunt Trust Estate; Fred E. Whisenand of P.O. Box 1307, Williston, North Dakota 58802-1307, phone 701-774-0024, and Roger J. Magnuson of Dorsey & Whitney, Minneapolis, Minnesota, represented the William D. Walters, Sr., and Lillian Y. Walters; George Dynes of Dickinson, North Dakota, represented one of the claimants; B. Timothy Durick of P.O. Box 400, Bismarck, North Dakota 58502-0400, phone 701-223-2890, represented Chevron; Mark L. Stenehjem of P.O. Box 1366, Williston, North Dakota 58802-1366, phone 701-572-6771, represented Imperial Oil of North Dakota, Inc., William D. Walters, Jr., Carrie Smith, and Robert T. Smith.
8. Jerry Harmon Motors, Inc. v. First Nat. Bank & Trust Co., 472 N.W.2d 748 (N.D., June 27, 1991) (NO. CIV. 900072).
- Jerry Harmon Motors, Inc. v. First Nat. Bank & Trust Co., 440 N.W.2d 704 (N.D. May 17, 1989) (NO. CIV. 880298).
- Jerry Harmon Motors, Inc. v. First Nat. Bank & Trust Co., 436 N.W.2d 240 (N.D., Feb. 14, 1989) (NO. CIV. 880298).

I represented First National Bank of Williston. Jerry Harmon and Jerry Harmon Motors, Inc., sued First National Bank & Trust Co. of Williston and two of its officers, Wanago and Rolfstad, alleging breach of contract, conversion, and tortious bad faith. The case was tried to a jury. At the close of the plaintiffs' case-in-chief, the court dismissed the bad faith tort claim against the

bank and dismissed all claims against Messrs. Wanago and Rolfstad. The jury returned its verdict finding that no contract for a line of credit existed between the parties and that the bank had not converted the vehicles taken in its repossession efforts. All claims by Jerry Harmon and Jerry Harmon Motors, Inc., were dismissed.

Issues arising from this trial reached the North Dakota Supreme Court on three occasions. The presiding judge in the case moved the trial from Williston to Stanley, North Dakota, because of extensive pre-trial publicity. The trial consumed three and one-half weeks, and the jury rendered a verdict in favor of my client.

- a. This case was before the District Court on several occasions extending over several months during 1987 to 1991. The jury trial which took place at Stanley, North Dakota, lasted three and one-half weeks in September and October, 1990. An unsuccessful appeal was finally concluded in 1991 by the plaintiff/appellant.
- b. Williams County, North Dakota, District Court. The Honorable William M. Beede, District Judge.
- c. I was the chief trial and appellate lawyer for the defendant, First National Bank of Williston. I was assisted by my law partner, M. Daniel Vogel. I was also assisted by Richard McKennett, of Winkjer, McKennett, Stenehjem, Murphy & Reiersen, P.O. Box 1366, Williston, North Dakota 58802-1366, phone 701-572-6771, who represented the individual defendants, Richard H. Rolfstad and Robert A. Wanago. David L. Peterson, Bismarck, North Dakota, then of the Wheeler Wolf law firm in Bismarck, now an Assistant United States Attorney, P.O. Box 699, Bismarck, North Dakota 58502-0699, phone 701-250-4396, represented the plaintiffs. He was assisted by Gerry Gunderson, who at that time was also with the Wheeler Wolf law firm, and is now with Investment Centers of America, Inc., at P.O. Box 2796, Bismarck, North Dakota 58502-2796, phone 701-255-6060. Keith C. Magnusson, North Dakota Bankers Association, P.O. Box 1438, Bismarck, North Dakota 58502, phone 701-223-5303, for amicus curiae North Dakota Bankers Association on brief in the North Dakota Supreme Court.

9. Bohn v. Johnson, 371 N.W.2d 781 (N.D., July 23, 1985) (NO. CIVIL 10,718).

This case involved Mildred Johnson, a lawyer who had served as legal counsel to one partner in a brother-brother farming partnership. The plaintiff sued her for professional negligence, claiming the loss of a valuable option to purchase his partner brother's interest in their farming partnership upon the brother's death, alleging a faulty, ambiguous general partnership agreement which had been prepared by the defendant.

The case was tried to a jury, and after a two and one-half month trial, the jury returned a verdict in favor of the plaintiff in the amount of \$800,000. The case was appealed to the North Dakota Supreme Court, which set the jury verdict aside, vacated the judgment, and ordered a new trial.

The trial court determined as a matter of law that the written partnership agreement was ambiguous with regard to valuing the partnership assets for a buy-out and instructed the jury accordingly. That jury instruction was not a correct statement of the law in North Dakota and improperly directed a verdict against Johnson.

The trial court found that the error in admitting certain documents relating to *Bohn v. Bohn* (the underlying case) and the prejudice flowing therefrom were compounded by the failure to allow Johnson the opportunity to introduce evidence to show that the judgment in the underlying case resulted from matters other than ambiguity in the written 1979 partnership agreement.

The case was ultimately settled, and a second trial did not take place.

- a. There were numerous court hearings and other proceedings over an extended period of time between 1981 and 1985. The actual jury trial itself commenced in the late fall of 1983, and concluded two and one-half months later in February, 1984.
- b. Richland County, North Dakota, District Court. Cass County District Court Judge Michael McGuire sitting by designation of North Dakota Supreme Court.

- c. I served as co-trial counsel with my senior partner, Mart R. Vogel, during the trial. I personally argued the successful appeal to the North Dakota Supreme Court, with assistance on the brief from my law partners, Mart R. Vogel and Pamela J. Hermes. Also Johnson, Weis & Paulson, Rhinelander, Wisconsin, appeared for defendants, appellants and cross-appellees. The opposing lawyers were Ernest I. "Chip" Reveal and Kathleen A. Marron, of Robins, Zelle, Larson & Kaplan, Minneapolis, Minnesota, now Robins, Kaplan, Miller & Cirese, 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, Minnesota 55402-2015, phone 612-349-8500; and Leland F. Hagen of Lee Hagen & Associates, P.O. Box 3143, Fargo, North Dakota 58108-3143, phone 701-293-8425, for plaintiff, appellee, and cross-appellant.

10. American State Bank of Williston v. State Banking Bd., 289 N.W.2d 222 (N.D., Feb. 14, 1980) (NO. CIV. 9681).

This was an appeal of an administrative agency decision allowing my client, Williston Basin State Bank, to obtain a new bank charter from the North Dakota State Banking Board, while refusing to allow another competing new bank charter application. The decision also declined to accept the legal position taken by two existing banks in Williston that they adequately served the community with no need for additional banks, new charters or otherwise. The Supreme Court affirmed the decision of the State Banking Board.

The Court ultimately found that the record supported the Board's determination that Williston was in need of a new bank. The Board also found that Williston was a rapidly growing and prosperous community and a center for oil exploration and production in North Dakota. The Board also found that the choice of the location for the Williston Basin State Bank was convenient to the public and in an area likely to experience continued growth. The court found that the only testimony to the contrary consisted of self-serving statements by directors and officers of the two existing financial institutions in Williston.

- a. The administrative hearing before the North Dakota State Banking Board took place at various times in different hearing sessions in 1979 and 1980.

- b. The matter was presented before the North Dakota State Banking Board at the hearing phase, affirmed by District Court Judge Gerald G. Glaser in the District Court of Burleigh County, North Dakota, and ultimately affirmed by the North Dakota Supreme Court in the appellate phase.
- c. I represented the Williston Basin State Bank, the successful new bank charter applicant, which was the recipient of the favorable decision by the Banking Board allowing this new chartered bank to be created and engage in a commercial banking business. Opposing counsel for the American State Bank was Fred C. Rathert of Bjella, Neff, Rathert & Wahl, P.O. Drawer 1526, Williston, ND 58802-1526, phone 701-572-3794. The other opponent was First National Bank & Trust Co. of Williston, represented by Richard A. McKennett of P.O. Box 1366, Williston, ND 58802-1366, phone 701-572-6771. Allen I. Olson, Attorney General, and Ilona Jeffcoat-Sacco, Special Assistant Attorney General, now legal counsel to the North Dakota Public Service Commission, State Capitol Building, Bismarck, North Dakota 58505-0480, phone 701-328-2400, appeared for appellee, State Banking Board of the State of North Dakota.

In addition, I am listing the names, addresses, and telephone numbers of one dozen lawyers in the Fargo, North Dakota, and Moorhead, Minnesota, area who know me well and have had contact with me:

Thomas A. Davies—Thomas A. Davies, Ltd., 606 First Avenue North, P.O. Box 950, Fargo, ND 58107, phone 701-237-9921.

William L. Guy III—Gunhus, Grinnell, Klinger, Swenson & Guy, 215 North 30th Street, P.O. Box 1077, Moorhead, MN 56561-1077, phone 218-236-6462.

Maureen Holman—Serkland, Lundberg, Erickson, Marcil & McLean, Ltd., 10 Roberts Street, P.O. Box 6017, Fargo, ND 58108-6017, phone 701-232-8957.

Duane H. Ilvedson—Nilles, Hansen & Davies, Ltd., 1800 Radisson Tower, P.O. Box 2626, Fargo, ND 58108, phone 701-237-5544.

Gorman H. King, Jr.—1121 Westrac Drive, P.O. Box 1917, Fargo, ND 58107, phone 701-232-4473.

Frank T. Knox–Lanier, Knox and Olson, 15 South Ninth Street, P.O. Box 1007, Fargo, ND 58107-1007, phone 701-232-4437.

Ronald H. McLean–Serkland, Lundberg, Erickson, Marcil & McLean, Ltd., 10 Roberts Street, P.O. Box 6017, Fargo, ND 58108-6017, phone 701-232-8957.

Craig M. Richie–Richie & Associates, 203 South Eighth Street, P.O. Box 2172, Fargo, ND 58107, phone 701-235-5513.

Randolph H. Stefanson–Stefanson, Plambeck & Foss, 403 Center Avenue, Suite 600, P.O. Box 1287, Moorhead, MN 56561-1287, phone 218-236-1925.

Galen J. Vaa–McLarnan, Hannaher, Vaa, Skatvold & McLarnan, P.L.L.P., Norwest Bank Building, P.O. Box 8, Moorhead, MN 56561-0008, phone 218-233-2406.

Mart R. Vogel–Vogel, Weir, Bye, Hunke & McCormick, Ltd., 502 First Avenue North, Fargo, ND 58107, phone 701-237-6983.

Thomas C. Wold–Wold Johnson, P.C., 400 Gate City Building, P.O. Box 1680, Fargo, ND 58107, phone 701-235-5515.

19. 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 the nature of your participation in this question; please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

Most litigation matters, perhaps as high as 85 to 90 percent, are settled without the need of utilizing the direct services of our judicial system. In recent times there has been a trend to attempt to resolve complex litigation cases by alternative dispute resolution. In many instances, the courtroom is being replaced by the conference room as the site of dispute resolution.

During my 30-year legal career engaged in the private practice of law, I have been involved in representing a wide variety of individual clients, legal entities, and groups on a vast array of legal matters that did not involve litigation. I have been quite active in community and economic development on a local, state, and regional level. Much of that work was performed as a civic volunteer. As but one example, I was one of those that was instrumental in developing a state-supported public/private partnership which created a venture capital company to assist in attracting new and emerging businesses and industries to North Dakota. This effort was undertaken in conjunction

with the Bank of North Dakota, with implementing assistance from the North Dakota Legislature. On the local level, I have devoted considerable time as a volunteer providing legal advice and serving as a member of the organizing committee and board of directors to create a downtown community-based betterment program to attract people, jobs, and economic activity in the inner city in Fargo, North Dakota.

I have served as a lawyer representing private clients in forming numerous business enterprises that center around such basic industries as agricultural commodity processing and agricultural production, computer software and bio-tech start ups, in addition to a host of non-profit charitable and educational organizations.

During my career, I have represented numerous judges and lawyers in many of their legal matters ranging from domestic relations to professional negligence and discipline. In the case of judges, I have worked diligently for their independence, fair and reasonable compensation, and retirement benefits.

Some of the most rewarding legal work I have engaged in is representing young farmers and business entrepreneurs launch their careers in equity capital formation, business and strategic planning, short- and long-term financing.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have as part of my employment contract at the law firm of Vogel, Weir, Bye, Hunke & McCormick, Ltd., a deferred compensation plan, which provides an installment payout upon leaving the law firm of my financial interest in it over a five-year period. The amount is based upon a formula that is connected to business generation (income production) over the ten years immediately preceding such severance. I will not have any continuing relationships with business associates, clients, or customers.

Also, I have a deferred compensation agreement with U.S. West Communications, Inc., as a result of my service on its North Dakota State Executive Advisory Board between 1989 and 1993. It will conclude with the final payment to be made in January, 2003.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

Because of the length of time I have engaged in the private practice of law prior to this nomination, I believe conflicts may arise which will be appropriately dealt with as they present themselves. I will abide by the Code of Judicial Conduct in all matters related to conflicts of interest.

I am not aware of any specific categories of litigation wherein conflicts are more likely to be present. I have not owned outright any shares or ownership interests in publicly-traded companies or entities, as my investments in both my personal portfolio and in my retirement plan have been exclusively invested in either Government bonds or in mutual funds of investment companies that I have not represented in any respect in any legal or managerial position or capacity.

3. 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.

4. 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, patents, 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 Financial Disclosure Report on Form AO-10 as Attachment E.

5. Please complete the attached financial net worth statement in detail. (Add schedules as called for.)

See attached financial net worth statement on your prescribed forms, and as an attachment thereto, my personal financial statement dated December 31, 1998, which sets forth my financial circumstances in additional detail.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Yes.

I was campaign manager for Fargo lawyer J. Philip Johnson in his contested election campaign to retain a seat on the North Dakota Supreme Court in 1992. I also served on the campaign committee for Mr. Johnson 18 years earlier in his initial attempt to retain a seat on the North Dakota Supreme Court in 1974. In both such state-wide elections, he was unsuccessful.

I served as Secretary-Treasurer of the successful Nick Spaeth for Attorney General Campaign Committee, 1980. This was a volunteer position.

I was a member of various campaign finance committees for Bruce Hagen during his several re-elections as a member of the North Dakota Public Service Commission. I was a volunteer fund raiser between 1970 and the present time.

I assisted various candidates for a variety of elective offices, such as States Attorney, North Dakota Legislature, County Commissioners, District and Supreme Court Judges, elected State officials, and North Dakota's Congressional Delegation, as a volunteer fund raiser to finance their respective election campaigns between 1970 and the present time.

FINANCIAL STATEMENT

NET WORTH
December 31, 1998

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	361 5,080 641 1,343 10,117 9	Notes payable to banks—secured	
U.S. government securities—add schedule	5,150	Notes payable to banks—unsecured	39,300 20,988
Listed securities—add schedule	214,223 31,843 36,326 37,035 1,212 23,136 6,966 15,680 21,422	Notes payable to relatives	
Unlisted securities—add schedule	0	Notes payable to others	
Accounts and notes receivable:		Accounts and bills due	4,000
Due from relatives and friends		Unpaid income tax	
Due from others		Other unpaid tax and interest	
Doubtful		Real estate mortgages payable—add schedule	19,193 19,985
Real estate owned—add schedule	67,000 26,000 240,000 56,000 210,800 122,800 178,100	Chattel mortgages and other liens payable	
Real estate mortgages receivable		Other debts—itemize:	

Autos and other personal property	2,500 1,000 12,500 15,500 15,000 37,200		
Cash value—life insurance	1,225 1,275 2,150 5,237		
Other assets—itemize:			
Law Firm Pension Plan	1,256,099 2,200 32,565		
Deferred Compensation	252,069 45,871		
Vogel Law Firm Stock	10,512	Total Liabilities	103,467
		Net Worth	2,885,188
Total Assets	2,988,655	Total Liabilities and Net Worth	2,988,655
CONTINGENT LIABILITIES		GENERAL INFORMATION	
As endorser, comaker or guarantor ¹	523,718.96	Are any assets pledged? (Add schedule)	No
On leases or contracts	None	Are you defendant in any suits or legal actions?	No
Legal Claims	None	Have you ever taken bankruptcy?	No
Provision for Federal Income Tax	None		
Other special debt	None		

¹Guarantor of first mortgage debt financing on Car-Ly Properties, a real estate general partnership.

Kermit E. Bye

STATEMENT OF ASSETS AND LIABILITIES

December 31, 1998

ASSETS

CURRENT ASSETS:	<u>Cost Basis</u>	<u>Estimated Value Basis</u>
<u>Cash and Equivalents</u>		
Cash in Bank (Norwest Bank-Fargo)	\$ 361.91	\$ 361.91
Cash in Bank (US Bank-Fargo)	5,080.24	5,080.24
C.D.A. - USBank	641.86	641.86
USBank Money Market Fund (2.37%)	1,343.44	1,343.44
Charles Schwab Cash Balance	10,117.17	10,117.17
Strong Money Market Fund	9.11	9.11
Series "E" Savings Bonds	975.50	5,150.00*
<u>Marketable Securities</u>		
6,679.865 shares of T. Rowe Price Growth Fund, Inc. (\$32.07 per share)	18,080.00	214,223.27*
2,045.166 shares of Vanguard-Windsor Fund (\$15.57 per share)	10,000.00	31,843.23*
1,416.243 shares of Fidelity New Millennium Fund (\$25.65 per share)	10,000.00	36,326.63*
1,515.363 shares of Evergreen Fund (\$24.44 per share)	10,000.00	37,035.47*
121.831 shares of Strong Advantage Fund (\$9.95 per share) (6.26%)	1,000.00	1,212.22*
788.022 shares of SteinRoe Capital Opportunities Fund, Inc. (\$29.36 per share)	10,000.00	23,136.33*
238.172 shares of American Century Income and Growth Fund (\$29.25 per share)	5,000.00	6,966.53*
1,048.883 shares of Schwab Asset Director - High Growth Fund (\$14.95 per share)	10,000.00	15,680.80*
361.317 shares of Strong Schafer Value Fund (\$59.29 per share)	15,000.00	21,422.48*
<u>Life Insurance</u>		
Cash Surrender Value of Life Insurance Policies		
Lutheran Mutual	1,225.50	1,225.50
Indianapolis Life Ins Co.	1,275.00	1,275.00
Franklin Life Ins. Co. (Paid Up)	2,150.00	2,150.00
Security International Life Ins. Co.	5,237.50	5,237.50

—Page One of Three—

Kermit E. Bye

STATEMENT OF ASSETS AND LIABILITIES
December 31, 1998

<u>Real Estate</u>		
Farm Real Estate	67,000.00	67,000.00
Vogel Law Office Building Partnership	10,000.00	26,000.00*
Car-Ly Properties Partnership	63,000.00	240,000.00*
Condominiums Rentals	39,000.00	56,000.00*
Personal Residence (Built in 1973)	145,000.00	210,800.00
Lake Cottage (1981)--Herman	75,000.00	122,800.00
Lake Cottage (1986)--Huber	68,000.00	178,100.00
OTHER ASSETS:		
Law Firm Pension & Profit Sharing Plan consisting of:		
Money Purchase Plan (Resource Bank)	\$1,155,491.11	
Pension Plan-Bond Fund	31,108.26	
Profit Sharing Trust-Stock Fund	<u>69,500.00</u>	
	\$1,256,099.37	1,256,099.37**
Law Firm Deferred Compensation	252,069.00	252,069.00**
Accumulative Compensation Receivable	45,871.44	45,871.44**
I.R.A. Account (Realty Income Fund II)	11,000.00	2,200.00*
(Price New America Growth Fund, 681.421 shares at \$47.79 per share)	9,917.07	32,565.11*
1,000 shares common stock, Vogel Law Firm	1,000.00	10,512.27**
1987 Audi 5000	24,000.00	2,500.00
1985 Toyota Corolla	9,000.00	1,000.00
1993 Chevrolet Suburban	26,000.00	12,500.00
1994 - 22' Harris Flotebote	19,300.00	15,000.00
Miscellaneous Personal Property	<u>87,200.00</u>	<u>37,200.00</u>
TOTAL ASSETS	\$2,325,954.11	\$2,988,655.88

Kermit E. Bye

STATEMENT OF ASSETS AND LIABILITIES
December 31, 1998**LIABILITIES**

CURRENT LIABILITIES:	<u>Cost Basis</u>	<u>Estimated Value Basis</u>
<u>Current Liabilities</u>		
Monthly Bills - due in the ordinary course of business	\$ 4,000.00	\$ 4,000.00
<u>Other Liabilities</u>		
Commercial Loan Credit Line (USBank)	39,300.00	39,300.00
Norwest Bank - Executive Credit Line	20,988.29	20,988.29
Mortgage Payable (Am. Fed. Savings Bank - mortgage on personal residence)	19,193.52	19,193.52
Contract for Deed (Balance due on lake cottage [1981] Herman)	<u>19,985.23</u>	<u>19,985.23</u>
Sub-total of Liabilities	\$103,467.04	\$103,467.04
 EXCESS OF ASSETS OVER LIABILITIES BEFORE ACCRUED INCOME TAXES ON UNREALIZED ASSET APPRECIATION	 2,222,487.07	 2,885,188.84
ACCRUED INCOME TAXES ON UNREALIZED ASSET APPRECIATION	<u> </u>	<u>418,268.32</u>
EXCESS OF ASSETS OVER LIABILITIES	\$2,222,487.07	\$2,466,920.52

The above Statement of Assets and Liabilities consisting of this and the preceding two pages is true and correct as of December 31, 1998.

 Kermit E. Bye

III. GENERAL (PUBLIC)

1. 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.

During my career, I have been among the lawyers in North Dakota who have voluntarily donated time in serving the needs of the disadvantaged. As examples, I have handled adoptions for couples unable to pay for such types of legal services; I have represented tenants in disputes with landlords over rental contract rights for no fee; I have handled personal bankruptcy petition filings at no charge to clients who were in need of such legal services at a time in their lives when even the most modest fee would be an insurmountable obstacle. I have handled legal separations and divorces on a pro bono basis because a party could not afford to pay for the legal services in cases that were initiated by the opposing party. Combining such pro bono legal work with my general community volunteer service and civic involvement with numerous other public-spirited projects, I believe I am accurate in stating that such service has consumed five percent (5%), in some years far more, of my productive, billable time during my legal career.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates – through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

No. I have been a member of the Benevolent and Protective Order of Elks Lodge No. 155 of Bismarck, North Dakota, and No. 260 of Fargo, North Dakota, continuously since 1964. In the Elks' early history, several of the Lodges did restrict membership in some categories of sex, race, and color. However, in the late 1960s all such discrimination was eliminated, as is evidenced by the Bylaws attached as Attachment B.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

There is no selection commission in North Dakota.

My experience in the judicial selection process involved making my interest in a circuit court judgeship known to North Dakota's congressional delegation. This resulted in my receiving and completing a Judicial Candidate Data Questionnaire and submitting it to the Office of Counsel to President. I was then invited to a personal interview by personnel from the Office of Counsel to President and the U.S. Department of Justice. I was contacted by a lawyer from the Office of Counsel to President while I was attending the mid-year meeting of the American Bar Association in February, 1999, and briefly interviewed by her and a lawyer from the U.S. Department of Justice, at which time I was provided with forms, to include a Personal Data Questionnaire. I was invited to an additional interview by personnel of the Office of Counsel to President, at which time I was provided with several additional forms to complete and return, including this United States Senate Questionnaire for Judicial Nominees. I have completed my preparation of all responses and have since been interviewed by a special agent of the Federal Bureau of Investigation, and also an investigator and Eighth Circuit Court committee member of the American Bar Association's Standing Committee on the Federal Judiciary.

The State Bar Association of North Dakota conducted a written Judicial Candidate Evaluation of the Eighth Circuit Court of Appeals judicial applicants. This written mail survey was sent to all licensed North Dakota lawyers, and the responses thereto were compiled and distributed to North Dakota's congressional delegation, each of the eight applicants evaluated, as well as being made available to the press.

The experience gained by me from the entire process has been most positive, constructive and beneficial.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

Views on the criticism involving "judicial activism."

The founders created an independent judiciary as a part of our constitutional system of checks and balances. Judicial restraint, rather than activism, is what the framers of the Constitution had in mind when the obligations and responsibilities were allocated among the three separate branches of government.

An independent judiciary utilizing measured restraint serves as an effective buffer for the separation of powers necessary to make our democracy work effectively. The judicial function is to confine deliberations to a specific grievance, utilizing utmost care to not craft precedent-setting opinions which go beyond the precise issue presented for resolution.

While the judiciary stands as the ultimate protector of civil rights and liberties for all, it should not impose a broad mandate on society through its rulings. Reasonable restraint, imposed upon oneself, is the appropriate course of conduct for a judge. My personal nature is one of caution and restraint.

A judge, particularly one with life tenure, should not lose sight of the fact that the judicial role in the controversy-solving process is limited by what the founding fathers set forth in the Constitution.

**RUBEN CASTILLO
CANDIDATE FOR
THE UNITED STATES
SENTENCING COMMISSION**

**UNITED STATES SENATE
QUESTIONNAIRE FOR NON JUDICIAL NOMINEES**

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

ANSWER: Ruben Castillo

2. Address: List current place of residence and office address(es).

ANSWER: United States District Court
Dirksen Federal Building
219 S. Dearborn Street
Room 2378
Chicago, Illinois 60604

Home Address:
Chicago, Illinois 60646

3. Date and place of birth.

ANSWER: August 12, 1954 -- Chicago, Illinois

4. Marital Status (include maiden name of wife, or husband's name).
List spouse's occupation, employer's name and business address(es).

ANSWER: Married to Sylvia Mojica Castillo on August 12, 1978. She is employed as a social worker/therapist by Tom Leo and Associates, 1530 W. Washington St., Chicago, IL. 60657.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

ANSWER: Loyola University, Chicago, Illinois – 1972 to 1976 –
B.A. Political Science (6/76).

Northwestern University School of Law, Chicago, Illinois –
1976 to June, 1979 J.D. (6/79)

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

ANSWER: 1974-1979 – Deputy Clerk, Circuit Court of Cook County,
assigned to Night Arraignment Court

1979-1984 – Associate Attorney, Jenner & Block

1984-1988 – Assistant United States Attorney, Northern
District of Illinois

1988-1991 – Director and Regional Counsel, Mexican
American Legal Defense and Educational Fund ("MALDEF")

1991 - to May 1994 – Partner, Kirkland & Ellis

1988 to present – Adjunct Professor of Trial Advocacy,
Northwestern University School of Law

May, 1994 to present – United States District Court Judge
Northern District of Illinois

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

ANSWER: None.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

SWER: Recipient of Meritorious Service Award by the Illinois State Bar Association for pro bono work on behalf of indigent criminal defendants, June, 1983; Recipient of FBI Commendations for outstanding work as a Federal Prosecutor (March and November, 1986); Recipient of Award from the United States Customs Service for aggressive and diligent prosecution of a currency and heroin smuggling operation (1987); Recipient of Certificate of Appreciation from Drug Enforcement Administration for outstanding contributions in the field of drug law enforcement (1988); Recipient of United States Secret Service Certificate of Appreciation for superior contributions to service's law enforcement responsibilities (1988); Recipient of the Maurice Weigle Award awarded by the Chicago Bar Foundation in recognition of outstanding service to the Legal Profession and Organized Bar during 1989; Selected one of ten outstanding young citizens by Chicago Jaycee Organization, 1989; Selected in 1990 for "40 under 40" Honor by Crain's Chicago Business Magazine; Selected Attorney of the Year in 1990 by Mexican American Lawyers Association; Awarded Community Service Award by Latin American Police Association, 1989; Recipient of Distinguished Alumni Citation from Loyola University in October, 1992; Public Service Award by Federal Bar Association, October, 1993.

As a Federal Judge, I have received awards from the Latin American Bar Association (6/94); the University of Michigan Law School (10/94); Hispanic State Law Enforcement Association (10/94 and 9/98); the National Hispanic Prosecutors Association (10/98); as well as numerous other local organizations for community service.

In February of 1997, I was recognized by the American Lawyer Magazine as one of 45 national public sector lawyers under the age of 45 who have made significant contributions to public interest litigation.

Bar Associations: List all bar associations, legal or judicial-related committees 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.

SWER: Member, Board of Directors, Federal Judges Association (1997 to present)
 Member, Board of Directors, Chicago Humanities Festival (1997 to present)
 Member, Board of Directors, Illinois Institute for Continuing Legal Education (1995 to present).

Member, Board of Directors, Constitutional Rights Foundation Chicago (related education group which focuses on high school students) (1998 present).

Member, Board of Directors, Chicago Humanities Festival (1997 to present)

Member, Visiting Committee, Northwestern University School of Law (1995 to present).

Member, Board of Trustees, Chicago-Kent College of Law (1991 to 1999)

Member, Board of Directors, Chicago Metro History (encouraged the study of Chicago History by high school students) (1994 to 1999).

Vice President, Chicago Council of Lawyers, (1991-1993).

Member of Board of Governors, Chicago Council of Lawyers, (1988-1991).

Member, Illinois Hispanic Lawyers Association (formerly known as Latin American Bar Association), (1980 to 1999).

Member, American Bar Association, (1979 to 1994).

Board Member, Chicago Bar Foundation, (1991 to May, 1994).

Member, Civil Justice Reform Act Advisory Group of the United States District Court for the Northern District of Illinois (1991 to 1993).

Member of Advisory Board of Children and Family Justice Center Northwestern University Legal Clinic (1992 to May, 1994).

Appointed by the Illinois Supreme Court to the Special Commission on Administration of Justice (Member of the Judicial Selection Task Force) (1991 to 1993).

Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

ANSWER: The only organization I am currently a member of which is engaged in lobbying activity is the Federal Judges Association, which seeks to represent the interests of federal judges on all legislative matters. (1996 to present).

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

ANSWER: Illinois Supreme Court – 1979

United States District Court, Northern District of Illinois – 1979

United States Court of Appeals for the Seventh Circuit – 1984.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

ANSWER: As a law student, I authored two published articles:
Note, "Fifth Amendment - Confession and the Right to Counsel," 68 Journal of Criminal Law and Criminology 517 (1977). Comment, "The Use of Civil Liability To Aid Crime Victims," 70 Journal of Criminal Law and Criminology 57 (1979). Copies of these articles are attached (Tab 1).

I have given many motivational speeches to various local and student groups. I have not given any prepared speeches on constitutional law or legal policy.

13. Health: What is the present state of your health? List the date of your last physical examination.

ANSWER: Good. June 21, 1999.

14. Public Office: State (chronologically) any public offices you have held,

other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

ANSWER: Appointed by Mayor Daley in May of 1989 to serve on a three member blue ribbon panel which recommended revisions to the City's Minority and Female Purchasing Set-Aside Program.

Appointed by Mayor Daley in April of 1992 to serve on a nine member City of Chicago Gaming Commission which reviewed the desirability and feasibility of developing a single-site casino, hotel, and family entertainment complex in or near Downtown Chicago. (Chair of the Legal/Regulatory Committee).

15. Legal Career:

- a. Describe chronologically your law practice and experience after graduation from law school including:
 - (1) 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;
 - (2) whether you practiced alone, and if so, the addresses and dates;
 - (3) the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;
- b.
 - (1) What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?
 - (2) Describe your typical former clients, and mention the areas, if any, in which you have specialized.
- c.
 - (1) Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

- (2) What percentage of these appearances was in:
 - (a) federal courts;
 - (b) state courts of record;
 - (c) other courts.

- (3) What percentage of your litigation was:
 - (a) civil;
 - (b) criminal.

- (4) State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

- (5) What percentage of these trials was:
 - (a) jury;
 - (b) non-jury.

ANSWER: I did not serve as a traditional federal law clerk. In order to finance my college and law school education I served as a state clerk to a Cook County local arraignment court which held sessions at night.

From June, 1979 to April, 1984, I worked as an associate attorney with the law firm of Jenner & Block located at One IBM Plaza in Chicago, Illinois 60611. During this time period my legal practice consisted primarily of general civil and criminal litigation. My typical clients included both individuals and corporations. I also participated in various civil rights and criminal law litigation matters on a pro bono basis. During my litigation practice at Jenner I split my appearances evenly between federal and state court, and spent 80% of my time on civil litigation and the remaining 20% on criminal litigation.

In April of 1984 I accepted an appointment as an Assistant United States Attorney in the Northern District of Illinois. I worked at the United States's Attorney's Office located at 219 South Dearborn St., Suite 1200, Chicago, Illinois 60602. From April of 1984 through April of 1988 my practice consisted exclusively of the investigation, preparation and trial of federal criminal prosecutions. My only client during this time period was the United States. During this time period I served as lead prosecutor in over twenty-five trials, which included more than twenty jury trials.

In April of 1988 I became the Director and Regional Counsel of the Chicago Office of the Mexican American Legal Defense and Educational Fund ("MALDEF"), which was located at 542 South Dearborn Street, Suite 750, Chicago, Illinois 60605. From April of 1988 to April of 1991 I supervised and participated in various federal class action litigation on behalf of Hispanic clients. During this time period I solely practiced civil litigation and primarily handled employment discrimination, voting rights, education and immigration cases. Ninety percent of my court appearances were in federal court.

In May of 1991 I became a partner in the firm of Kirkland & Ellis in Chicago. Their office is located at 200 East Randolph Drive, Chicago, Illinois 60601. My practice consisted of both civil (40%) and criminal defense litigation (60%). My typical clients were large Chicago based corporations. I also continued to represent individual clients on both a pro bono and paid basis. Ninety percent of my court appearances were in federal court.

I tried over thirty cases to verdict or judgment as both chief and sole counsel. Ninety percent of these cases were jury trial cases.

I have never practiced alone during my legal career.

In May of 1994 I was appointed to the United States District Court for the Northern District of Illinois after Senate confirmation. As a federal district court judge I have presided over one hundred trials, evidentiary hearings and sentencings. My present docket of approximately 120 cases is about 25% criminal and 75% civil.

6. Litigation: Describe the ten most significant litigated matters which you personally handled. 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.

- ANSWER:**
1. **Shy, et al. v. Navistar**, Case No. C-3-92-333 (Judge Rice, W.D. Ohio, 1992). This ERISA class action case involved numerous novel litigation issues as well as complicated tax and federal securities issues, and proceeded on a parallel basis in two separate federal districts. I was one of the main attorneys for Navistar throughout this litigation. My primary co-counsel were Emily Nicklin and Michael Kerr, Kirkland & Ellis, 200 E. Randolph Drive, Chicago, Illinois (312) 861-2000. My opponent were represented by Daniel Sherrick, Associate General Counsel International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, 8000 East Jefferson, Detroit, Michigan 48213, Tel. No. (313) 926-5216, and Julia Penny Clark, Bredhoff & Kaiser, 1000 Connecticut Ave., N.W. Suite 1300, Washington, D.C. 20036, Tel. No. (202) 833-9340. This case was settled in 1993 and the class settlement was approved by Judge Rice in July of 1993.
 2. **Hastert v. Board of Elections**, 777 F. Supp. 634 (Judges Conl Norgle and Kanne, N.D. Ill. 1991). This Illinois congressional redistricting case led to the creation of Chicago's first Hispanic congressional district. I was the senior litigation attorney for Hispanic interests in this case. My co-counsel on this case were Arturo Jauregui, formerly with the Mexican American Legal Defense and Educational Fund, 542 South Dearborn Street, Chicago, Illinois 60605 (his current address is Jauregui & Associates, P.C., 221 N. LaSalle Street, Suite 764, Chicago, Illinois. 60601, Tel. No. (312) 781-9103 and Judson H. Miner, Miner, Barnhill & Galland, P.C., 14 West Erie Street, Chicago, Illinois 60610, Tel. No. (312) 751-1170. The Republican interests in this case were represented by Ty Fahner of Mayer, Brown & Platt, 190 South LaSalle Street, Chicago, Illinois 60603, Tel. No. (312) 701-7062, and the Democratic interests were represented by William J. Harte, 111 W. Washington Street, Suite 1100, Chicago, Illinois 60602, Tel. No. (312) 726-5015.

3. **Ortiz v. Fairman, et al.**, 88-7509 (N.D. Ill. Judge Duff). I was appointed as lead trial counsel to represent a prisoner in a complex prisoner rights case. This trial ended in one of the largest individual jury awards to plaintiff – \$758,800. On December 29, 1993 Judge Duff granted the defendants' motion for a new trial. Thereafter, the case was tentatively settled pursuant to a confidential settlement agreement. The defendants were represented by Assistant Attorney General Roger P. Flahaven, 100 West Randolph Street, 13th Floor, Chicago, Illinois 60601, Tel. No. (312) 814-2822 and former Assistant Attorney General Patricia A. Marshall. Ms. Marshall is now counsel to the Inspector General, U.S. Railroad Retirement Board, 844 N. Rush St., Suite 450, Chicago, Illinois 60601, Tel. No. (312) 751-3390.

4. **Hernandez v. Woodward**, 714 F. Supp. 1963 (Judge Duff, N.D. Ill. 1989). This federal voting rights class action successfully challenged restrictive deputy voter registrar practices which adversely affected the voter registration of Hispanic voters. I served as chief counsel for plaintiffs in this case which was successfully settled after the entry of an agreed temporary restraining order. My co-counsel on this case was Arturo Jauregui, formerly with the Mexican American Legal Defense and Educational Fund, (his current address is Jauregui & Associates, P.C., 221 N. LaSalle Street, Suite 764, Chicago, Illinois 60601, Tel. No. (312) 781-9103. The defendants were represented by Stuart D. Gordon, presently with the firm of Zukowski, Rogers, Flood & McArdle, 100 S. Wacker Drive, Suite 1502, Chicago, Illinois 60606, Tel No. (312) 407-7700.

5. **Ridge v. Verity, et al.**, 715 F. Supp. 1308 (Judge Standish, W.D. Pa.). I argued on behalf of Hispanic interests in this complex multi-party action which challenged the inclusion of undocumented persons in the 1990 census. The parties are listed in the published opinion. (See attachment Tab 3). The defendants were represented by Sandra M. Schraibam, Thomas Peebles and Susan Korytkowski, Attorneys, U.S. Department of Justice, Civil Division, Room 3744, 10th & Pennsylvania Avenue, Washington, D.C. 20530, Tel. No. (202) 514-2000.

6. **U.S. v. Bentley, Degan, Josten & Yung**, No. 85 CR 267. After this month long jury trial before Judge Plunkett (N.D. Ill.) convictions were returned against all defendants in this commodities case, including the first successful prosecutions of lower level salesmen. I served as one of the chief prosecutors in this case. My co-counsel on this case was former federal prosecutor James R. Ferguson who is presently with the law firm of Sonnenschein, Nath & Rosenthal, 800 Sears Tower, Chicago, Illinois 60606 (312) 876-3188. I received a commendation from the FBI for my work on this case. The defendants were represented by David P. Schippers, Schippers & Bailey, 20 N. Clark Street, Suite 3600, Chicago, Illinois 60602, Tel. No. (312) 263-1200 and Martin S. Agran, who is presently a Judge in the Circuit Court of Cook County, Juvenile Justice Division, 1100 S. Hamilton Avenue, Room G26N, Chicago, Illinois 60612, Tel No. (312) 443-6935.
7. **United States v. Centracchio & Salemi**, Nos. 84 CR 2678, 84 CR 2773 (N.D. Ill.). This was a three week bank fraud prosecution involving the Broadway National Bank which I successfully tried along with now Judge Suzanne Conlon (Northern District of Illinois, Tel. No. (312) 435-5595). This jury trial was tried before Judge Shadur. The defendants were represented by Frank Oliver and Gerald M. Werksman, current addresses and telephone numbers unknown.
8. **United States v. Cosentino & Patterson**, 86 CR 359 (N.D. Ill., Judge Marvin Aspen). This was an insurance fraud trial in which I served as one of the lead prosecutors. My co-counsel was former Assistant United States Attorney Dan DuPree who the last I knew was employed as an attorney at the Brunswick Corporation, One North Field Court, Lake Forest, Illinois 60045-4811, Tel. No. (708) 735-4700. The appeal is reported at 869 F.2d 301 (7th Cir. 1989). I received a commendation from then FBI Director Webster for my work on this case. The defendants were represented by Jerome Rotenberg, Rosenfeld, Rotenberg, Hafron & Shapiro, 221 North LaSalle Street, Chicago, Illinois 60601, Tel. No. (312) 372-6058.

9. **United States v. Dr. Bernard Lerner**, 87 CR 268 (N.D. Ill., Judge Marvin Aspen). This was a two week jury trial in which I served as one of the lead prosecutors which successfully prosecuted the fraudulent prescription activities by a doctor who was on the staff of Northwestern Memorial Hospital. My co-counsel was Phillip A. Turner, a former federal prosecutor, Phillip A. Turner & Associates, 200 West Madison Street, Suite 440, Chicago, Illinois 60606, Tel. No. (312) 899-0009. The defendant was represented by Julius Lucius Echeles who died in 1997.
10. **United States v. Ocampo, et al.**, No. 88 CR 319 (N.D. Ill., Judge Harry Leinenweber) affirmed on appeal by the Seventh Circuit, 890 F.2d 1363 (7th Cir. 1989). This was a one week narcotics jury trial which I successfully tried by myself in 1988. The defendants were represented by Dennis Cooley, 155 North Michigan Avenue, Suite 717, Chicago, Illinois 60601, Tel. No. (312) 565-1966, and Stuart V. Goldberg, whose current address and telephone number are unknown.
7. **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 the nature of your participation in this question, please omit any information protected by attorney-client privilege (unless the privilege has been waived).

ANSWER: Throughout my career as a lawyer I have devoted myself to improving my skills as a trial attorney. I have taught Trial Practice at Northwestern University School of Law as an adjunct professor for the last ten years (1989-1999) and I have also served as an instructor at the National Institute of Trial Advocacy ("NITA") on numerous occasions.

During my last two years in practice I devoted considerable time and effort to improving the local court systems by serving as the Vice President of the Chicago Council of Lawyers and by my service on the Civil Justice Reform Act Advisory Group for the Northern District of Illinois, the Illinois Supreme Court's Special Commission on Administration of Justice, and the Advisory Board of the Children and Family Justice Center of the Northwestern University Legal Clinic. I have also attempted to maintain an active community involvement throughout my legal career as indicated by my service on several boards of

legal services organizations as well as my service on several civic commissions.

Since my appointment as a federal district judge I have maintained my involvement with legal and civic groups in a manner consistent with the Code of Conduct for United States Judges.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

ANSWER: None.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

ANSWER: I continue to strictly follow the Code of Conduct for United States Judges. I can not conceive of any potential conflicts with respect to my potential service as a Commissioner on the U.S. Sentencing Commission. However, if I am confirmed I will consult with the ethics officer for the U.S. Sentencing Commission on any potential conflict matter.

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service in the position to which you have been nominated? If so, explain.

ANSWER: During my tenure as a judge, with the permission of the Chief Judge of the Seventh Circuit Court of Appeals and

in compliance with the Code of Conduct for United States Judges, I have continued my service as an Adjunct Professor of Trial Advocacy at Northwestern University School of Law. My compensation agreement with Northwestern is \$2,000 per semester as indicated in the attached Financial Disclosure Report, (Tab 2). I am unsure if I will continue my teaching because of the travel responsibilities which may be involved in the position I have been nominated for.

4. 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, patents, 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.)

ANSWER: See attached Financial Disclosure Report, (Tab 2).

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

ANSWER: See Attached Schedule, (Tab 3).

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

ANSWER: I have not played an active role in any political campaign as a judge or even as an attorney. Prior to becoming a judge, I did serve on Political Lawyers Committees for U.S. Senator Carol Mosley-Braun (1992); State Senator Jesus Garcia (1991) and State Senator Miguel del Valle (1991).

III. GENERAL (PUBLIC)

1. 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.

ANSWER: Throughout my legal career I have worked on significant pro bono litigation and worked on various efforts at improving the legal system for the disadvantaged. At Jenner & Block I worked on several federal civil rights cases as well as pro bono murder case. At Kirkland & Ellis I worked on a prisoner rights trial and a congressional redistricting trial on a pro bono basis.

During my tenure at the Mexican American Legal Defense and Educational Fund and throughout my service on various boards and commissions, such as the Chicago Legal Clinic and the Chicago Bar Foundation, I have sought to ensure that the legal system became more accessible to the disadvantaged.

I estimate that I spent well in excess of 300 hours per year on pro bono matters

As a judge I have continued my commitment to improving our legal system by assisting various groups on continuing legal education activities. In that capacity, I have spoken before various bar and civic groups.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

ANSWER: I am not and have never been a member of any organization of this type.

AO-10 (w)
Rev. 8/96

FINANCIAL DISCLOSURE REPORT
Calendar Year 1998

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Castillo, Ruben .		2. Court or Organization U.S. District Court, N.D. IL.	3. Date of Report 05/12/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. Dist. Judge-Active Status		5. Report Type (check type) Nomination, Date / / Initial <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Final	6. Reporting Period 01/01/1998 to 12/31/1998
7. Chambers or Office Address 219 S. Dearborn Street Room 2378 Chicago, Illinois		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
¹ Director	IICLE
² Director	Federal Judges Association
³ Director	Chicago Humanities Festival

II. AGREEMENTS (Reporting individual only; see pp. 14-17 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
¹	
²	
³	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 18-25 of Instructions.)

DATE	PARTIES AND TERMS	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
¹ 1998	Northwestern University Law School, Adjunct Prof.	\$ 4,000.0
² 1998	Cook County Hospital (S)	\$ 15,000.0
³ 1998	Tom Leo & Assocs. (Social Work/Psychotherapist	\$ 1,700.0
⁴	Counseling) (S)	
⁵		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Castillo, Ruben .	05/12/1999

SECTION HEADING. (Indicate part of report.)

SECTION 1. POSITIONS (cont'd.)

Li. Position	Name of Organization/Entity
4 Director	Constitutional Rights Foundation

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Castillo, Ruben .	05/12/1999

IV. REIMBURSEMENTS and GIFTS — transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements and gifts received by spouse and dependent children, respectively. See pp. 26-29 of Instructions.)

	SOURCE	DESCRIPTION
	<input type="checkbox"/> NONE (No such reportable reimbursements or gifts)	
1	National Ctr. for State Courts	4/27-29/98 Mexico Judicial Exchange Program
2		Mtg. Puebla, Mexico (Transp., Meals, Room)
3		
4		
5		
6		
7		

V. OTHER GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate other gifts received by spouse and dependent children, respectively. See pp. 30-33 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
	<input checked="" type="checkbox"/> NONE (No such reportable gifts)		
1			
2			
3			
4			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 34-36 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE
	<input checked="" type="checkbox"/> NONE (No reportable liabilities)		
1			
2			
3			
4			
5			
6			
7			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Castillo, Ruben .	Date of Report 05/12/1999
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VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (includes those of spouse and dependent children. See pp. 37-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					(1) Amt. Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, merger, redemption)
NONE (no reportable income, assets, or transactions)									
1 Harris Bank - IRA- Non-Stock Acct.	A	Interest	K	T					
2 1st Chicago - Ill. College Bonds (DC)	A	Interest	J	T					
3 Harris Bank - IRA - Non-Stock Acct. (S)	A	Interest	J	T					
4 1st Chicago - Putnam Mutual Fund (S)	A	Interest	J	T					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4)	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=\$5,000,001 or more			E=\$15,001-\$50,000	
2 Val Codes: J=\$15,000 or less (Col. C1, D3)	K=\$15,001-\$50,000 O=\$500,001-\$1,000,000		L=\$50,001-\$100,000 P1=\$1,000,001-\$5,000,000		M=\$100,001-\$250,000 P2=\$5,000,001-\$25,000,000			N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more	
3 Val Mth Codes: Q=Appraisal (Col. C2)	R=Cost (real estate only) U=Book Value		V=Other		S=Assessment W=Estimated			T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Castillo, Ruben .	05/12/1999

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

NONE (No additional information or explanations.)

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Castillo, Ruben .	05/12/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Confer regulations.

Signature *Ruben Castillo* Date 5-12-99

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

FINANCIAL STATEMENT

NET WORTH - RUBEN CASTILLO

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	4,000	Notes payable to banks—secured	
U.S. Government securities—add schedule		Notes payable to banks—unsecured	
Listed securities—add schedule		Notes payable to relatives	
Unlisted securities—add schedule		Notes payable to others	
Accounts and notes receivable:		Accounts and bills due	30,000
Due from relatives and friends		Unpaid income tax	
Due from others		Other unpaid tax and interest	
Doubtful		Real estate mortgages payable—add schedule - Personal Residence	160,000
Real estate owned—add schedule	290,000	Chattel mortgages and other liens payable	
Real estate mortgages receivable		Other debts—itemize:	
Autos and other personal property	50,000		
Cash value—life insurance	10,000		
Other assets—itemize:			
College Bonds	10,000		
IRA Accounts	30,000		
		Total liabilities	190,000
		Net worth	204,000
Total assets	394,000	Total liabilities and net worth	394,000
CONTINGENT LIABILITIES		GENERAL INFORMATION	
As endorser, comaker or guarantor	NONE	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			

Ruben Castillo - 8/10/99
 Personal Residence Mortgage is held at
 OAK TRUST Savings Bank (Chicago, Ill.)

UNITED STATES SENATE
Questionnaire for Judicial Nominees

Judge Florence-Marie Cooper

Part I - Biographical Information

1. Full name (include any former names used)

Florence-Marie Cooper
Former names: Kelly, Andrus, Guzman

2. Address: List current place of residence and office address.

Home: Pacific Palisades, California
Office: Los Angeles Superior Court, 111 North Hill Street,
Department 33, Los Angeles, CA 90012

3. Date and place of birth.

February 9, 1940; Vancouver, B.C., Canada
Naturalized, San Francisco, California, 1964

4. Marital status. (Include husband's name) List spouse's occupation, employer's name and business address.

Married to Lester Seymour Peckins, Retired. Part-time cantorial soloist at Kehillat Israel Synagogue, 16019 Sunset Boulevard, Pacific Palisades, CA 90272, and Ocean House Retirement Home, 2107 Ocean Avenue, Santa Monica, CA 90404.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

City College of San Francisco at San Francisco, California, from 1967 to 1971.

Whittier College School of Law, from 1971 to 1975. Received Juris Doctor, Magna Cum Laude, June 1975.

6. Employment record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions, and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

- 1958 to 1964:** Low, Ball & Lynch, Attorneys at Law, 602 California Street, San Francisco, CA 94108; legal secretary
- 1965 to 1970:** Hancock & Hancock, Attorneys at Law, 276 Claremont Boulevard, San Francisco, CA 94127 (firm has disbanded; both partners are deceased);
Legal secretary
- 1970 to 1973:** Hirson & Horn, Attorneys at Law, 5670 Wilshire Boulevard, Los Angeles, CA; Legal Secretary
- 1973 to 1975:** Hugh J. Ritchie, Attorney at Law, 6055 E. Washington Boulevard, Los Angeles, CA; Paralegal
- 1975 to 1977:** Los Angeles Superior Court, 111 North Hill Street, Los Angeles, California 90012, Law Clerk
- 1977 to 1978:** City Attorney of Los Angeles, 1800 City Hall East, Los Angeles, California 90012, Deputy City Attorney
- 1978 to 1983:** California Court of Appeal, Second Appellate District, 300 South Spring Street, Div. Four, Los Angeles, California 90013, Research Attorney
- 1980 to 1985:** San Fernando Valley College of Law, (now LaVerne

University), 21300 Oxnard Street, Woodland Hills, California 91367; Adjunct professor of law; taught courses in the evening program: Wills, Trusts and Family Law

- 1983 to 1991:** Los Angeles Superior Court, 210 West Temple Street, Los Angeles, California 90012, Court Commissioner
- 1991 to 1992:** Los Angeles Municipal Court, 1633 Purdue Ave, West Los Angeles, California 90025, Judge
- 1992 to date:** Los Angeles Superior Court, 111 North Hill Street, Dept. 33, Los Angeles, California 90012, Judge

7. Military Service: Have you had any military service?

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the committee.

1999 Recipient, Outstanding Jurist Award, Los Angeles County Bar Association;

1998 Recipient, Ernestine Stalhut Award, Los Angeles Women Lawyers Association;

1996 Judge of the Year, Los Angeles Criminal Courts Bar Association;

1993 Outstanding Alumnus, Whittier College School of Law

1991 Judge of the Year, Los Angeles County Bar Association, Criminal Justice Section

Recipient of the Governor's Full-Tuition, Three-year scholarship for scholastic achievement in the first year of law school;

Graduated Number One in the class, Class Valedictorian, Whittier College School of Law;
Received a degree of Juris Doctor, Magna Cum Laude.

9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

A. Los Angeles Superior Court Committees:

Bench & Bar	Chair 1997
Criminal Jury Instruction (CalJic)	1993 to 1998
Fairness & Equality	1994
Grand and Trial Jurors	1992 to 1998
Informal Complaints	1995
Media	Chair, 1998-9

B. State Judicial Council Committees:

Cameras in the Court Task Force	1995
Three Strikes Study Committee	1995-6
Jury Instruction Task Force	1998-9
Criminal Justice Advisory Committee	1992-8

C. California Judges Association:

Executive Board	1992-5
Education and Planning Committee	1995-8
Judicial Discipline Advisory Board	1998-9

D. Los Angeles County Bar Association:

Judicial Evaluation Committee	1978-1980
Law Enforcement and Justice	1987-1993
Superior Courts Committee	1990
Litigation Section Executive Board	1997-9

E. Complex Litigation (McBurney) Inn of Court

F. Association of Business Trial Lawyers

- G. Los Angeles Women Lawyers Association
- H. National Association of Women Judges
- I. State Bar of California (inactive)

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

A. Organizations which lobby:

- California Judges Association
- State Judicial Council
- Los Angeles County Bar Association
- Association of Business Trial Lawyers
- Los Angeles Women Lawyers Association

B. Other organizations:

- Complex Litigation Inn of Court
- National Association of Women Judges

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission.

I was admitted to practice in all courts of the State of California, effective December 18, 1975, although I am not now an active member of the State Bar.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

A) Books and articles:

Co-author of the law review article, "The Caryl Chessman Case, Irreversible Error", published in: (1) California Attorneys for Criminal Justice Forum Magazine, September 1981; (2) San Fernando Valley College of Law, Law Review, 1982 (attached)

Drafted the book, "A New Slant on Attorneys' Fees", Rutter Group Publishers, 1982 (no longer in print) I did not keep a copy of this handbook, and have been unable to locate one. I contacted the publishers, but they do not have a copy in their archives.

Co-author, "Death-Penalty Benchguide," published by California Judicial Education and Research 1998. (Attached)

B) Reports: At the conclusion of service of the Judicial Council Task Force on Photographing, Recording, and Broadcasting in the Courtroom, the Task Force issued a report recommending that cameras be banned from criminal pre-trial proceedings. I was the author of the Minority Report (a copy of which is provided) which recommended leaving the decision whether to admit cameras to the discretion of each judge. The Judicial Council ultimately adopted the minority position, which became Rule 980 of the California Rules of Court.

C) Speeches: I have made few public speeches on any subject, but have often addressed legal groups and law firms on areas of civil or criminal practice. I have spoken to a few non-legal groups, generally on issues of the workings of the court. I have participated in many judicial conferences during my 15 years on the bench. I have been a panelist, lecturer, teacher, and conference chair at educational programs sponsored by the California Judges Association the California Judges College, the Institute for Continuing Judicial Education and Research, as well as the National Judicial College. I have taught courses in death penalty trials for the National Judicial College in Nevada, Kansas, Florida, and New York.

Included with this questionnaire are the following documents, which represent all available lecture notes, outlines, summaries, speech notes, or teaching manuals prepared by me in connection with these activities:

"The Good, the Bad, and the Ugly — Discovery Disputes and Depositions"
Dispositive Motions in Employment Litigation
Opinion Writing — Judicial Research Attorneys Institute
"In Defense of Fairness — Do we need Speedbumps on the Fast Track?"
Significant Trends in Business Litigation
Post-Trial Proceedings - Civil
Justice in the Public Eye
Death Penalty Trials — Advanced Criminal Law Seminar
Judicial Voir Dire
Three Strikes Impact on Civil Cases
Pretrial Management and Jury Selection in Capital Cases
Capital Case Symposium
Capital Punishment Judicial Seminar
Criminal Law and Procedure - Trials
"Three Strikes -- Civil/Criminal Crunch"
State/Federal Capital Case Symposium
Probation Violations
Pro Per Problems
Marsden Motions
Capital Case Symposium for California Judges
Guilty Pleas
Felony Sentencing - New Judge Orientation
Motions to Disclose Informant Identity
Continuances in Criminal Cases
Felony Sentencing Workshop
Judicial Voir Dire
Reciprocal Discovery Act
Proposition 115 for Appellate Attorneys
Criminal Law Practice After Proposition 115
Proposition 115 — Substantive Overview
Right to Speedy Trial
Speedy Trial - Contempt
Comprehensive Course in Courtroom Procedure

13. Health. What is the present state of your health? List the date of your last physical examination.

I am in very good health. My last physical examination was conducted in January 1999.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

1983 to 1991: Court Commissioner, Los Angeles Superior Court. In California, Court Commissioners are hired by the judges and sit full-time as Judges Pro Tem, hearing cases with the written stipulation of the parties and counsel. I sat for two years in Family Law and for five years in Criminal Court hearing felonies, including capital murder trials. I believe I was the first Commissioner in the history of the state ever to conduct a death-penalty trial.

1991 to 1992: Los Angeles Municipal Court Judge. I was appointed to the Los Angeles Municipal Court by then Governor George Deukmejian. I was assigned to a criminal trials division. The Municipal Court has jurisdiction over infractions and misdemeanors in criminal cases, and over civil cases in which the amount in controversy does not exceed \$25,000.

1992 to Date: Judge, Los Angeles Superior Court. I was appointed to the Los Angeles Superior Court by then Governor Pete Wilson after serving one year on the Municipal Court. I was assigned to a long-cause criminal court, handling death-penalty cases and complex criminal trials until May 1994 when I was transferred to Central Civil Courts. I now handle all aspects of civil litigation from filing through disposition, including all law and motion matters and both jury and non-jury trials. I have a case load of approximately 350 cases.

**15. If you are or have been a judge, provide:
(1) citations for the ten most significant opinions you have written;**

Wilder v. Superior Court (L.A. County MTA) (1998) 66 Cal.App.4th 77
Bemis v. Board of Regents (1991) Court of Appeal No. B044463
Diamond v. Hoffman, (1998) Court of Appeal No. B113131
People v. Cash, (1998) Court of Appeal No. B111166
Frasca v. Jones, Day, Reavis & Pogue, BC 169886
Bravo v. State of California, BC 105876
DeGrate v. Eaton Industries, BC 052186
Stern v. Assicurazioni Generali, BC 185376
Druckers, Inc. v. Pioneer Electronics, BC 19486
Sully-Miller Contracting v. Varela, BC 108786

(2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings;

Published reversals:

Obregon v. Superior Court (1998) 67 Cal.App.4th 424: I denied a motion to compel discovery because the moving party had failed to comply with the requirement that he meet and confer with the opposition before bringing the motion. The Court of Appeal reversed, holding that I should have considered less onerous options.

People v. Williams (1997) 16 Cal.4th 635: Capital case. Defendant was convicted of four counts of first-degree murder. In the penalty phase, I refused defendant's requested jury instruction that the jury must find specific intent to kill in order to impose the death penalty. Conviction was upheld, but the sentence of death was reversed and remanded for new trial or resentencing. The District Attorney's Office elected not to retry the penalty phase, and a sentence of Life Without Possibility of Parole was imposed.

Paper Savers v. Nasca (1996) 51 Cal.App.4th 1090: I granted summary judgment in favor of an insurance company on the grounds that the insurer had established as a matter of law that the policy limits of the insured's policy were

precisely what he had applied and paid for. The Court of Appeal reversed, holding that there were triable issues of fact for the jury.

Podolsky v. First Health Care Corp. (1996) 50 Cal.App.4th 632: This action for declaratory relief involved the validity of a form used by a large number of nursing homes, under the terms of which relatives agreed to be responsible for expenses not covered by Medi-Care. After six modifications of the form were drafted, I was satisfied that the form did not violate state or federal law. The Court of Appeal disagreed, although the matter was rendered moot by the fact that the defendants had ceased using any such form by the time the matter was remanded.

People v. Superior Court (Martinez) (1993) 19 Cal.App.4th 738: Defendants were charged with murder as part of a conspiracy to commit insurance fraud. The magistrate dismissed the murder count, and the prosecution refiled the charges, which were then dismissed when an indictment was brought. I held that the prosecution of the murder count was barred by Penal Code section 1387, having been twice dismissed. The Court of Appeal disagreed and reversed, reinstating the charges.

People v. Fernandez (1989) 212 Cal.App.3d. 984: I issued an order quashing a search warrant on the basis of lack of probable cause. The Court of appeal reversed, holding that probable cause existed, in spite of the affidavit's failure to set forth facts linking defendant personally with the drug activities of the codefendants.

Unpublished reversals:

First Healthcare Corporation v. Superior Court, (1998) B114961: Defendant, owner of a chain of nursing homes, had been utilizing a form, through which family members of Medicare patients agreed to guarantee certain expenses. A class-action suit was brought seeking damages and an injunction; the parties settled all causes of action except for the right to an injunction. After the injunction was issued, plaintiffs sought to amend their complaint to seek disgorgement of profits from defendants. I held that they had included that

remedy in their earlier settlement. The Court of Appeal disagreed and remanded the matter for trial on that issue.

Aurion Construction Company v. Superior Court (1997) B106397: I ruled that an elderly plaintiff, whose home had been burned by the contractors who later repaired her home and sued to recover proceeds from the fire insurance policy, was entitled to retain the proceeds. The contractors were then in jail, having been charged with arson of her home. The court of appeal issued a writ, on the grounds that as parties to the litigation they were entitled to appear or be represented at the trial.

Druckers, Inc., V. Pioneer Electronics, (1997) B105365: In this case, a creditor of plaintiff had contacted other creditors in an effort to persuade them to force plaintiff into involuntary bankruptcy. No such petition was ever filed. Plaintiff sued for the damage to his business and reputation, and I found that the litigation privilege applied to the statements. The Court of Appeal reversed, holding that the privilege only applied if there was evidence that the filing of the bankruptcy was under serious consideration and contemplated in good faith.

Soheily v. Shekarchian (1997) B096372: At issue was whether defendants were loan brokers, who owed fiduciary duties to plaintiffs, or were merely finders. My decision that they were loan brokers who had breached their fiduciary obligations to plaintiffs, was reversed and remanded for new trial.

Talamantez v. B&B Termite (1997) B090562: This was an action by home buyers against the company who had inspected their home prior to purchase and issued a termite report. I concluded that there was no contract between these parties (the termite report had been ordered and paid for by the seller) and that the buyers were not third-party beneficiaries. The Court of Appeal held that they were intended third-party beneficiaries and reversed.

People v. Ragsdale (1996) B093723: Shortly after California's mandatory Three Strikes law was passed, Ragsdale was convicted of his third serious felony. I denied his motion to strike one of his prior convictions, holding that the

Court had no discretion to do so under the new law. After the California Supreme Court held otherwise, the Court of Appeal remanded this matter to allow me to exercise my discretion on the issue.

In re Gregory Williams (1997) B092231: I granted a Writ of Habeas Corpus on the basis that I found Mr. Williams had not been represented by competent counsel at his murder trial. The Court of Appeal found the evidence insufficient to support the conclusion and reversed.

(3) 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, please provide copies of the opinions.

People v. Anderson (1991) 235 Cal.App.3d. 586
People v. Chance and Powell, (1992) No. A312003
People v. Homick, (1995) No. A973541
Stern v. Assicurazioni Generali (1999) No. B183576
Frasca v. Jones, Day, Reavis & Pogue, (1998) BC 169886
Bravo v. State of California (1998) 105876

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. Legal career:

A. Describe chronologically your law practice and experience after graduation from law school, including:

1. Whether you served as a clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;

1975 to 1977: Law Clerk to Judge Arthur L. Alarcon, then sitting in the Appellate Department of the Los Angeles Superior Court. That department hears civil and criminal appeals from the Municipal Courts of Los Angeles County.

1978 to 1983: Law Clerk, California Court of Appeal, Second District. The California Court of Appeal is an interim appellate court, which hears appeals from the Superior Courts of California, and which is obligated to write an opinion on every appeal filed. (The California Supreme Court, by contrast, accepts only those cases it chooses to hear, and few cases are resolved at a level higher than the Court of Appeal.) I clerked for Hon. Arthur L. Alarcon from 1978 to 1980, at which time he was appointed to the Ninth Circuit U.S. Court of Appeals.

I remained at the Court of Appeal and clerked for Justice Alarcon's replacement, Hon. Arleigh Maddox Woods, from 1980 to 1983, when I was hired by the Judges of the Los Angeles Superior Court to sit as a Court Commissioner.

2. Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

3. The dates, names, and addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the nature of your connection with each.

1977 to 1978: Deputy City Attorney, City of Los Angeles, 1800 City Hall East, Los Angeles, California. I worked as a misdemeanor criminal prosecutor for six months, during which time I tried approximately twenty-five misdemeanor prosecutions, twenty to a jury and five to a judge. All resulted in conviction. After

six months, I was promoted to the City's Criminal Appellate Section where I represented the City in Appeals to the Appellate Department, until Judge Alarcon was elevated to the California Court of Appeal and asked me to serve as his law clerk.

(B) 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

With the exception of six months as a criminal prosecutor, my law practice was entirely appellate, either as a law clerk/research attorney, or as an appellate attorney for the City of Los Angeles.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

While I was a Deputy City Attorney, I represented the People of the State of California.

(C) 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I appeared in court daily during the six-month period in 1977 and 1978 when I was a criminal prosecutor, and twice a month for oral argument when I was with the City's Appellate section. Otherwise, I have had no court appearances.

2. What percentage of these appearances was in:

- (A) Federal Courts -0-
- (B) State Courts of Record: 100%
- (C) Other courts -0-

3. What percentage of your litigation was:

- (A) Civil -0-
- (B) Criminal 100%

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled) indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried approximately 20 jury trials as a deputy city attorney, each to a successful verdict. I tried approximately 5 court trials, also resulting in conviction. Except for my first trial, in which I was assisted by my supervisor, I was sole counsel in each case.

5. What percentage of these trials was:

(A) Jury	80%
(B) Non-Jury	20%

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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 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.

As a prosecutor in 1977, I tried cases involving charges of prostitution, theft, assault, spousal abuse, child endangerment, driving under the influence of alcohol, and being under the influence of heroin. I have maintained no records of the names or case numbers of any of these cases, nor do any of the attorneys whom I have contacted have any such records.

I have spoken to the Presiding Judge of the Los Angeles Municipal Court, where all of these cases were tried, and learned that the Court maintains records

for only three years. I have also contacted the head Deputy City Attorney of the City of Los Angeles, in charge of criminal prosecutions, and have been informed that they have maintained case records only since 1985. All records of these cases have, therefore, unfortunately been destroyed.

However, following are the names and current addresses and phone numbers of some of the defense attorneys against whom I tried cases, the deputy city attorneys who supervised my work, and judges before whom cases were tried (to the extent that these persons are still accessible). (I have placed an asterisk before the names of persons with whom I am still in regular contact)

Defense Attorneys:

Hon. Martin E. Green, Los Angeles Municipal Court, 14401 Erwin Street Mall, Van Nuys, CA 91401; (818) 374-2697

*Clara L. Slifkin, Esq., Deputy Attorney General, 300 So. Spring Street #500, Los Angeles, CA 90013; (213) 897-9442

Marion Douglas, Esq., 4340 Leimert Blvd, #201, Los Angeles, CA 90008; (323) 292-0724

Walter R. urban, Esq., 2609 No. Sepulveda, Manhattan Beach, CA 90266; (310) 546-4899

*Sue Brown Rappe, Deputy Public Defender, 210 West Temple Street, #19-513, Los Angeles, California 90012; (213) 974-2906

Supervising City Attorneys:

*George Eskin, Esq., 1111 Chapala Street #310, Santa Barbara, CA 93101; (805) 965-8550

Wallace Wade, Esq., Deputy District Attorney, P. O. Box 808, Santa Ana, CA 92702; (714) 834-3664

*Charles Lindner, Esq., 520 Colorado Boulevard, Santa Monica, CA 90401; (310) 826-5548

*Hon. Reginald Dunn, Los Angeles Superior Court, 111 North Hill Street, Los Angeles, CA 90012; (213) 974-5629

Judges Before Whom Cases Were Tried:

*Hon. Eric Younger, Judge of the Superior Court, Retired, 801 South Figueroa Street, Los Angeles, CA 90017; (213) 689-5120

*Hon. Madeleine Flier, Judge of the Superior Court, 111 North Hill Street, Los Angeles, CA 90012; (213) 974-5649

*Hon. Gabriel Gutierrez, Judge of the Superior Court, Retired, 1715 Marengo Avenue, South Pasadena, CA 91030; (626) 799-1348

*Hon. David Rothman, Judge of the Superior Court, Retired, 1738 South Canfield Avenue, Los Angeles, CA 90035; (310) 559-3509

19. 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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege.

I have served on many committees of the Los Angeles Superior Court, the most important being the CALJIC Committee (California Jury Instructions - Criminal) and the Media Committee. The **CALJIC Committee** is responsible for drafting criminal jury instructions. These instructions are published and used by the courts of the entire state; I worked on this committee from 1993 to 1998.

I have served for many years on the **Media Committee** and have chaired this committee for the past two years. This Committee has the responsibility of maintaining a relationship with the print and electronic press, working out difficulties and disagreements over access to high-profile cases, and educating each of our disciplines about the roles and needs of the other.

In 1986, The Chief Justice of the Supreme Court appointed me to serve on the **Judicial Council Task Force on Photographing, Recording, and Broadcasting in the Courtroom**. In the wake of the O.J. Simpson murder trial,

the Task Force was formed to consider whether television and other cameras should be banned from state courtrooms. The Task Force conducted several public hearings, gathered evidence from many sources, polled all the state judges, reviewed material describing the experience of judges in other states, and ultimately concluded that the Rules of Court for the State should be amended to provide clearer guidelines for judges to assist them in determining when and whether cameras should be allowed to film court proceedings, but that they should not be excluded altogether. The Judicial Council ultimately adopted a rule granting trial judges the discretion to decide whether and to what extent cameras should be allowed to film proceedings.

Two years ago, I was appointed to the **Judicial Council Jury Instruction Task Force**. This Task Force has been given the responsibility of writing new jury instructions for the state courts, in clearer and simpler English. We have met many times over the past two years, and drafted many proposed instructions, but it is a not a job with an early completion date. The task of drafting language which is comprehensible to the average juror, and still a complete and accurate statement of the law, is a daunting one, and we continue to be challenged by the responsibility. No reports or proposed instructions have yet been issued by this Task Force.

I served for three years on the **Executive Board of the California Judges Association**. This organization represents judges state-wide in their relationship with the other branches of government, and administers judicial education programs throughout the year.

I currently serve on the **Executive Board of the Litigation Section of the Los Angeles County Bar Association**. The section creates and sponsors dozens of continuing education programs for lawyers throughout the year, analyzes legislation affecting litigators, and represents the interests of litigators before the Executive Committee of the County Bar Association.

Part II - Financial Data and Conflict of Interest

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

None. I understand that I will be obligated by law to withdraw my retirement benefits from the State Employees Account. I will have these funds transferred to an investment account, to be managed along with IRA and other funds.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

There are no categories likely to present potential conflicts of interest. Should any such conflicts arise, I will follow the dictates of the Canons of Judicial Ethics.

3. 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.

4. 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, patents, honoraria, and other items exceeding \$500 or more.

A copy of the Financial Disclosure Report is attached to this Questionnaire.

5. Please complete the attached financial networth statement in detail.

A copy of the Net Worth Statement is attached.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

No.

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	7 000 -	Notes payable to banks-secured	
U.S. Government securities-add schedule		Notes payable to banks-unsecured	
Listed securities-add schedule		Notes payable to relatives	
Unlisted securities-add schedule		Notes payable to others	
Accounts and notes receivable:		Accounts and bills due	37 000
Due from relatives and friends		Unpaid income tax	
Due from others		Other unpaid tax and interest	
Doubtful		Real-estate mortgages payable-add schedule	373 000
Real estate owned-add schedule	550 000	Chattel mortgages and other liens payable	
Real estate mortgages receivable		Other debts-itemize:	
Autom and other personal property	30 000		
Cash value-life insurance	10 000		
Other assets-itemize:			
IRA FUNDS	42 000		
DEFERRED COMP.	41 000		
401-K PLAN	89 000	Total Liabilities	410 000
RETIREMENT ACCT	62 000	Net Worth	421 000
Total Assets	831 000	Total Liabilities and net worth	831 000
CONTINGENT LIABILITIES	0	GENERAL INFORMATION	
As endorser, comaker or guarantor	0	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			

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Schedule to Financial Statement
Net Worth

Real Estate Owned:

Residence:
Pacific Palisades, California 90272

Real Estate Mortgages Payable:

To: Washington Mutual Bank for
Residence at Pacific Palisades, California 90272

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Cooper, Florence-Marie		2. Court or Organization U. S. District Court Judge	3. Date of Report 07/14/1999
4. Title (Article III judges indicate active or senior status; magistrates judges indicate full- or part-time) Nominee		5. Report Type (check type) <input checked="" type="checkbox"/> Nomination, Date 07/14/1999 Initial Annual Final	6. Reporting Period 01/01/1998 to 06/30/1999
7. Chambers or Office Address U.S. District Court Los Angeles, California		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1 None	
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1 None	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (years, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1998	Los Angeles Superior Court	\$ 113,000.00
2 1999	Ruter Group, continuing education	\$ 500.00
3 1998-9	Galerie Judaica (a)	
4 1998-9	Extra, Extra, Acting Agency (a)	

FINANCIAL DISCLOSURE REPORT Name of Person Reporting
Cooper, Florence-Marie 07/14/1999

IV. REIMBURSEMENTS — transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE NONE (No such reportable reimbursements.)	DESCRIPTION
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE NONE (No such reportable gifts.)	DESCRIPTION	VALUE
1	Exempt		
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR NONE (No reportable liabilities.)	DESCRIPTION	VALUE	CO
1	First USA	Credit Card		J
2	Citibank Advantage	Credit Card		J
3	MBNA	Credit Card		J
4				
5				
6				

FINANCIAL DISCLOSURE REPORT Cooper, Florence-Marie 01/14/1999

VII Page 1 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(Q)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
					(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if periodic transaction)	

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

1 Union Bank & Trust Co. IRA	A	Interest	K	T	Exempt				
2 L.A. County Savings IRA	A	Interest	L	T	EXEMPT				
3 L.A. County Deferred Compensation	A	Interest	K	T	Exempt				
4 Washington Mutual Bank Acct	A	Interest	J	T	Exempt				
5 Public Employees Retirement Plan	A	Interest	L	T	Exempt				

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1 Invt/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000
 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000
 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000
 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 I=\$15,001 or less (Col. C1, D3) O=\$500,001-\$1,000,000
 K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 P=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value
 R=Cost (real estate only) V=Other
 S=Assessment W=Estimated
 T=Cash/Market

FINANCIAL DISCLOSURE REPORT	<small>Name of Person Reporting</small> Cooper,, Florence-Marie .	<small>Date of Report</small> 07/14/1999
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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.
(Indicate part of report.)

FINANCIAL DISCLOSURE REPORT	<small>Name of Person Reporting</small> Cooper,, Florence-Marie .	<small>Date of Report</small> 07/14/1999
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X. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature *Florence-Marie Cooper* Date 7/14/99

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. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

Part III - General

1. 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.

For many years, I was a member of the Civic Angels, an organization of business and professional women in downtown Los Angeles, who support, both financially and personally, agencies to assist the homeless or disadvantaged. I have frequently spoken to groups of minority women at downtown churches and community centers, on such subjects as career training, personal grooming and wardrobe, and developing personal skills which enhance employability. I have helped care for small children in the Day Care Centers of these agencies and have served meals and hosted parties at homeless shelters in the downtown area.

I am an active member of my synagogue, which has a large community-outreach program. I have served on the Homeless Task Force and the Feed-the-Hungry Task Force. At least once a month, I prepare dinner for, and serve it to, the residents of Turning Point, a half-way house for homeless people in Santa Monica.

I assist the Riordan Volunteer Leadership Development Program, which trains young professionals to serve on charitable boards of directors.

I regularly judge mock trial competitions put on by elementary and junior high school students through the Constitutional Rights Foundation.

Within the legal community, I serve on an Inn of Court to provide training for young lawyers; I hire two or three law students as externs per semester in order to expose them to the justice system and increase their ability to make a contribution to it as lawyers; I am active in numerous bar associations and law-related organizations, and frequently serve on panels or participate as an instructor for new lawyers.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates — through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What have you done to try to change these policies?

I have never belonged to any organization which discriminates on any basis, and I never would join or tolerate the membership of any member of my family in such an organization.

3. Is there is a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated.

I was contacted by a member of Senator Dianne Feinstein's staff in April of 1998 and asked if I would be interested in submitting an application for a federal judgeship. I do not know how my name came to the attention of her staff. I completed an application, was interviewed by her local staff, was interviewed by the members of her selection commission, and my nomination was recommended by that commission. I submitted some 80 letters of recommendation to the Senator from local judges and lawyers. In early April 1999, I was contacted by

the Senator's Chief of Staff in San Francisco and invited to meet her for an interview. Approximately one month after that interview, I was contacted by the Senator who told me she was submitting my name to the President for his consideration of me as a nominee to the Federal Bench. Since my name was submitted, I have completed questionnaires for, and been interviewed and investigated by, the Department of Justice, the Federal Bureau of Investigation, and the American Bar Association.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal Judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions

In the manner of an administrator with continuing oversight responsibilities.

I believe the most essential quality of a judge of any court is an unwavering loyalty to the judicial oath to follow the law and uphold the Constitution. A personal or individual agenda of any stripe which extends beyond those duties is inappropriate for a judge. I believe there have been scores of opportunities, in the 15 years I have been sitting on the bench, for me to impose my personal preferences, or attempt to reach a broader decision than the narrow one which would solve the problem before me, and I have assiduously avoided doing so.

One of the most satisfying things I have heard about myself, during my years as both a civil and a criminal judge, is that the lawyers and parties do not know what political party I am affiliated with.

I believe a judge has an obligation, in assessing the validity or constitutionality of a statute, ordinance, or initiative, first to determine issues of standing and ripeness, and then, assuming the issue is appropriate for consideration, to take an intellectually honest, unbiased and objective approach to the issues and reach the result which is supported by precedent and any congressional intent which is apparent on the face of the bill under analysis.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)
George Benjamin Daniels
2. Address: List current place of residence and office address(es).
Residence: New York, New York
Office: New York State Supreme Court
111 Centre Street
New York, New York
3. Date and Place of Birth.
May 13, 1953
Allendale, South Carolina
4. Marital Status: (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).
Married - Stella Marie Stots
Management Consultant
787 7th Avenue
Equitable Life Insurance
New York, New York 10019
5. Education: List each college and law school you have attended, including dates of attendance, degrees received and dates degrees were granted.
Yale University
New Haven, Connecticut
September, 1971 - May, 1975
B.A., American Studies, May 19, 1975
University of California, Berkeley
Boalt Hall School of Law
August, 1975 - May, 1978
Juris Doctor, May 20, 1978
6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Employment: Opportunities Industrialization Center
New Haven, Connecticut
High School Equivalency Examination Instructor
May, 1975 - August, 1975

Alameda County District Attorney D. Lowell Jensen
Oakland, California
Summer Legal Assistant
May, 1976 - August, 1976

Federal Public Defender James F. Hewitt
Northern District of California
San Francisco, California
Summer Legal Intern
May, 1997 - August, 1997

Legal Aid Society of Alameda County
Oakland, California
Student Law Clerk
January, 1978 - May, 1978

Legal Aid Society of New York
Criminal Defense Division
New York, New York
Trial Attorney
August, 1978 - August, 1980

California Supreme Court
Chief Justice Rose E. Bird
San Francisco, California
Attorney Law Clerk
August, 1980 - August, 1981

University of California
Hastings College of Law
San Francisco, California
Bar Review Course Instructor
June, 1981 - July, 1981

Skadden, Arps, Slate, Meagher & Flom
New York, New York
Litigation Attorney
October, 1981 - December, 1983

**United States Attorney
Eastern District of New York
Brooklyn, New York
Assistant U.S. Attorney
December, 1983 - September, 1989**

**Brooklyn Law School
Brooklyn, New York
Adjunct Professor of Law
August, 1988 - May, 1991**

**Judge of the Criminal Court of the City of New York
New York, New York
September, 1989 - September, 1990**

**Counsel to the Mayor of the City of New York,
David N. Dinkins
New York, New York
September, 1990 - December, 1993**

**Judge of the Criminal Court of the City of New York
Bronx, New York
December, 1993 - December, 1995**

**Justice of the Supreme Court of the State of New York
New York, New York
December, 1995 - Present**

Other Organizations: Andrew Glover Youth Program

**Board of Directors
New York, New York
January, 1982 - Present**

**Suffield Academy
Board of Trustees
Suffield, Connecticut
October, 1986 - Present**

**New York City Board of Collective Bargaining
Alternate City Representative
New York, New York
September, 1990 - December, 1993**

**New York City Police Department Pension Fund
Board of Trustees
Mayor's Representative
New York, New York
September, 1990 - December, 1993**

**New York City Fire Department Pension Fund
Board of Trustees
Mayor's Representative
New York, New York
September, 1990 - December, 1993**

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

- (1) **Department of the Treasury, U.S. Customs Service
Special Agent's Award for Exemplary Performance (1986)**
- (2) **U.S. Department of Justice
Special Achievement Award in Appreciation and Recognition of Sustained Superior Performance of Duty (1987)**
- (3) **U.S. Environmental Protection Agency
Bronze Medal for Commendable Service (1989)**
- (4) **Association of Federal Investigators Legal Award (1989)**
- (5) **Department of Labor, Office of Labor Racketeering
Appreciation Award for Outstanding Prosecutive Support (1989)**
- (6) **Black Bar Association of Bronx County
Award in Recognition of Professional Achievement (1993)**
- (7) **Metropolitan Black Bar Association and New York County Lawyers'
Association Award in Honor of and with Appreciation for Distinguished and Meritorious Service (1994)**
- (8) **Morris College Alumni of New York
Professional Achievement Award in the Field of Law (1997)**

**(9) Association of the Bar of the City of New York
Thurgood Marshall Award (1998)**

9. Bar Associations: List all bar associations, legal or judicial-related committees or conferences of which you are or have been a member and give the titles and dates of any offices which would be of interest of the committee.

**American Bar Association
Association of the Bar of the City of New York
(Committee on Government Ethics)
(Council on Judicial Administration)
(Committee on Minorities in the Courts)
Metropolitan Black Bar Association**

**I serve as Co-Chair of the Evidence Curriculum Development Committee
for the Annual Judicial Seminar of the New York State Unified Court System.**

**I also served as vice-president of the Association of Criminal Court Judges from
1994 - 1996.**

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Lobbying Organizations: None

Other Organizations:

- (1) I have served on the Board of Directors of the Andrew Glover Youth Program since 1982. The Organization provides crime prevention programs for juvenile offenders and at risk youth.**
- (2) I have served on the Board of Trustees of Suffield Academy since 1986. Suffield Academy is a Connecticut secondary boarding school where I attended high school as a scholarship student through the A Better Chance program.**

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

New York Bar	April 11, 1979
District of Columbia Bar	December 15, 1978
California Bar	May 29, 1981
New Jersey Bar	June 1, 1983
U.S. Supreme Court	January 11, 1982

U.S. Court of Appeals	April 3, 1989	(1st Circuit)
	October 7, 1981	(2d Circuit)
	October 20, 1983	(3d Circuit)
	October 20, 1983	(4th Circuit)
	November 29, 1982	(5th Circuit)
	November 30, 1983	(6th Circuit)
	October 21, 1983	(7th Circuit)
	December 11, 1981	(8th Circuit)
	June 17, 1981	(9th Circuit)
	December 9, 1981	(10th Circuit)
	December 2, 1982	(11th Circuit)
	August 2, 1982	(D.C. Circuit)
	May 6, 1988	(Fed. Circuit)
	U.S. District Court	October 2, 1979
October 10, 1979		(E.D.N.Y.)
December 17, 1981		(N.D.N.Y.)
December 28, 1981		(W.D.N.Y.)
May 29, 1981		(N.D. Cal.)
August 3, 1981		(E.D. Cal.)
August 26, 1981		(S.D. Cal.)
September 2, 1981	(Cent. D. Cal)	
June 16, 1983	(D.N.J.)	
U.S. Tax Court	November 16, 1983	
U.S. Court of Federal Claims	December 12, 1983	
U.S. Court of International Trade	May 10, 1984	
U.S. Court of Military Appeals	December 6, 1983	

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were available to you, please supply them.

Co-Author of Greenberg, Marcus, et. al., *New York Criminal Law* (West Publishing Co. 1996)

13. Health: What is the present state of your health? List the date of your last physical examination.

Excellent.

Last Physical Examination - 10/23/98

14. Judicial Office: State (Chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.
- (1) **Justice of the Supreme Court of the State of New York-New York County**
I am presently a Justice of the Supreme Court of the State of New York. I sit as a trial court with general civil jurisdiction and criminal jurisdiction over felonies, misdemeanors and other offenses prosecuted by grand jury indictment. I am also one of six judges in New York County trained and administratively designated for random assignment of capital cases. I was nominated as the judicial candidate of both the Democratic Party and the Republican Party. I ran unopposed in a county-wide election, and was elected in New York County on November 7, 1995 to a 14 year term.
 - (2) **Judge of the Criminal Court of the City of New York**
I was appointed a Judge of the Criminal Court of the City of New York for a second time by Mayor David N. Dinkins on December 30, 1993. I served as vice-president of the Association of Criminal Court Judges. I was also administratively designated an acting Supreme Court Justice. I sat as a trial court with criminal jurisdiction over misdemeanor crimes and other offenses, including felonies as an acting Supreme Court Justice. I was a criminal court judge until I was elected a Supreme Court Justice on November 7, 1995.
 - (3) **Judge of the Criminal Court of the City of New York**
I was appointed a Judge of the Criminal Court of the City of New York by Mayor Edward I. Koch on September 14, 1989. I sat as a trial court with criminal jurisdiction over misdemeanor crimes and other offenses prosecuted other than by grand jury indictment. I served as a criminal court judge until I stepped down from the bench to become Counsel to the Mayor of the City of New York on September 10, 1990.
15. Citations: If you are or have been a judge provide: (1) citations for the ten most significant opinions written:
- People v Marinconz**, 178 Misc2d 30, 679 NYS2d 244 (Sup. Ct. 1998)
People v Salaam, 174 Misc2d 726, 666 NYS2d 881 (Sup. Ct. 1997)
People v Medjdoubi, 173 Misc2d 259, 661 NYS2d 502, 63 ALR5th 849 (Sup. Ct. 1997)
People v Jackson, 172 Misc2d 587, 659 NYS2d 706 (Sup. Ct. 1997)
People v Han, 166 Misc2d 246, 632 NYS2d 748 (Crim. Ct. 1995)
People v Lewis, 162 Misc2d 954, 618 NYS2d 737 (Crim. Ct. 1994)
People v Mack, 148 Misc2d 306, 560 NYS2d 607 (Crim. Ct. 1990)
Matter of Rochford v Safir, NYLJ, February 22, 1999, at 30, col. 2 (Sup. Ct.)
People v Batiz, NYLJ, August 14, 1997, at 23, col. 3 (Sup. Ct.)
ITT - Hartford Ins. Co. v Cronin, NYLJ, July 7, 1997, at 26, col. 6 (Sup. Ct.)

(2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings:

People v Pugh, 243 AD2d 360, 663 NYS2d 179 (1st Dept. 1997)
[I ruled that, without an articulable communication of distress by the driver, drugs were illegally seized during a second search of a taxi cab passenger for a weapon, after no weapon was found during a concededly illegal search conducted minutes earlier.]

(3) 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, please provide copies of the opinions.

People v Feinberg, et. al, Crim. Ct., NY County, April 27th 1990, Dkt No. 90N004514
People v Salaam, 174 Misc2d 726, 666 NYS2d 881 (Sup. Ct. 1997)

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public offices.

Assistant United States Attorney, Eastern District of New York
(Deputy Chief, General Crimes Section)
(Chief, Civil Rights Section)
Appointed December, 1983 - September, 1989

Counsel to the Mayor of the City of New York, Hon. David N. Dinkins
(NYC Board of Collective Bargaining, Alternate City Representative)
(NYC Police Department Pension Fund, Board of Trustees)
(NYC Fire Department Pension Fund, Board of Trustees)
Appointed September, 1990 - December, 1993

17. Legal Career:
- a. Describe chronologically your law practice and experience after graduation from law school including:
- 1) Whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;

I served as an attorney law clerk on the central staff of the Chief Justice of the California Supreme Court Rose E. Bird from August, 1980 - August 1981.

2) Whether you practiced alone, and if so, the addresses and dates;

No. I have never practiced alone.

3) The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

- (1) **Legal Aid Society of New York
Criminal Defense Division
New York, New York 10013
Criminal Defense Attorney
August, 1978-August, 1980**
- (2) **Skadden, Arps, Slate, Meagher & Flom
919 Third Avenue
New York, New York 10022
Litigation Attorney
September, 1981-December, 1983**
- (3) **United States Attorney for the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Assistant U.S. Attorney
December, 1983-September, 1989**
- (4) **Office of the Mayor
City Hall
New York, NY 10007
Counsel to the Mayor of the City of New York
September, 1990-December, 1993**

b. 1)What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

The general nature of my practice prior to becoming a judge was criminal, civil and corporate litigation and government service. From 1978-1980, my practice was criminal defense as a public defender. From 1980-1981, I was a law clerk for the California Supreme Court. From 1981-1983, I was a litigation attorney for Skadden, Arps, Slate, Meagher & Flom, where my practice was primarily corporate and civil litigation. From 1983-1989, I was a federal prosecutor for the United States Attorney for the Eastern District of New York. From 1988-1991, I also taught law as an adjunct professor of law. From 1990-1993, I served in a government legal advisory role as Counsel to the Mayor of the City of New York.

2) Describe your typical former clients, and mention the areas, if any, in which you have specialized.

While a criminal defense attorney for the Legal Aid Society of New York, I was a public defender representing indigent criminal defendants.

While an attorney law clerk on the central staff of the Chief Justice of the California Supreme Court, my primary responsibilities were to review petitions for writ of certiorari, mandamus and emergency stays. I prepared legal memoranda for use by the entire court at its weekly meetings to decide whether to grant judicial review.

While a litigation attorney with Skadden, Arps, Slate, Meagher & Flom, I represented a variety of individual and corporate clients primarily in civil and corporate litigation, including contract, products liability and pro bono representation in a capital case.

I represented the United States Government in criminal investigations and prosecutions, and tried dozens of federal criminal trials as a federal prosecutor with the United States Attorney's Office. I was deputy chief of the General Crimes Section of the Office where I supervised and trained Assistant U.S. Attorneys. I was also chief of the Civil Rights Section in charge of monitoring and coordinating civil rights cases with the Civil Rights Division of the Justice Department. I also served as an instructor at the Attorney General's Advocacy Institute of the Department of Justice in Washington, D.C.

As an adjunct professor of law, I taught legal research and writing and appellate advocacy. I serve as an instructor at the National Institute for Trial Advocacy, and continue to instruct both lawyers and law students on trial advocacy.

As Counsel to the Mayor of the City of New York, I served as the Mayor's legal advisor on municipal, legislative and policy issues.

- c. 1) Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I regularly appeared in court as a criminal defense attorney for the Legal Aid Society of New York from 1978 -1980, and as a federal prosecutor for the United States Attorney's Office from 1983-1989. I occasionally appeared in court as a litigation attorney for Skadden, Arps, Slate, Meagher & Flom from 1981-1983. I rarely appeared in court as Counsel to the Mayor of the City of New York from 1990-1993.

- 2) What percentage of these appearances was in
 (a) Federal Courts: 60%
 (b) state, courts of record: 40%
 (c) other courts.

- 3) What percentage of your litigation was:
 (a) civil: 30%
 (b) criminal: 70%

- 4) State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried approximately 75 cases as sole counsel. I have served as co-counsel for approximately 25 trials when I supervised and assisted in the trials of other Assistant United States Attorneys. I was also co-prosecutor in the United States Attorney's office on several other major federal prosecutions and lengthy trials.

- 5) What percentage of these trial was:
 (a) jury: 90%
 (b) non-jury 10%

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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 Toby Romano 879 F2d 1056 (2d Cir. 1989)
I was the prosecutor in charge of the criminal investigation and prosecution of approximately twenty-five New York area construction and demolition company executives who were arrested and charged with paying bribes to a United States Environmental Protection Agency inspector. The EPA inspector was arrested for receiving bribes and cooperated with the Department of Labor, Office of Labor Racketeering. He tape recorded hundreds of conversations with those who had paid bribes in the past and agreed to testify at each trial.

The corrupt EPA inspector was placed in the witness protection program during the time he was being prepared to testify at each trial. The defendant in this case was an executive of an asbestos-removal company who was convicted of paying bribes to overlook federal asbestos-removal safety violations. (September, 1988)

U.S. District Judge Eugene Nickerson (E.D.N.Y.)

Mark M. Baker, Esq. (Opposing Counsel)
767 Third Avenue
New York, New York 10017
212-750-7800

- (2) United States v Mitch Kurzban, 703 F.Supp 5 (ED NY 1989)
While the prosecutor in charge of the criminal investigation and prosecution of construction company executives charged with bribery of an Environmental Protection Agency Safety inspector, an initial legal question had to be resolved in order to proceed with the entire series of prosecutions. This defendant challenged whether a former corrupt EPA inspector remained a "public official" within the meaning of the federal bribery statute after he was arrested for taking bribes and agreed to cooperate with the Government.

I successfully argued before the U.S. District Court that the corrupt EPA inspection continued his status as a government employee when he met with and recorded conversations with persons who had previously given him bribes, even though there was no inspection matter pending before him at the time of those further meetings. I successfully argued that same issue on appeal in the case of People v Romano 879 F2d 1056 (2d Cir. 1989). After the issue was decided, the defendant in this case was convicted after trial, and most of the others charged pled guilty without trial. (January, 1989)

U.S. District Judge Eugene Nickerson (E.D.N.Y.)

Gordon Mehler (Co-Counsel)	Gustave H. Newman (Opposing Counsel)
Senior Trial Counsel	950 3rd Avenue
U.S. Attorney's Office	New York, New York 10022
Eastern District of New York	(212) 308-7900
One Pierrepoint Plaza	
Brooklyn, NY 11201	
(718) 254-6141	

(3) United States v Raymond Gutowski, 86 CR 698

I investigated and prosecuted this high-profile case of a Long Island undercover police officer and his partner who admitted to using cocaine purchased and seized during undercover operations. The police officers were charged with and acquitted of unlawfully possessing and distributing narcotics.

The grand jury investigation and trial were based on the testimony of drug dealers and users who had been utilized as informants by the Suffolk County Police Department. The two Police Officers testified that the dangers and pressures of undercover work forced them to use drugs during undercover drug purchases and resulted in their uncontrolled addiction. The investigation and prosecution of this case led the Suffolk County Police Department to reorganize and revamp the conduct of undercover drug operations and unsupervised use of informants. (March, 1987)

U.S. District Judge Leonard D. Wexler (E.D.N.Y.)

John Mitchell, Esq. (Opposing Counsel)
La Rossa, Mitchell & Ross
41 Madison Avenue
New York, New York 10010
212-696-9700

(4) United States v Anthony C. Castelbuono, 625 F.Supp. 338 (ED NY1985);
643 F. Supp. 965 (ED NY1986)

I prosecuted this Harvard-educated lawyer who, after extended pre-trial litigation and interlocutory appeals, pleaded guilty to money laundering. He orchestrated a multimillion-dollar money laundering scheme for a major narcotics dealer. He accepted suitcases of small bills which were the proceeds of street narcotics sales. He placed that cash on deposit at Atlantic City Casinos where he gambled and posed as a high roller under various aliases, including "Tony Cakes".

After a few days of gambling, he and his entourage collected the millions of dollars placed on deposit at the casinos in one hundred dollar bills. Those bills were then easily transported out of the United States in briefcases through several circuitous routes to a secret Swiss bank account controlled by international drug dealers. The defendant was sentenced to 15 years in prison. (December, 1987)

U.S. District Judge Thomas C. Platt (E.D.N.Y.)

Ivan Fisher, Esq. (Opposing Counsel)
 34 East 69th Street
 New York, New York 10021
 212-517-5000

- (5) United States v Victoriano Molina-Chacon, 625 F.Supp. 338 (ED NY 1985); 627 F. Supp. 1253 (ED NY 1986); 817 F.2d 201 (2d Cir 1987)

I was co-prosecutor on both the trial and appeal of a Sicily-based multimillion-dollar international heroin smuggling operation. That operation was operated and controlled by a Spanish shoe manufacturer who shipped heroin into the United States hidden in shoe shipments. The last shipment was seized by Italian authorities before leaving Italy.

The Drug Enforcement Administration infiltrated the drug operation with the assistance of a cooperating informant. The Spanish shoe manufacturer was seized in Bermuda and extradited for prosecution. This complex trial involved hundreds of reels of tapes in Spanish, English, and Italian. Witnesses were scattered throughout Switzerland, Italy, Spain, Bermuda Canada and the United States. The trial lasted over three months. It ended in conviction and a sentence of twenty-five years and a \$750,000 fine. (January, 1986-March, 1986)

U.S. District Judge Thomas C. Platt (E.D.N.Y.)

Hon. Carol Bagley Amon (Co-Counsel)	Barry Shulman, Esq. (Opposing Counsel)
U.S. District Judge	189 Montague Street, 8 th Fl
U.S. District Courthouse	Brooklyn, NY 11201
225 Cadman Plaza East	718-855-8855
Brooklyn, New York 11201	
(718) 260-2430	

- (6) United States v Jorge Antonio Ramirez-Jimenez, 85 CR 826

As an Assistant United States Attorney, I prosecuted many narcotics cases, including drug sale operations and importation cases. I prosecuted and tried this case of a defendant who arranged for the importation of a large quantity of cocaine by an airline passenger. That passenger smuggled cocaine from Colombia, South

America through New York's JFK international airport. Prior to trial, the airline passenger fled, leaving the drug importer to stand trial. The defendant was tried and convicted of conspiracy to import narcotics mostly on circumstantial evidence of his involvement. (September, 1985)

U.S. District Judge Charles P. Sifton (E.D.N.Y.)

David A. DePetris, Esq. (Opposing Counsel)
DePetris & Meyer
150 Nassau Street
New York, New York 10005
212-233-0111

- (7) United States v Adelina Sanchez De Ospina, 84 CR 595 aff'd 779 F2d 36 (2d Cir 1985). While an assistant United States Attorney, I was the prosecutor for the jury trial and appeal of an Avianca airlines passenger from Bogota, Colombia, who was arrested at New York's JFK International Airport for possession and importation of cocaine. She was questioned and her suitcase was examined by Customs agents after being observed carrying a type of suitcase which had been used in the past to smuggle narcotics. Upon inspection, customs agents opened the suitcase and smelled fresh glue. The bottom of the suitcase was unusually thick. Under the lining were two false metal strips covering two packages of cocaine weighing approximately three pounds. The cocaine was 80% pure with a street value of between \$400,000 to \$800,000.

The defendant claimed no knowledge of the cocaine and called several witnesses to support her claim of lack of knowledge. However, the inconsistencies and unreasonableness of her explanations supported the Government's request that the court give the jury a conscious avoidance charge instructing them that a defendant cannot consciously avoid learning the truth in order to claim that she lacked knowledge. The defendant's conviction and sentence to 10 years in prison was affirmed on appeal without opinion. (March, 1985)

U.S. Court of International Trade Judge Herbert Maletz

John L. Pacht (Opposing Counsel)
Hoff, Curtis, Pacht, Cassidy & Frame, P.C.
P.O. Box 1124
Burlington, VT 05402
(802) 864-6400

- (8) United States v Zurab Vatschardze, 84 CR 253 While an assistant U.S. Attorney, I prosecuted the trial to conviction of a Russian immigrant for sale of counterfeit United States Currency. The defendant had been granted political asylum from the Soviet Union. While in the United States, he set up a counterfeiting operation which produced and distributed thousands of dollars

of counterfeit bills. Through an undercover investigation, United States Secret Service agents infiltrated and purchased thousands of dollars of counterfeit United States Currency. The defendant was arrested while making an agreed upon delivery of counterfeit currency. (November, 1984)

U.S. District Judge Thomas C. Platt (E.D.N.Y.)

Marion Seltzer, Esq. (Opposing Counsel)
1725 York Avenue
New York, New York 10128
(212) 289-8798

- (9) **United States v Luis Olmedo, et. al.**, 84 CR 1202, aff'd 751 F2d 372 (2d Cir 1984)
I was co-counsel on the federal prosecution team of the conviction by trial of a New York City Councilman for corruption and attempted extortion. The defendant was convicted of attempting to extort campaign contributions in exchange for a vote to approve a company's expansion and business development in his councilmanic district.

The New York City Department of Investigation set up a construction company and negotiated a \$12,000 cash payment with the City Councilman in exchange for help in obtaining construction contracts. The City Councilman was convicted after being videotaped negotiating and receiving cash payments despite his claims at trial that he was merely accepting a public relations fee. (February, 1984-March, 1984)

U.S. District Judge Eugene Nickerson (E.D.N.Y.)

Andrew R. Jacobs, Esq. (Co-Counsel) Fitzsimmons, Ringle & Jacobs, P.C. 130 East 35 th Street New York, New York 10016 212-343-0677	John L. Edmonds, Esq. (Opposing Counsel) for Defendant Olmedo 128 East 31 Street New York, New York 10016 212-689-2626
Thomas Nooter, Esq. (Opposing Counsel) for Defendant Carlos Castellanos 233 Broadway New York, New York 10279 212-608-0808	David DePetris, Esq. (Opposing Counsel) for Defendant Edmundo Roman 150 Nassau Street New York, New York 10005 212-233-0111

- (10) **Stephens v Kemp**, 464 US 1027, 104 S.Ct. 562, 78 L.Ed. 370 (1983)
While I was a litigation attorney with Skadden, Arps, Slate, Meagher & Flom, the law firm was one of a number of firms that accepted pro-bono capital cases from the NAACP Legal Defense Fund. I was co-counsel on a pro-bono capital case of a

defendant convicted of murder in Georgia. A habeas corpus petition was filed and proceeded through the Georgia Superior Court, the Georgia Supreme Court, the United States District Court, the U.S. Court of Appeals for the Eleventh Circuit, and the United States Supreme Court.

The courts were asked to stay the execution in this case until defendant's equal protection claim was resolved by the federal courts. The day before the scheduled execution, the United States Court of Appeals for the Eleventh Circuit denied a stay of execution by a vote of 6-6. Several hours before the scheduled execution date, the United States Supreme Court granted a temporary stay of execution by a vote of 5-4. The legal issue was resolved by the United States Supreme Court in McCleskey v Kemp (481 US 279, 107 S. Ct. 1756, 95 L.Ed2d 262 [1987]). The U.S. Supreme Court lifted the stay a year after it was granted and the defendant was executed by electric chair. (August, 1983-December, 1983)

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212-559-2543

Kathryn M. Keneally (Co-Counsel)
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212-808-8100

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Sumner & Anderson, P.C.
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Atlanta, GA 30303
404 588-9000

Hon. Joseph Spero (Co-Counsel)
U.S. Magistrate Judge
U.S. District Court
450 Golden Gate Avenue
P.O. Box 36060
San Francisco, CA 94102-3489
415-522-3691

William Hill, Assistant Attorney General (Opposing counsel)
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Members of the Legal Community Who Have Recently Appeared Before Justice George B. Daniels

- (1) Scott Fenstermaker, Esq.
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- (6) **Assistant District Attorney Evan Krutoy**
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- (8) **Arthur Friedman, Esq.**
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- (9) **Glenn Garber, Esq.**
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(10) **Frederick Seligman, Esq.**
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New York, New York 10004
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(11) **Eric Bettelheim, Esq.**
163 Amsterdam Avenue, Suite 257
New York, New York 10023
212-543-1768

(12) **Paul P. Martin, Esq.**
40 Exchange Place, Suite 1300
New York, New York 10005
212-742-4949

7. **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 the nature of your participation in this question. Please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

- (1) **I presided as a Judge over People v Senko, a Court-TV nationally broadcasted trial of a corrections officer who staged an on the job accident to collect two years of sick pay. (February 22-March 7, 1996)**
- (2) **I serve as Co-Chair of the Evidence Curriculum Development Committee for the Annual Judicial Seminar of the New York State Unified Court System which is responsible for developing education & training programs for all New York State Judges.**

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interests.

(1) New York State Retirement System

(2) New York State Deferred Compensation Plan

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

I do not anticipate any potential conflicts-of-interest. Recusal would be the appropriate manner to address any unanticipated conflicts which might arise. In any event, I would follow the guidelines outlined in the Code of Judicial Conduct.

3. 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.

Teaching law as an adjunct professor would be the only outside employment that I would like to continue should I be confirmed as a Federal Judge.

4. 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, patents, 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.

5. Please complete the attached financial net worth statement in detail.
(Add schedules as called for).

See attached financial net worth statement.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

No.

AO-10
Rev. 1989

**FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1998**

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) DANIELS, GEORGE B.	2. Court or Organization UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK	3. Date of Report 8/10/99
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full or part-time) UNITED STATES DISTRICT COURT JUDGE- NOMINEE	5. Report Type (check appropriate type) X Nomination, Date 8/5/99 ___ Initial ___ Annual ___ Final	6. Reporting Period 1/1/98 - 7/15/99
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Board of Trustees	Suffield Academy
2 Board of Directors	Andrew Glover Youth Program
3	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements)	
1 1999	New York State Retirement System (Retirement Benefits)
2	
3	

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1998	New York State Supreme Court (salary) Self	\$ 113,000
2 1997	New York State Supreme Court (salary) Self	\$ 113,000
3 1998	Equitable Life Insurance Company (Salary) Spouse	\$
4 1997	Equitable Life Insurance Company (Salary) Spouse	\$
5		\$

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	DANIELS, GEORGE B.	8/10/99

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2	EXEMPT	
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2	EXEMPT		\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Northwestern Life Insurance Co.	Policy Cash Value Loan	K
2	MEMA Visa/Mastercard	Credit Card	K
3	American Express Centurion Bank	Credit Card	J
4			
5			
6			

*Value Codes: J-\$15,000 or less; K-\$15,001-\$50,000; L-\$50,001-\$100,000; M-\$100,001-\$250,000; N-\$250,001-\$500,000; O-\$500,001-\$1,000,000; P1-\$1,000,001-\$5,000,000; P2-\$5,000,001-\$25,000,000; P3-\$25,000,001-\$50,000,000; P4-\$50,000,001 or more.

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting DANIELS, GEORGE B.	Date of Report 8/10/99
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VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

1 Description of investment or trust (including the name of the issuer, the name of the trust, the name of the trustee, the name of the beneficiary, and the name of the grantor)	2 Income during reporting period		3 Gross value at end of reporting period		4 Transactions during reporting period			
	(1) Am. Code (A-F)	(2) Type of income or other	(1) Value (S)	(2) Value (M)	(1) Buy, sell, exchange, etc.	(2) Date (Month/Day)	(3) Value (S)	(4) Gain Code (A-F)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)								
1 N.Y.S. Retirement System	B	Int.	K	T				EXEMPT
2 HITS GALORE Common Stock	-	None	J	T				EXEMPT
3 NYS Deferred Compensation	E	Div	M	T				EXEMPT
4 Northwestern Life Ins. Co.	D	Int.	K	T				EXEMPT
5								
6								
7								
8								
9								
10								
11								
12								
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14								
15								
16								
17								
18								

1 Income/Gain Codes: A-\$1,000 or less; B-\$1,001-\$7,500; C-\$7,501-\$50,000; D-\$50,001-\$15,000; E-\$15,001-\$50,000; F-\$50,001-\$100,000; G-\$100,001-\$1,000,000; H-\$1,000,001-\$5,000,000; I-\$5,000,001-\$25,000,000; J-More than \$25,000,000.
 2 Value Codes: A-\$15,000 or less; B-\$15,001-\$50,000; C-\$50,001-\$100,000; D-\$100,001-\$500,000; E-\$500,001-\$1,000,000; F-\$1,000,001-\$5,000,000; G-\$5,000,001-\$25,000,000; H-More than \$25,000,000.
 3 Value Method Codes: A-Appraisal; B-Book value; C-Cost (real estate only); D-Assessment; E-Other; F-Cash/Market; G-Estimated.

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	DANIELS, GEORGE B.	8/10/99

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

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. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature George Benjamin Daniels Date 8/10/99

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)

FILING INSTRUCTIONS:

Mail signed original and 3 additional copies to:

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

GEORGE B. DANIELS

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 Greenpoint bank checking acct.	3,000	Notes payable to banks-secured	-0-
U.S. Government Securities--add schedule U.S. Savings Bonds	20,000	Notes payable to banks -unsecured MBNA American Express Centurion Bank Chase Bank	20,000 12,000 7,000
Listed Securities--add schedule HITS GALORE Common Stock	5,000	Notes payable to relatives	-0-
Unlisted Securities--add schedule	-0-	Notes payable to others Northwestern Insurance Policy Loan	38,000
Accounts and notes receivable	-0-	Accounts and bills due	-0-
Due from relatives and friends	-0-	Unpaid income tax	-0-
Due from others	-0-	Other unpaid tax and interest	-0-
Doubtful	-0-	Real estate mortgage payable - add-schedule Residence Vistana Resorts Timeshare	159,000 5,500
Real Estate owned --add schedule Residence Vistana Resorts Timeshare	225,000 12,500	Chattel mortgages and other liens payable	-0-
Real estate mortgages receivable	-0-	other debts-itemize:	-0-
Autos and other personal property	-0-		
Cash value - life insurance Northwestern Ins. Co.	45,000		
Other assets-itemize:			
NYS Deferred Compensation Plan	137,000		
NYS Retirement System	38,000		
		Total liabilities	\$241,500
		Net Worth	\$324,000
Total Assets	\$565,500	Total liabilities and net worth	\$565,500
CONTINGENT LIABILITIES	-0-	General Information	
As endorser, comaker or guarantor	-0-	Are any assets pledged? (Add schedule)	NO
On leases or contracts	-0-	Are you defendant in any suits or legal actions?	Yes
Legal Claims	-0-	Have you ever taken bankruptcy?	No
Provision for Federal Income Tax	-0-		
Other special debt	-0-		

III. GENERAL (PUBLIC)

1. 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 to each..

Although I have private practice experience, I have dedicated my life primarily to public service. While in private practice I did civil & criminal pro bono work. I am a recipient of the Thurgood Marshall Award conferred by the Association of the Bar of the City of New York for service as pro bono counsel in a death penalty case. I am also a recipient of a Certificate of Appreciation for serving on the U.S. District Court, Southern District of New York Pro Bono Panel. I continue to speak to groups of children in schools, juvenile facilities and as guests in my courtroom. I am on the Board of Trustees of Suffield Academy, a secondary boarding school where I attended high school as a recipient of a scholarship through the A Better Chance program. I serve as a member of the Board of Directors of the Andrew Glover Youth Program which provides crime prevention programs for juvenile offenders and at risk youth. I have also provided internship opportunities for disadvantaged high school students to work and be exposed to the legal system.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates - through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies.
No.
3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

I was interviewed and evaluated by Senator Daniel Patrick Moynihan and his Judicial Screening Panel which recommended me to the Senator for judicial appointment. I was also interviewed and evaluated by Senator Charles E. Schumer and the Chair of his Judicial Screening Panel. I also completed forms for, and was interviewed by individuals from, the U.S. Department of Justice, the Federal Bureau of Investigation, and the American Bar Association.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.
No.
5. Please discuss your views on the following criticism involving “judicial activism.” The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this “judicial activism” have been said to include:

- (a) A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- (b) a tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- (c) A tendency by the judiciary to impose broad affirmative duties upon governments and society;
- (d) A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- (e) A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

Our government has three separate and distinct branches, each having its own clearly defined powers and limitations. Judges of the inferior courts are limited in their jurisdiction by constitutional requirements such as standing, ripeness, and mootness. Additionally, a judge must only decide a properly presented case in controversy. A judge should recognize and respect the significance of judicial precedent and the plain language of statutes. He or she should maintain no personal, political, or philosophical views which would interfere with an intellectual analysis of the law.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (list any former names used and dates used):

Richard Kenyon Eaton

2. Address: List current place of residence and office address(es)

Residence: 2906 N St., N.W.
Washington, D.C. 20007

Office: Stroock & Stroock & Lavan LLP
1150 17th St., N.W.
Washington, D.C. 20036

3. Date and place of birth.

August 22, 1948 Walton, New York

**4. Marital Status (including maiden name of wife, or husband's name).
List spouse's occupation, employer's name and business address(es).**

Susan Henshaw Jones
President
National Building Museum
401 F St., NW Washington, D.C. 20001

5. Education: List each college and law school you have attended, including dates of attendance, degrees received and dates degrees were received.

Ithaca College, 9/66 - 6/70, B.A. (6/70)

Albany Law School, 9/71 - 6/74, J.D. (6/74)

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

Paid Employment

- November 1995—present
Partner, Stroock & Stroock & Lavan LLP
- August 1993- November 1995
Partner, Mudge Rose Guthrie Alexander & Ferdon LLP
- April 1991- July 1993
Chief of Staff (Administrative Assistant) to Senator Daniel Patrick Moynihan
- September 1983- April 1991
Associate Attorney, Mudge Rose Guthrie Alexander & Ferdon
- November 1980- August 1983
Legislative Director and Chief of Staff (Administrative Assistant) to Senator Daniel Patrick Moynihan
- January 1980– September 1980
Campaign Manager and later Campaign Director (handling research on campaign issues) for the Bess Myerson for Senate Campaign (while remaining partner at Eaton Griffith and Mugglin)
- June 1979-November 1980
Partner, Eaton Griffith and Mugglin
- January 1977- June 1979
(Oneonta, NY and New York City)
Regional Director for Senator Daniel Patrick Moynihan
New York, New York
- June 1975- December 1976
Partner, Eaton and Eaton
- September 1974- June 1975
Clerk then Associate Attorney (after admission)
Office of Scott E. Greene
- September 1970-May 1971
A.M. Pierson & Son, Inc.

magazine distributors—laborer

Unpaid Memberships

1975-1976 Walton, New York JC's, member and president of local chapter of this civic organization.

1979-1980 Walton New York Lion's Club, member.

1986-1991 Tuxedo Club, Tuxedo, New York, member.

1997-1999 University Club Washington, D.C., member.

1993-1999 National Geographic Society, member.

1998-1999 Smithsonian Institution, associate member.

7. **Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge service.**

I have never had military service.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary- society memberships that you believe would be of interest to the Committee.**

New York State Regents' Scholarship

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

Secretary (83-91), Member (93-present) and Chair (1996-present), Judicial and U. S. Attorney Screening Panel for Senator Daniel Patrick Moynihan

New York State Bar Association (1976-1989)

Association of the Bar of the City of New York (1984-1991)
Committee on Governmental Ethics (1989-1991)

I am listed on the Association of the Bar's records as a member of the Committee on International Arms Control and Security Affairs in 1993, however I was no longer a member of the Association and attended no meetings.

Delaware County (New York) Bar Association (1976, 1979-1980)

Otsego County (New York) Bar Association (1975)

District of Columbia Bar (1994-present)

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I am not a member of any organization that lobbies before public bodies. I am a member of the National Building Museum in Washington, D.C.; the University Club of Washington, D.C.; the National Geographic Society; the Smithsonian Institution and the Democratic Century Fund of National Democratic Institute for International Affairs.

11. **Court Admission:** List all courts in which have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

District of Columbia Court of Appeals (12/2/94)

U.S. District Court for the District of Columbia (3/2/98)

U.S. District Court for the Northern District of New York (2/18/75)

New York, Appellate Division of the Supreme Court, Third
Judicial Department (2/18/75)

I have never had a lapse of membership.

I was also admitted Pro Hac Vice in The Southern District of New York, State of Indiana (Fountain County Circuit Court) and the United States District Court Eastern District of Michigan Southern Division for cases I worked on while at Mudge Rose Guthrie Alexander & Ferdon.

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If

there are press reports about the speech, and they are readily available to you, please supply them.

Daniel Patrick Moynihan: The Intellectual in Public Life

contributing author of article "The Third Branch," (Wilson Center/John Hopkins, 1998)
My article is substantially the same as a speech I gave at the symposium on Senator Moynihan's career (March 16 1997).

13. **Health: What is the present state of your health? List the date of your last physical examination.**

My health is excellent. My last physical examination was on January 4, 1999.

14. **Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.**

Village Justice Cooperstown, N.Y. 10/74-6/75

This court had civil jurisdiction over matters having an amount in issue of up to \$2,000. For criminal matters it had initial jurisdiction (arraignments) of all crimes and complete jurisdiction of infractions or crimes for which the maximum penalty was imprisonment for not more than one year.

I was first-appointed to an unexpired term and then elected.

Appointed 10/74

Elected 3/75

Resigned 6/75

15. **Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.**

I did not write any opinions as Village Justice.

16. **Public Office: State (chronologically) any public offices you have held other than judicial offices, including the terms of service and whether such positions were**

elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

I served on the staff of United States Senator Daniel Patrick Moynihan during the periods (1/77-6/79), (11/80- 8/83) and (4/91-7/93).

I have never been an unsuccessful candidate for elective office.

17. **Legal Career**

a. **Describe chronologically your law practice and experience after graduation from law school including:**

1. **whether you served as clerk to a judge, and if so the name of the judge, the court, and the dates of the period you were a clerk;**

I never served as a law clerk

2. **whether you practice alone, and if so, the addresses and dates;**

I have never practiced alone.

3. **the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;**

November 1995—present

- Partner, Stroock & Stroock & Lavan LLP
1150 17th St., N.W.
Washington, D.C. 20036

August 1993- November 1995

Partner, Mudge Rose Guthrie Alexander & Ferdon
2121 K St., N.W.
Washington, D.C. 20036

and

1200 19th St., N.W.

Washington, D.C. 20036

April 1991- July 1993

Chief of Staff (Administrative Assistant) to
Senator Daniel Patrick Moynihan
The Capitol
Washington, D.C. 20510

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September 1983- April 1991

Associate Attorney, Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, N.Y. 10036

November 1980- August 1983

Legislative Director and Chief of Staff (Administrative Assistant)
to Senator Daniel Patrick Moynihan
The Capitol
Washington, D.C. 20510

June 1979-November 1980

Partner, Eaton Griffith and Mugglin
10 Townsend St. Walton, N.Y. 13856

January 1977- June 1979

Regional Director for Senator Daniel Patrick Moynihan
(Oneonta, NY and New York City)
733 Third Avenue
New York, New York 10001

June 1975- December 1976

Partner, Eaton and Eaton
133 Delaware St. Walton, N.Y. 13856

September 1974- June 1975

Clerk then Associate Attorney (after admission)
Office of Scott E. Greene
Cooperstown, N.Y. 13326

- b. 1. **What has been the general character of your law practice, dividing it into period with dates if its character has changed over the years?**

While with Scott E. Greene (9/74-6/75), Eaton and Eaton (6/75-12/76) and Eaton Griffith and Mugglin (6/79-11/80) I engaged in the general practice of law including: real estate, trust and estates, family law, criminal law and commercial litigation. Delaware County New York used the assignment system to provide counsel to indigent defendants in criminal matters and for poor youths charged as juvenile offenders or as "persons in need of supervision." I regularly took assigned cases.

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While at Mudge Rose in New York, I was in the Public Finance Department for some years (1983- 1988) and then in the Litigation Department (1989-1991).

My work in Public Finance concerned the issuance of municipal bonds and the representation of bond issuers (states, localities and authorities) and of bond underwriters (investment banking houses). In addition, I did a fair amount of work representing entities that guaranteed payment of bonds (bond insurers and letter of credit issuers).

My time in the Mudge Rose Litigation Department concerned, for the most part, representation of a large insurance company in environmental insurance coverage cases. Typically, these cases involved an insured (or alleged insured) claiming coverage, under policies issued by my client, for acts my client believed were not within the scope of the policies. The cases involved large sums of money and were in courts throughout the Northeast. I was junior to a partner on these cases. As a Partner in the Washington offices of Mudge Rose and Stroock & Stroock & Lavan LLP, my practice has consisted of a small amount of civil litigation but has been mostly involved in government relations.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

While with Scott E. Greene (9/74-6/75), Eaton and Eaton (6/75-12/76) and Eaton Griffith and Mugglin (6/79-11/80), my clients were typically individuals and small businesses as well as the local bank.

At Mudge Rose, when I specialized in public finance, the Firm's clients were bond issuers such as states, localities and authorities; bond

underwriters such as investment banks; and bond guarantors such as bond insurers and commercial banks.

While in the Mudge Rose Litigation Department I was assigned almost exclusively to matters concerning insurance coverage under policies issued by a large insurance company. Typically, the company took the position that the language of the policies did not provide coverage for the activities involved. In addition I worked on matters for a small railroad and a large video game maker.

After I became a partner in the Mudge Rose Washington office and since coming to Stroock & Stroock & Lavan LLP my clients have typically been corporate enterprises and trade associations seeking to be kept abreast of legislation and regulations that have been enacted, promulgated or are proposed that might affect their businesses.

- c. 1. **Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, described each such variance, giving dates.**

During the time I was with Scott E. Greene (9/74-6/75), Eaton and Eaton (6/75-12/76) and Eaton Griffith and Mugglin (6/79-11/80) I appeared frequently in Surrogate's Court, Family Court, County Court, New York State Supreme Court and, after I resigned as Village Justice, in various justice courts. I began court appearances while with Mudge Rose in 1987 and appeared with increasing regularity until leaving to rejoin Senator Moynihan's staff in 1991.

While with the Washington offices of Mudge Rose and Stroock & Stroock & Lavan LLP (1993-present) I have appeared infrequently.

I did not appear in court while working for the Senate (1977-1979, 1980-1983, 1991-1993).

2. **What percentage of these appearances was in:**
 - (a) federal courts; 10%
 - (b) state courts of record; 40%
 - (c) other courts; 50%
3. **What percentage of your litigation was:**
 - (a) civil; 60%
 - (b) criminal; 40%
4. **State the number of cases in courts of record you have tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

Two, both as sole counsel
5. **What percentage of these trials was:**
 - (a) jury; 50%
 - (b) non-jury. 50%

18. **Litigation: Describe the ten most significantly litigated matters which you personally handled. 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 parties.

1. A. People v. Small (County Court Delaware County, NY) March 1976 Index No. 7377

Judge: Hon. Richard Farley Delaware County Court Judge

Opposing counsel:
Malcolm Hughes, Esq.
Main Street
Margaretville, NY, 12455,
(914) 586-2645
Delaware County District Attorney

B. People v. Small, 55 A.D. 2d 994, 391 N.Y.S. 2d 192 (3rd Dep't 1977)

Judges: Koreman, Greenblott, Kane, Main and Herlihy
New York State Supreme Court Appellate Division Third Department

Opposing Counsel:
Joseph Shapiro, Esq.
Albany, NY
(518) 439-2197
Assistant Delaware County District Attorney

Mr. Small was charged, along with others, with having committed conspiracy and arson in connection with a fire that destroyed a hotel. The other defendants pled guilty to lesser charges and Mr. Small was the only member of the initially accused group to stand trial. His defense was based, in part, on the rule in New York that a defendant cannot be convicted of a crime solely on the testimony of an accomplice. Mr. Small was found guilty after a trial that ended on March 4, 1976. However, in a unanimous Appellate Division decision, his conviction was overturned based on the trial judge's erroneous charge as to what constituted an accomplice under New York law. I was the sole counsel in this case both at the trial and on appeal. I argued the appeal and the Appellate Division rendered its decision on January 27, 1977.

2. In Re John Doe, Family Court Delaware County, New York
Case No. The papers in this case have been sealed

Judge: Hon. Richard Farley Delaware County Family Court Judge

Opposing counsel:
Carl Becker, Esq.
Govern McDowell and Becker

Stamford, NY 12167
Assistant Delaware County Attorney
(607) 652-7343

This proceeding was brought by the Delaware County Department of Social Services to establish the paternity of a minor whose mother was receiving public assistance. My client was the Respondent and his case was tried on the theory that the mother was married to someone other than the Respondent at the time the child was conceived and that the woman and her husband had cohabited during that period. At the time, New York law strongly favored legitimacy. The Respondent was found to be the father of the child at the conclusion of the bench trial, despite proof of the mother's existing marriage and testimony establishing cohabitation of the mother and her husband. The Respondent chose not to appeal. I was the sole counsel on this case, which was tried in 1976. The decision was not appealed.

3. Gary L. Scerbo v. The New York Susquehanna and Western Railway Corporation, United States District Court Southern District of New York Docket No. 87-0393

Judge: Hon. Robert Sweet

Opposing counsel:
Sam Polar, Esq.
391 East 149 Street
Bronx, New York 10455
(I have been unable to find Mr. Polar either in Martindale Hubbell or the telephone directory.)

Mr. Scerbo, a security officer for the railroad, alleged that he had been wrongfully discharged. I represented the railroad and moved to dismiss for lack of subject matter jurisdiction. Plaintiff's theory was that the matter was properly in United States District Court for the reason that the Federal Railway Labor Act was a federal statute. Plaintiff sought a TRO and preliminary injunction. Upon reading the briefs, the court agreed with my client that the FRLA did not apply to a simple breach of contract suit. The judge granted the motion to dismiss. The

plaintiff appealed. The matter was then settled with my client paying nothing. My role was that of counsel to the defendant and I received help from Mudge Rose associate Ralph Desanto. I wrote the four memoranda of law and the motion papers. I also argued the motions. This matter was briefed and argued in 1987.

4. Nintendo v. Camerica, United States District Court Southern District of New York.
Case No: 88-6252

Judge: Inzer B. Wyatt (for TRO)

Judge: Hon. John Sprizzo (for hearing on injunction)

Opposing counsel:
Christopher C. Dunham, Esq.
Cooper & Dunham
30 Rockefeller Plaza
New York, NY 10112
(212) 977-9550

This case was brought by my Firm's client, a manufacturer of video games. Nintendo contended that Camerica, a manufacturer of controller's for video games, had copied the design, shape and coloring of the controllers manufactured by Nintendo in violation of the Lanham Act. Nintendo sought and obtained a temporary restraining order but was unable to convince Judge Sprizzo to issue an injunction. The case was later settled. I participated in legal research, drafted the complaint, the order to show cause, the application for the TRO and application for the injunction. I also assisted in the preparation of witnesses and "second chaired" Mudge Rose partner John Altieri when the motion was made for the TRO and at the evidentiary hearing on the motion for an injunction. All of the activity in the case took place in 1988 and 1989.

5. Great Lakes Chemical Corporation v. Northwestern National Insurance Corporation et al. State Of Indiana Fountain County Circuit Court
Case No. 23C01-8711-CP263

Judge: Hon. Vincent F. Grogg

Co-counsel:
Terrence L. Smith, Esq.
Smith & Debonis
9696 Gordon Dr.
Highland, IN 46322
(219) 922-1000

Opposing counsel:
Bruce McSpadden, Esq.
Stuart & Branigan
8th Floor
The Life Building
Lafayette, Indiana 47902
(765) 423-1561

(There were also numerous counsel for the other insurance company defendants.)

This was a case brought by Great Lakes Chemical Corporation (Great Lakes) seeking defense and indemnity, under insurance policies issued by my firm's client, for payments Great Lakes might have been compelled to make because of alleged pollution resulting from applications of certain chemical pesticides it produced. I examined the documents, answered interrogatories, took depositions, wrote the first drafts of the briefs and argued the motion that resulted in my client being granted partial summary judgment and dismissed from the action for most of the claims. At all times my work was supervised by Paul R. Koepff, a Mudge Rose partner. My involvement in the case began in 1989 and ended when I left Mudge Rose in 1991 at which time the case was still ongoing.

6. CF&I Steel Corporation v. Aetna Casualty and Surety Company et al. Superior Court Of New Jersey Law Division Mercer County
Case No. L-89-0470

Judge: Hon. Phillip Carchman

Co-counsel:
Joseph R. McDonough, Jr., Esq.
Graham Curtin & Sheridan
Four Headquarters Plaza
Morristown, NJ 10022
(973) 292-1700

Opposing counsel:
Valinda Jones, Esq.
Covington & Burling
1201 Pennsylvania Ave
Washington, D.C.
(202) 662-6000

(There were also numerous counsel for the other insurance company defendants.)

This was an insurance coverage case brought by plaintiff seeking defense and indemnity, under insurance policies issued by my client, for payments plaintiff might be compelled to make because of alleged pollution resulting from plaintiff's manufacturing activities. The case was made more complex by the plaintiff having filed for Chapter 11 bankruptcy at an early stage in the proceedings. I examined documents, joined in drafting a joint defense agreement, prepared answers to interrogatories and interviewed witnesses. At all times my work was supervised by Paul R. Koepff, a Mudge Rose partner. My involvement in the case began 1989 and ended when I left Mudge Rose in 1991. I am informed that the case was settled in 1994.

7. Nestle Foods Corporation v. Aetna Casualty.
Civil Action No. 89-1710

Judge: Hon. Clarkson S. Fisher

Opposing counsel:
Robert N. Saylor, Esq.
Mitchell F. Dolan, Esq.
Covington & Burling
1201 Pennsylvania Ave. N.W.
Washington, D.C. 20004
(202) 662-6000

(There were also numerous counsel for the other insurance company defendants.)

This was a case brought by Nestle seeking defense and indemnity, under insurance policies issued by my client, for payments Nestle might have been compelled to make because of alleged pollution resulting from Nestle's food

manufacturing activities. I examined documents, answered interrogatories, participated in the taking of depositions, prepared draft answers to plaintiff's complaint and amended complaint, and prepared drafts of briefs. At all times my work was supervised by Paul R. Koepff, a Mudge Rose partner. My involvement in the case began in 1989 and ended when I left Mudge Rose in 1991 at which time the case was still ongoing. I am informed that the case was settled in 1994.

8. The Budd Company v. Royal Indemnity Company et al. Circuit Court Oakland County
Case no. 89-375476-CK

Judge: Hon. John N. O'Brien

Co-counsel:
John F. Milan, Esq.
Harvey Kruse
1050 Wilshire Dr.
Troy, MI 48084
(248) 649-7800

Opposing counsel:
Eugene Anderson, Esq.
Kevin O'Brien, Esq.
Anderson, Kill & Olick
666 Third Avenue
New York, N.Y.
(212) 764-0921

(There were also numerous counsel for the other insurance company defendants.)

This was a case brought by the Budd Company seeking defense and indemnity, under insurance policies issued by my Firm's client, for payments Budd might be compelled to make because of alleged pollution resulting from its manufacturing activities. I examined documents, participated in joint defense meetings and participated in preparation of the successful motion for dismissal for forum nonconveniens. At all times my work was supervised by Paul Koepff, a Mudge Rose partner. My involvement in the case began in 1989 and ended when I left Mudge Rose in 1991. I am informed that the case was settled in 1994.

9. William A. Christopher et al. v. The Hartford Insurance Group et al. United States District Court of Michigan Southern Division
Civil Action No. 89- 72492-DT

Judge: Hon. Horace W. Gilmore

Co-counsel:
John F. Milan, Esq.
Harvey Kruse
1050 Wilshire Dr.
Troy, MI 48084
(248) 649-7800

Opposing counsel:
Anthony V. Trogan, Esq.
Weisman, Trogan, Young
& Schloss, P.C.
30100 Telegraph Rd.
Bingham Farms, MI. 48025
(248) 258-8927

(There were also numerous counsel for the other insurance company defendants.)

This was a case brought by Mr. Christopher and others seeking defense and indemnity, under excess insurance policies issued by my Firm's client, for payments plaintiffs might be compelled to make because of alleged pollution resulting from plaintiff's commercial activity. I examined documents, attended joint defense meetings and prepared a joinder in the primary insurers' summary judgment brief. At all times, my work was supervised by Paul R. Koepff, a Mudge Rose partner. My involvement in the case began in 1989 and ended when I left Mudge Rose in 1991. I am informed that the defendants' motion for summary judgment was granted in 1992.

10. The Boeing Company v. Aetna Casualty and Surety Company et al. United States District Court Western District of Washington at Seattle.
No. C86-353WD

Judge: Hon. William L. Dwyer

Co-counsel:
Steven Soha, Esq.
Soha & Lang
1215 Northern Building
801 Second Avenue
Seattle, WA 98104
(206) 624-1800

Opposing counsel:
Robert N. Saylor, Esq.
James R. Murray, Esq.
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 662-6000

(There were also numerous counsel for the other insurance company defendants.)

This was a case brought by Boeing seeking defense and indemnity under insurance policies issued by my Firm's client, for payments Boeing might be compelled to make because of alleged pollution resulting from its manufacturing activities. I assisted in the drafting of briefs and motions, examined documents, participated in the taking of depositions and reviewed jury instructions. At all times my work was supervised by John L. Altieri, a Mudge Rose partner. My involvement in the case began in 1989 and ended when I left Mudge Rose in 1991. I am informed that the case was settled in 1992, after trial.

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)**

Municipal Finance: After joining Mudge Rose Guthrie Alexander & Ferdon in 1983, I spent six years in the Public Finance Department. During these years, Mudge Rose had what was perhaps the finest Municipal Bond practice in the country;

and by most measures the largest. The wide variety of the Firm's practice gave me exposure to all facets of public finance as bond counsel and underwriter's counsel, as well as counsel to a bond insurer and to letter of credit issuers.

Legislative Drafting: One of the most satisfying aspects of my work at Mudge Rose was the opportunity to draft municipal statutes and state laws. I wrote many municipal resolutions and ordinances. I wrote the first draft, and edited the subsequent drafts, of the legislation that created the Development Authority of the North Country, a state authority with broad powers to build infrastructure and spur economic development in northern New York State.

Senate Staff: I served on the staff of Senator Daniel Patrick Moynihan for a total of eight years. While I held a number of positions, including Chief of Staff, the most satisfying years were those that I spent as Legislative Director. They were also some of the most difficult. Working for the Senate's most prominent scholar/legislator meant that any idea for proposed legislation would have to be supported by hours of painstaking labor to make sure that the facts were right and the policy sound. I will always value the work I did in the Senate, particularly that done to secure passage of the innovative Intermodal Surface Transportation and Efficiency Act of 1992.

Judicial Screening: I have been involved with the work of Senator Moynihan's Judicial Screening Panel since its inception in 1977. At first, I was one of the members of the Senator's staff who worked with the Panel. Later, while in private practice, I served as the Panel's Secretary and then as a Panel Member. Since 1996 I have been the Panel's Chair. This activity has taken a great deal of my time but I think we have done a creditable job over the years by giving Senator Moynihan the widest range of highly qualified judicial candidates to recommend to the President.

General Practice: I started searching real estate titles in the Delaware County Courthouse while I was in college. I spent my early years as a lawyer as a general practitioner in rural upstate New York. My days were spent handling real estate matters and drafting wills in the office. On the days when court was in session, I handled Surrogates Court and Family Court matters as well as civil and criminal litigation. Many evenings I could be found in a village or town board meeting or in justice court. What I learned from these experiences is that there are no small matters. My clients expected my best efforts no matter what was at stake and they expected the same from their courts. In addition, this practice gave me experience in a wide range of legal areas that I have not encountered in big firm practice. In the area of criminal law, I handled cases for defendants charged with DWI, drug possession, burglary, rape and arson. In representing the local commercial bank, I closed many mortgages, handled foreclosures and dealt with the Comptroller of the Currency. In Family Court, I represented youths charged with what would have been crimes had they been older, and who were the subject of proceedings to have them declared "persons in need of supervision." I was involved in several paternity cases and tried one. I drafted many wills and handled probate proceedings in Surrogate's Court. This general practice taught me a great deal of law and also gave me day to day client contact.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

- 1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

None, except that I believe that I am entitled to a pension for my Senate employment.

- 2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

If I am confirmed, I would follow all the requirements of the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. sec. 455, and cases interpreting those statutes.

My investments, principally securities, will be reviewed against the identity of litigants so as to provide the data necessary to make decisions with respect to recusal.

I shall recuse myself from all matters where Stroock & Stroock & Lavan LLP or its lawyers individually appear as counsel as well as from all controversies where their interests are affected; from cases in which my former clients are parties; and from cases where my family members appears as lawyers or otherwise.

- 3. 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.**

I have no plans to do so.

4. List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, patents, 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 Form)

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

(See attached Financial Net Worth Statement).

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaigning, your title and responsibilities.

In the summer and fall of 1964, as an untitled volunteer, I worked on the campaign of Scott E. Greene (R-NY) for New York State Assembly.

In 1976, as an untitled volunteer, I undertook various tasks for the campaign of Daniel Patrick Moynihan (D-NY) for the United States Senate. In both 1988 and 1994 I worked as a volunteer in Senator Moynihan's re-election campaigns. I have also served as secretary of the Moynihan Committee, which is Senator Moynihan's reelection committee.

In 1980, I was the campaign manager and later the campaign Director (handling research on campaign issues) for the Bess Myerson for Senate Campaign. I started work around January 1, 1980 and finished following Ms. Myerson's loss in the primary in September 1980.

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 10, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial)	2. Court or Organization	3. Date of Report
Eaton, Richard K.	Court of International Trade	08/05/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)	5. Report Type (check type)	6. Reporting Period
Judge/nominee	X Nomination, Date 08/03/1999	01/01/1998 to 07/31/1999
	Initial Annual Final	
7. Chambers or Office Address	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations.	
1150 17th St. NW (Suite 600) Washington, DC 20036	Reviewing Officer	Date

IMPORTANT NOTES. The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
NONE (No reportable positions.)	
1 Partner	Stroock & Stroock & Lavan LLP (law firm)
2 Trustee	The Susan Henshaw Jones 1998 Family Trust
3 Trustee	Graham O. Jones 1998 Family Trust

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
NONE (No reportable agreements.)	
1	Stroock & Stroock & Lavan 401 K Plan
2 1/1/1996	Retirement Plan for Percentage Partners (Parties are all Stroock percentage partners) Provides for retirement income
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
NONE (No reportable non-investment income.)		
1	Partnership income Stroock & Stroock & Lavan LLP	\$ 433,000.00
2	National Building Museum (spouse)	
3		
4		

Name of Person Reporting: Eaton, Richard K. Date of Report: 08/05/1999
FINANCIAL DISCLOSURE REPORT

IV. REIMBURSEMENTS — transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 15-28 of Instructions.)

	SOURCE	DESCRIPTION
	NONE (No such reportable reimbursements.)	
1	EXEMPT	
2		
3		
4		
5		
6		
7		

V. GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
	NONE (No such reportable gifts.)		
1	EXEMPT		
2			
3			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
	NONE (No reportable liabilities.)		
1			
2	Willetta Reber	Mortgage on vacation home	L
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Date of Report
 Eaton, Richard K. 08/05/1999

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
1 Schwab 1000 Fund (mutual fund)	A	Dividend	K	T						Exempt
2 Schwab Muni Money Fund (mutual fund)	A	Interest	J	T						Exempt
3 Schwab 1000 Fund (mutual fund held in IRA)	A	Dividend	L	T						Exempt
4 Schwab Money Market Fund (mutual fund held in IRA)	B	Interest	J	T						Exempt
5 Berkshire Hthwy Class A Common	A	Dividend	L	T						Exempt
6 Bernstein Equity (mutual fund held in 401K plan)	A	Dividend	L	T						Exempt
7 Bernstein International Equity Mutual Fund (DC)	B	Dividend	M	T						Exempt
8 Vanguard Equity Mutual Fund (DC)	B	Dividend	N	T						Exempt
9 Aetna Inc. Common (DC in trust)	A	Dividend	J	T						Exempt
10 Allegheny Energy Inc. (DC in trust)	A	Dividend	J	T						Exempt
11 Alcoa Inc. Common (DC in trust)	A	Dividend	K	T						Exempt
12 Alcan Aluminium LTD Common (DC in trust)	A	Dividend	K	T						Exempt
13 American General Corp. Common (DC in trust)	A	Dividend	J	T						Exempt
14 Arrow Electronics Inc. Common (DC in trust)	A	Dividend	J	T						Exempt
15 American Standard Companies Common (DC in trust)	A	Dividend	J	T						Exempt
16 Bank One Corp Common (DC in trust)	A	Dividend	J	T						Exempt
17 BP Amoco PLC Common (DC in trust)	A	Dividend	J	T						Exempt
1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 08/05/1999

VII. Page 2 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure (2) Date (3) Value (4) Gain (5) Identity of buyer/seller (if private transaction)			
NONE (No reportable income, assets, or transactions)									
18 Bank of America Corp. Common (DC in trust)	B	Dividend	K	T	Exempt				
19 Chase Manhattan Corp Common (DC in trust)	A	Dividend	J	T	Exempt				
20 CSX Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
21 Cabot Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
22 Central & South West Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
23 Champion International Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
24 Consolidated Papers Inc. Common (DC in trust)	A	Dividend	J	T	Exempt				
25 Cooper Industries Inc. Common (DC in trust)	A	Dividend	J	T	Exempt				
26 Crown Cork & Seal Co. Common (DC in trust)	A	Dividend	J	T	Exempt				
27 Dillards Inc.-C1 A Common (DC in trust)	A	Dividend	J	T	Exempt				
28 Dow Chemical Co. Common (DC in trust)	B	Dividend	K	T	Exempt				
29 Eastman Chemical C. Common (DC in trust)	A	Dividend	J	T	Exempt				
30 Eaton Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
31 Firstenergy Corp. Common (DC in trust)	A	Dividend	K	T	Exempt				
32 Federated Department Stores Common (DC in trust)	A	Dividend	K	T	Exempt				
33 Ford Motor Co. Common (DC in trust)	A	Dividend	K	T	Exempt				
34 Goodyear Tire & Rubber Co. Common (DC in trust)	A	Dividend	K	T	Exempt				
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) R=Cost (real estate only) U=Book Value V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 09/05/1999

VII. Page 3 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
35 Hormel Foods Corp. Common (DC in trust)	A	Dividend	J	T	Exempt					
36 International Paper Co. Common (DC in trust)	A	Dividend	K	T	Exempt					
37 Litton Industries Inc. Common (DC in trust)	A	Dividend	J	T	Exempt					
38 Lubrizol Corp Common (DC in trust)	A	Dividend	J	T	Exempt					
39 Millennium Chemicals Inc. Common (DC in trust)	A	Dividend	J	T	Exempt					
40 Mead Corp. Common (DC in trust)	A	Dividend	J	T	Exempt					
41 Mobil Corp. Common (DC in trust)	A	Dividend	J	T	Exempt					
42 Nalco Chemical Co. Common (DC in trust)	A	Dividend	J	T	Exempt					
43 Norfolk Southern Corp. Common (DC in trust)	A	Dividend	K	T	Exempt					
44 Owens Corning Common (DC in trust)	A	Dividend	J	T	Exempt					
45 Pacificare Health Systems Inc Common (DC in trust)	A	Dividend	J	T	Exempt					
46 Old Republic Intl Common (DC in trust)	A	Dividend	J	T	Exempt					
47 PNC Bankcoop Common (DC in trust)	A	Dividend	J	T	Exempt					
48 Philip Morris Companies Common (DC in trust)	B	Dividend	K	T	Exempt					
49 Praxair Inc. Common (DC in trust)	A	Dividend	J	T	Exempt					
50 Puget Sound Energy Inc. Common (DC in trust)	A	Dividend	J	T	Exempt					
51 Quantum Corp. Common (DC in trust)	A	Dividend	J	T	Exempt					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000						
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$250,000,001-\$500,000,000	N=\$250,001-\$500,000 P4=\$500,000,001 or more						
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market							

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 08/05/1999

VII. Page 4 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse. "(S)" for separate ownership by spouse. "(DC)" for ownership by dependent child.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure (2) Date: (3) Value Month- Code (4) Gain Day (J-P) (A-H) (5) Identity of buyer/seller (if private transaction)			
NONE (No reportable income, assets, or transactions.)									
52 Reynolds Metal Co. Common (DC in trust)	A	Dividend	J	T	Exempt				
53 RJR Nabisco Holdings Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
54 St. Paul Companies Inc. Common (DC in trust)	A	Dividend	K	T	Exempt				
55 Seagate Technologies Inc. Common (DC in trust)	A	Dividend	J	T	Exempt				
56 Sears Roebuck & Co. Common (DC in trust)	A	Dividend	J	T	Exempt				
57 Tech Data Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
58 Temple Inland Inc. Common (DC in trust)	A	Dividend	J	T	Exempt				
59 Teradyne Inc. Common (DC in trust)	A	Dividend	J	T	Exempt				
60 Thomas & Betts Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
61 Union Carbide Corp. Common (DC in trust)	A	Dividend	K	T	Exempt				
62 Unicom Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
63 Unocal Corp. Common (DC in trust)	A	Dividend	K	T	Exempt				
64 Whirlpool Corp. Common (DC in trust)	A	Dividend	K	T	Exempt				
65 Wisconsin Energy Corp. Common (DC in trust)	A	Dividend	J	T	Exempt				
66 Bernstein International Val. Port. Mutual Fund (DC in Trust)	B	Dividend	M	T	Exempt				
67 Bernstein Emerging Markets Val. Port. Mut. Fund (DC in Trust)	A	Dividend	K	T	Exempt				
68 Goldman Sachs Money Market Funds (Spouse)	A	Interest	J	T	Exempt				
1 Inco/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Date of Report
 Eaton, Richard K. 08/05/1999

VII. Page 5 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 16-34 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "X" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period <i>If not exempt from disclosure</i>
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	
NONE (No reportable income, assets, or transactions.)					
69 Adelphia Communications CP Common (Spouse)	A	Dividend	K	T	Exempt
70 Allegiance Telecom, Inc. Common (Spouse)	A	Dividend	J	T	Exempt
71 BarnesandNoble.com, Inc. Common (Spouse)	A	Dividend	J	T	Exempt
72 Compuware Corp. Common (Spouse)	A	Dividend	K	T	Exempt
73 Dell Computer Corporation Common (Spouse)	A	Dividend	K	T	Exempt
74 EToys Inc. Common (Spouse)	A	Dividend	J	T	Exempt
75 Northpoint Communication Common (Spouse)	A	Dividend	J	T	Exempt
76 Rogers Communications Inc. C1 Common (Spouse)	A	Dividend	J	T	Exempt
77 Tenfold Corp. Common (Spouse)	A	Dividend	J	T	Exempt
78 Abbot Laboratories Common (Spouse)	A	Dividend	K	T	Exempt
79 American Home Products Common (Spouse)	A	Dividend	L	T	Exempt
80 BP Amoco PLC Spons ADR Common (Spouse)	A	Dividend	K	T	Exempt
91 CBS Corporation Common (Spouse)	A	Dividend	L	T	Exempt
92 Ceridian Corp. Common (Spouse)	A	Dividend	K	T	Exempt
93 Charles Schwab Corp. Common (Spouse)	A	Dividend	L	T	Exempt
94 Cisco Systems Inc. Common (Spouse)	A	Dividend	K	T	Exempt
95 Citigroup Inc. Common (Spouse)	A	Dividend	L	T	Exempt
1 Inc/Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H1=\$1,000,001-\$5,000,000; H2=\$5,000,001 or more					
2 Val Codes: J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000; P1=\$1,000,001-\$5,000,000; P2=\$5,000,001-\$25,000,000; P3=\$25,000,001-\$50,000,000; P4=\$50,000,001 or more					
3 Val Mth Codes: Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market (Col. C2) U=Book Value; V=Other; W=Estimated					

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 08/05/1999

VII. Page 6 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
86 Compaq Computer Corp. Common (Spouse)	A	Dividend	J	T	Exempt					
87 Diageo PLC Common (Spouse)	A	Dividend	K	T	Exempt					
88 Dupont Common (Spouse)	A	Dividend	K	T	Exempt					
89 EDP Electricidade de Portugal Common (Spouse)	A	Dividend	J	T	Exempt					
90 Enron Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
91 Ericson LM Tel Co. Common (Spouse)	A	Dividend	L	T	Exempt					
92 Estee Lauder Cos. Common (Spouse)	A	Dividend	K	T	Exempt					
93 FD HMN LN Mortgage Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
94 ING Group NV Common (Spouse)	A	Dividend	K	T	Exempt					
95 Intel Corp. Common (Spouse)	A	Dividend	L	T	Exempt					
96 MBNA Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
97 MCI Worldcom Inc. Common (Spouse)	A	Dividend	K	T	Exempt					
98 Medtronic Inc Common (Spouse)	A	Dividend	L	T	Exempt					
99 Nokia Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
100 Pepsico Inc Common (Spouse)	A	Dividend	K	T	Exempt					
101 Pfizer Inc Common (Spouse)	A	Dividend	K	T	Exempt					
102 Procter & Gamble Co. Common (Spouse)	A	Dividend	K	T	Exempt					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H1=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 03/05/1999

VII. Page 7 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period	If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)		(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date- Month- Day	(3) Value	(4) Gain Code (J-P)	(5) Identity of buyer/seller (A-H) (if private transaction)
103 Safeway Inc Common (Spouse)	A	Dividend	K	T	Exempt					
104 Sony Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
105 The Goldman Sachs Grp. Inc. Common (Spouse)	A	Dividend	K	T	Exempt					
106 Unilever NV NY Shares (New) Common (Spouse)	A	Dividend	K	T	Exempt					
107 Cash (Spouse)	D	Interest	P1	T	Exempt					
108 Valley Natl Bankcorp Common (Spouse)	E	Dividend	O	T	Exempt					
109 Fed Portfolio Inst. Liquid Asset Mutual Fund (Spouse)	D	Interest	M	T	Exempt					
110 Conroe Tax Cert. Munip. Bonds (Spouse)	B	Interest	K	T	Exempt					
111 Aetna Inc. Common (Spouse)	A	Dividend	K	T	Exempt					
112 Alcoa Inc. Common (Spouse)	B	Dividend	L	T	Exempt					
113 Alcan Aluminium Ltd. Common (Spouse)	A	Dividend	L	T	Exempt					
114 American Elect. Power Co. Inc. Common (Spouse)	A	Dividend	J	T	Exempt					
115 Ambac Financial Brp. Inc. Common (Spouse)	A	Dividend	J	T	Exempt					
116 Arrow Electronics Inc. Common (Spouse)	A	Dividend	J	T	Exempt					
117 American Standard Cos. Common (Spouse)	A	Dividend	K	T	Exempt					
118 Avnet Inc. Common (Spouse)	A	Dividend	J	T	Exempt					
119 Bank One Corp. Common (Spouse)	C	Dividend	M	T	Exempt					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 09/05/1999

VII. Page 8 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions)										
120 BP Amoco PLC Common (Spouse)	C	Dividend	M	T	Exempt					
121 Bank of America Corp. Common (Spouse)	C	Dividend	M	T	Exempt					
122 Canadian Pacific LTD Common (Spouse)	A	Dividend	J	T	Exempt					
123 Chase Manhattan Corp. Common (Spouse)	B	Dividend	L	T	Exempt					
124 Cigna Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
125 CSX Corp. Common (Spouse)	B	Dividend	L	T	Exempt					
126 Cabot Corp. Common (Spouse)	A	Dividend	K	T	Exempt					
127 Central and South West Corp. Common (Spouse)	B	Dividend	K	T	Exempt					
128 Champion International Corp. Common (Spouse)	A	Dividend	L	T	Exempt					
129 Chubb Corp. Common (Spouse)	A	Dividend	J	T	Exempt					
130 Consolidated Papers Inc. Common (Spouse)	A	Dividend	K	T	Exempt					
131 Dow Chemical Co. Common (Spouse)	D	Dividend	M	T	Exempt					
132 Eastman Chemical Co. Common (Spouse)	B	Dividend	L	T	Exempt					
133 Eaton Corp. Common (Spouse)	B	Dividend	L	T	Exempt					
134 Firstenergy Corp. Common (Spouse)	C	Dividend	L	T	Exempt					
135 FMC Corp. Common (Spouse)	A	Dividend	J	T	Exempt					
136 Federated Dept. Stores Common (Spouse)	A	Dividend	M	T	Exempt					
1 Inc./Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,001-\$15,000 D=\$50,001-\$100,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: 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 Eaton, Richard K. Date of Report 09/05/1999

VII. Page 9 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children See pp. 16-14 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period <i>If not exempt from disclosure</i> Date: (2) Value Gain (3) Identity of (4) Code (5) buyer-seller (A-H) (if private transaction)
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	
NONE (No reportable income, assets, or transactions.)					
137 Ford Motor Company Common (Spouse)	B	Dividend	L	T	Exempt
138 Genuine Parts Co. Common (Spouse)	A	Dividend	K	T	Exempt
139 Golden West Financial Corp. Common (Spouse)	A	Dividend	K	T	Exempt
140 Goodyear Tire and Rubber Co. Common (Spouse)	A	Dividend	K	T	Exempt
141 Hormel Foods Corp. Common (Spouse)	A	Dividend	K	T	Exempt
142 IBM Common (Spouse)	A	Dividend	K	T	Exempt
143 International Paper Co. Common (Spouse)	B	Dividend	L	T	Exempt
144 Litton Industries Inc. Common (Spouse)	A	Dividend	K	T	Exempt
145 Lubrizol Corp. Common (Spouse)	A	Dividend	K	T	Exempt
146 MBIA Inc. Common (Spouse)	A	Dividend	L	T	Exempt
147 Millenium Chemicals Inc. Common (Spouse)	A	Dividend	K	T	Exempt
148 May Department Stores C. Common (Spouse)	A	Dividend	K	T	Exempt
149 Mead Corp. Common (Spouse)	A	Dividend	K	T	Exempt
150 Nalco Chem. Co. Common (Spouse)	A	Dividend	J	T	Exempt
151 Norfolk Southern Corp. Common (Spouse)	B	Dividend	L	T	Exempt
152 Owens Corning Common (Spouse)	A	Dividend	K	T	Exempt
153 Pacificare Health Ssystems Inc. Common (Spouse)	A	Dividend	K	T	Exempt
<p>1 Inc/Gain Codes: A=\$1,000 or less B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more</p> <p>2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more</p> <p>3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated</p>					

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Eaton, Richard K. Date of Report 08/05/1999

VII. Page 10 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period	If not exempt from disclosure (2) (3) (4) (5) Date: Value Gain Identity of Month- Code Code buyer/seller Day (J-P) (A-H) (if private transaction)
	(1) Amount Code (A-H)	(2) Type (e.g., Dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method (Q-W)		
NONE (No reportable income, assets, or transactions.)						
154 Occidental Petroleum Corp. Common (Spouse)	C	Dividend	L	T	Exempt	
155 JC Penney Co. Inc. Common (Spouse)	C	Dividend	M	T	Exempt	
156 Philip Morris Companies Inc. Common (Spouse)	C	Dividend	M	T	Exempt	
157 Praxair Inc. Common (Spouse)	A	Dividend	K	T	Exempt	
158 Puget Sound Energy Inc. Common (Spouse)	B	Dividend	J	T	Energy	
159 Quantum Corp. Common (Spouse)	A	Dividend	K	T	Exempt	
160 Republic New York Corp. Inc. Common (Spouse)	B	Dividend	L	T	Exempt	
161 Reynolds Metals Co. Common (Spouse)	A	Dividend	K	T	Exempt	
162 RJR Nabisco Holdings Corp. Common (Spouse)	C	Dividend	L	T	Exempt	
163 St. Paul Companies Inc. Common (Spouse)	B	Dividend	L	T	Exempt	
164 Sears Roebuck & Co. Common (Spouse)	A	Dividend	K	T	Exempt	
165 Temple Inland Inc. Common (Spouse)	A	Dividend	K	T	Exempt	
166 Union Carbide Corp. Common (Spouse)	B	Dividend	L	T	Exempt	
167 Union Pacific Corp. Common (Spouse)	B	Dividend	L	T	Exempt	
168 Unicom Corp. Common (Spouse)	B	Dividend	L	T	Exempt	
169 Valley National Bancorp Common (Spouse)	G	Dividend	P2	T	Exempt	
170 Westvaco Corp. Common (Spouse)	B	Dividend	K	T	Exempt	
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market						

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Eaton, Richard K. Date of Report: 08/05/1999

VII. Page 11 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period	If not exempt from disclosure (2) (3) (4) (5) Date: Value Gain Identity of Month- Code Code buyer/seller Day (J-P) (A-H) (if private transaction)
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method (Q-W)		
NONE (No reportable income, assets, or transactions.)						
171 Whirlpool Corp. Common (Spouse)	A	Dividend	J	T	Exempt	
172 Willamette Industries Inc. Common (Spouse)	A	Dividend	K	T	Exempt	
173 Bernstein Div. Muni. Portfolio Mutual Fund (Spouse)	E	Interest	O	T	Exempt	
174 Bernstein Advanced Value Mutual Fund (Spouse)	A	Dividend	P1	T	Exempt	
175 Bernstein Emerging Mkcts. Portfolio Mutual Fund (Spouse)	B	Dividend	M	T	Exempt	
176 Bernstein Tax-managed International Port. Mutual Fund	A	Dividend	M	T	Exempt	
177 House, cabin and land in Livingston, MT (Spouse)	D	Rent	O	W	Exempt	
178 Fidelity Muni Money Market Mutual Fund (Spouse)	B	Interest	N	T	Exempt	
179 Aetna Growth and Income Mutual Fund 401K (Spouse)	C	Dividend	M	T	Exempt	
180 Schroders Equity Mutual Fund held in IRA (Spouse)	A	Dividend	L	T	Exempt	
181 Concord EFS Inc. Common (Spouse)	A	Dividend	K	T	Exempt	
182 Juniper Network Inc. Common (Spouse)	A	Dividend	J	T	Exempt	
183 Seagram Ltd. Common (Spouse)	A	Dividend	K	T	Exempt	
184 Bernstein International Value Port. II mutual fund (Spouse)	B	Dividend	M	T	Exempt	
185 Stroock Partners (II, III, IV) investment partnership	A	Distribution	J	U	Exempt	
186						
187						

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

Name of Person Reporting Date of Report
FINANCIAL DISCLOSURE REPORT Eaton, Richard K. 08/05/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

Name of Person Reporting Date of Report
FINANCIAL DISCLOSURE REPORT Eaton, Richard K. 08/05/1999

SECTION HEADING. *(Indicate part of report.)*

Information continued from Parts I through VI, inclusive.

PART 1. POSITIONS (cont'd.)

Line	Position	Name of Organization/Entity
4	Trustee	Timothy J. Russert Irrevocable Trust
5	Trustee	Luke Russert Irrevocable Trust
6	Partner	Stroock Partners (II,III,IV) investment partnerships

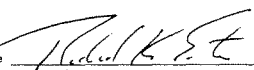
Name of Person Reporting	Date of Report
FINANCIAL DISCLOSURE REPORT Eaton, Richard K.	08/05/1995

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(1)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature  Date August 5, 1995

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

FINANCIAL STATEMENT

Richard K. Eaton

NET WORTH

ASSETS		LIABILITIES	
Cash on hand and in banks	\$111,463	Notes payable to banks—secured	None
U.S. Government securities	\$277,870 See Schedule A	Notes payable to banks-- unsecured	None
Listed securities-add schedule	\$24,148,267 See Schedule B	Notes payable to relatives	None
Unlisted securities – add schedule	\$9,926 See Schedule C	Notes payable to others	None
Accounts and notes receivable:	None	Accounts and bills due-	\$4,000
Due from relatives and friends		Unpaid income tax	None
Due from others		Other unpaid tax and interest	None
Doubtful		Real estate mortgages payable -- add schedule	\$840,000 See Schedule E
Real estate owned- add schedule	\$2,000,000 See Schedule D	Chattel mortgages and other liens payable	None
Real estate mortgages receivable	None	Other debts--itemize:	
Autos and other personal property	\$150,000		
Cash value—life insurance	\$2,163		
Other assets – itemize:			
		Total liabilities	\$844,000
		Net Worth	\$25,705,839
Total Assets	\$26,549,839	Total liabilities and net worth	\$26,549,839
CONTINGENT LIABILITIES		GENERAL INFORMATION	
As endorser, co-maker or guarantor	None	Are any assets pledged? (add schedule)	No
On leases or contracts	None	Are you defendant in any suits or legal actions?	No
Legal Claims	None	Have you ever taken bankruptcy?	No
Provision for Federal Income Tax	None		
Other special debt	None		

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SCHEDULE A

U. S. GOVERNMENT SECURITIES:

HELD BY CANDIDATE	None
HELD BY DEPENDANT CHILDREN	None
HELD IN TRUST FOR DEPENDANT CHILDREN	None
HELD BY SPOUSE	
Goldman Sachs Federal Portfolio	
Institutional Liquid Assets	\$277,870.00

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SCHEDULE B

SECURITIES HELD BY CANDIDATE	MARKET VALUE
1. Schwab 1000 Fund (mutual fund)	\$ 44,482.00
2. Schwab Muni Money Fund (mutual fund)	\$ 898.00
3. Schwab 1000 Fund (mutual fund held in IRA)	\$105,230.00
4. Schwab Money Market Fund (mutual fund held in IRA)	\$ 2,097.00
5. 1 Berkshire Hathaway Class A common	\$ 68,900.00
6. Bernstein Equity (mutual fund held in 401K)	\$104,833.00
TOTAL	\$326,440.00
SECURITIES HELD BY DEPENDANT CHILDREN	
7. 000 Bernstein International Equity (mutual fund)	\$144,692.00
8. 000 Vanguard Equity (mutual fund)	\$304,158.00
TOTAL	\$448,850.00
SECURITIES HELD IN TRUST FOR DEPENDANT CHILDREN	
9. 200 Aetna Inc. common	\$ 17,888.00
10. 400 Allegheny Energy Inc. common	\$ 12,824.00
11. 800 Alcoa Inc. common	\$ 49,500.00
12. 1000 Alcan Aluminium LTD common	\$ 31,937.00
13. 100 American General Corp. common	\$ 7,536.00
14. 300 Arrow Electronics Inc. common	\$ 5,700.00
15. 300 American Standard Companies common	\$ 14,400.00
16. 600 Bank One common	\$ 35,738.00
17. 264 BP Amoco PLC common	\$ 28,644.00
18. 1200 Bank of America Corp. common	\$ 87,976.00
19. 400 Chase Manhattan Corp. common	\$ 34,650.00
20. 400 CSX Corp. common	\$ 36,250.00
21. 300 Cabot Corp. common	\$ 7,256.00
22. 800 Central & South West Corp. common	\$ 18,700.00
23. 400 Champion International Corp. common	\$ 19,150.00
24. 400 Consolidated Papers Inc. common	\$ 10,700.00
25. 200 Cooper Industries Inc. common	\$ 10,400.00

26. 600 Crown Cork & Seal Co. common	\$ 17,100.00
27. 400 Dillards Inc. Class A common	\$ 14,050.00
28. 600 Dow Chemical Co. common	\$ 76,125.00
29. 300 Eastman Chemical Co. common	\$ 15,525.00
30. 300 Eaton Corp. common	\$ 27,600.00
31. 1000 Firstenergy Corp. common	\$ 31,000.00
32. 800 Federated Department Stores common	\$ 42,350.00
33. 600 Ford Motor Co. common	\$ 33,863.00
34. 800 Goodyear Tire & Rubber	\$ 47,050.00
35. 400 Hormel Foods Corp. common	\$ 8,100.00
36. 1200 International Paper Co.	\$ 60,600.00
37. 200 Litton Industries Inc. common	\$ 14,350.00
38. 400 Lubrizol Corp. common	\$ 10,900.00
39. 300 Millenium Chemicals Inc. common	\$ 7,068.00
40. 400 Mead Corp. common	\$ 16,700.00
41. 100 Mobil Corp. common	\$ 9,900.00
42. 300 Nalco Chemical Co. common	\$ 15,562.00
43. 1600 Norfolk Southern Corp. common	\$ 48,200.00
44. 200 Owens Corning common	\$ 6,875.00
45. 200 Pacificare Healthcare Systems Inc. common	\$ 14,388.00
46. 600 Old Republic International common	\$ 10,388.00
47. 200 PNC Bankcorp common	\$ 11,524.00
48. 1200 Philip Morris Companies common	\$ 48,225.00
49. 300 Praxair Inc. common	\$ 14,681.00
50. 400 Puget Sound Energy Inc. common	\$ 9,600.00
51. 600 Quantum Corp. common	\$ 14,475.00
52. 300 Reynolds Metal Co. common	\$ 17,700.00
53. 266 Nabisco Grp. Holdings Corp. common	\$ 8,379.00
54. 1000 St. Paul Companies Inc. common	\$ 31,812.00
55. 1000 Seagate Technologies Inc. common	\$ 25,625.00
56. 1400 Sears Roebuck & Co. common	\$ 62,387.00
57. 200 Tech Data Corp. common	\$ 7,650.00
58. 200 Temple Inland Inc. common	\$ 13,650.00
59. 200 Teradyne Inc. common	\$ 28,700.00
60. 200 Thomas & Betts Inc. common	\$ 5,450.00
61. 800 Union Carbide Corp. common	\$ 39,000.00
62. 800 Unicom Corp. common	\$ 30,850.00
63. 1000 Unocal Corp. common	\$ 39,624.00
64. 300 Whirlpool Corp. common	\$ 22,200.00
65. 400 Wisconsin Energy Corp. common	\$ 10,025.00
66. Bernstein International Value Portfolio (mutual fund)	\$457,460.00
67. Bernstein Emerging Markets Value Portfolio (mutual fund)	\$ 90,927.00
68. 100 Reynolds RJ Tob. Holdings common	\$ 3,150.00
TOTAL	\$2,009,055.00

SECURITIES HELD BY SPOUSE

69. 200 Adelphia Communications CP Class A	\$13,475.00
70. 250 Allegiance Telecom Inc. common	\$13,281.00
71. 50 Juniper Network Inc. common	\$ 6,250.00
72. 750 Compuware Corp. common	\$23,953.00
73. 1,000 Dell Computer Corporation common	\$42,250.00
74. 1000 Rogers Communications common	\$ 20,375.00
75. 500 Seagrams LTD common	\$ 27,156.00
76. 1,000 Rogers Communications Inc. common	\$ 20,375.00
77. 1000 Concord EFS Inc. common	\$39,000.00
78. 1,000 Abbot Laboratories common	\$41,500.00
79. 1,000 American Home Products common	\$56,000.00
80. 150 BP Amoco PLC Spons ADR common	\$17,484.00
81. 1,350.00 CBS Corporation common	\$60,750.00
82. 1,000 Ceridian Corp. common	\$30,125.00
83. 1,150.00 Charles Schwab Corp. common	\$60,950.00
84. 800 Cisco Systems Inc. common	\$52,200.00
85. 1,500 Citigroup Inc. common	\$71,531.00
86. AMDOC Traces convertible	\$24,000.00
87. 700 Diageo PLC common	\$28,788.00
88. 500 Dupont common	\$36,500.00
89. 400 EDP Electricidade de Portugal common	\$ 3,775.00
90. 450 Enron Corp. common	\$37,800.00
91. 2,000 Ericson LM Tel. Co. common	\$58,625.00
92. 800 Estee Lauder Cos. common	\$42,050.00
93. 550 FD HMN LN Mortgage Corp. common	\$31,659.00
94. 850 ING Group NV common	\$44,731.00
95. 1,000 Intel Corp. common	\$65,375.00
96. 1,450 MBNA Corp. common	\$43,953.00
97. 450 MCI Worldcom Inc. common	\$40,641.00
98. 800 Medtronic Inc. common	\$60,750.00
99. 600 Nokia Corp. common	\$55,575.00
100. 850 Pepsico Inc. common	\$33,303.00
101. 1,050 Pfizer Inc. common	\$39,113.00
102. 350 Procter & Gamble Inc. common	\$31,128.00
103. 650 Safeway Inc. common	\$33,841.00
104. 400 Sony Corp. common	\$47,225.00
105. 500.00 The Goldman Sachs Group Inc. common	\$33,938.00
106. 401 Unilever NV New York Shares common	\$28,722.00
107. Indiana Trans. Authority municipal bonds	\$200,426.00
108. 454,949 Valley National Bankcorp common	\$12,110,097.00
109. 103,468 Fed Portfolio Instit. Liquid Asset (mutual fund)	\$103,468.00

110. Conroe Tax Certificate Municipal Bonds	\$ 26,173.00
111. 300 Aetna Inc. common	\$ 26,831.00
112. 1,338 Alcoa Inc. common	\$ 87,779.00
113. 2,050 Alcan Aluminium Ltd. Common	\$ 65,472.00
114. 150 American Elect. Power Co. Inc. common	\$ 5,634.00
115. 800 Arrow Electronics Inc. common	\$ 15,200.00
116. 400 American Standard Cos. common	\$ 19,200.00
117. 50 Avnet Inc. common	\$ 2,325.00
118. 2,800 Bank One Corp. common	\$ 166,775.00
119. 1,654 BP Amoco PLC common	\$ 179,459.00
120. 2,600 Bank of America Corp. common	\$ 190,612.00
121. 500 Canadian Pacific Ltd. common	\$ 11,906.00
122. 1,000 Chase Manhattan Corp. common	\$ 86,625.00
123. 300 Cigna Corp. common	\$ 26,700.00
124. 2000 CSX Corp. common	\$ 70,625.00
125. 750 Cabot Corp. common	\$ 18,141.00
126. 1,300 Central & South West Corp. common	\$ 30,837.00
127. 1,000 Champion International Corp. common	\$ 47,875.00
128. 1,100 Consolidated Papers Inc. common	\$ 29,428.00
129. 1,500 Dow Chemical Co. common	\$ 190,312.00
130. 1,050 Eastman Chemical Co. common	\$ 54,337.00
131. 700 Eaton Corp. common	\$ 64,400.00
132. 2,100 Firstenergy Corp. common	\$ 65,100.00
133. 50 FMC Corp. common	\$ 3,415.00
134. 1,900 Federated Department Stores	\$ 100,581.00
135. 1,400 Ford Motor Co. common	\$ 79,012.00
136. 600 Genuine Parts Co. common	\$ 21,000.00
137. 550 Golden West Financial Corp. common	\$ 53,900.00
138. 400 Goodyear Tire & Rubber Co. common	\$ 23,525.00
139. 700 Hormel Foods Corp. common	\$ 28,175.00
140. 400 IBM common	\$ 51,700.00
141. 1,700 International Paper Co. common	\$ 85,850.00
142. 300 Litton Industries Inc. common	\$ 21,525.00
143. 700 Lubrizol Corp. common	\$ 19,075.00
144. 900 MBIA Inc. common	\$ 58,275.00
145. 750 Millenium Chemicals Inc. common	\$ 17,671.00
146. 900 Mead Corp. common	\$ 37,575.00
147. 300 Nalco Chem Co. common	\$ 15,562.00
148. 2,300 Norfolk Southern Corp. Common	\$ 69,388.00
149. 450 Owens Corning common	\$ 15,469.00
150. 400 Pacificare Health Systems Inc. common	\$ 28,775.00
151. 3,000 Occidental Petroleum Corp. common	\$ 63,375.00
152. 2,250.00 JC Penney Co. common	\$ 109,265.00
153. 2,650.00 Philip Morris Companies Inc.	\$ 106,497.00
154. 800 Praxair Inc. common	\$ 39,150.00
155. 750 Puget Sound Energy Inc. common	\$ 18,000.00

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156. 1,400 Quantum Corp. common	\$ 33,775.00
157. 1,000 Republic New York Corp. Inc. common	\$ 68,187.00
158. 400 Reynolds Metals Co. common	\$ 23,600.00
159. 600 RJR Nabisco Holdings Corp. common	\$ 18,900.00
160. 2,100.00 St. Paul Companies Inc. common	\$ 66,806.00
161. 1,000 Sears Roebuck & Co. common	\$ 44,562.00
162. 300 Temple Inland Inc. common	\$ 20,475.00
163. 1,450 Union Carbide Corp. common	\$ 70,687.00
164. 1,400 Union Pacific Corp. common	\$ 81,637.00
165. 1,300 Unicom Corp. common	\$ 50,131.00
166. 1,200 Westvaco Corp. common	\$ 34,800.00
167. 700 Willamette Industries Inc. common	\$ 32,244.00
168. Bernstein Diversified Muni. Portfolio (mutual fund)	\$ 759,432.00
169. Bernstein Advanced Value (mutual fund)	\$2,035,729.00
170. 0 Bernstein Emerging Markets Portfolio (mutual fund)	\$ 192,812.00
171. 0 Bernstein Tax-managed Internat. Portfolio (mutual fund)	\$ 926,092.00
172. 0 Fidelity Muni Money Market (mutual fund)	\$ 337,240.00
173. 0 Aetna Growth and Income (mutual fund)	\$ 106,785.00
174. 0 Schroders Equity (mutual fund)	\$ 69,384.00
TOTAL	\$21,363,922.00

TOTAL OF ALL LISTED SECURITIES \$24,148,267.00

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SCHEDULE C

UNLISTED SECURITIES HELD IN STROOCK PARTNERS (I,II,IV)

Angiosonics 1997	\$3,990.00
Divecom 1998	\$3,540.00
Fashion Mag Apparel	\$2396.00
TOTAL	\$9,926.00

SCHEDULE D

REAL ESTATE

HELD IN COMMON BY CANDIDATE AND SPOUSE

House and lot at 2906 N St. NW Washington DC. (Purchase price March 1994)	\$1,400,000.00
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HELD BY SPOUSE

House, cabin and land in Livingston, MT. (estimate)	\$ 600,000.00
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TOTAL	\$2,000,000.00
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SCHEDULE E

MORTGAGES

House and lot at 2906 N Street NW Washington, DC (Held by Citibank)	\$ 808,000.00
House, cabin and land in Livingston, MT. (Held by Willetta Reber)	\$ 32,000.00

TOTAL	\$ 840,000.00
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III. GENERAL (PUBLIC)

1. **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.**

During my years with Scott E. Greene (9/74-6/75), Eaton and Eaton (6/75-12/76) and Eaton Griffith and Mugglin (6/79-11/80) I regularly took assignments to represent indigent criminal defendants and poor juveniles.

The pro-bono activity that has taken up a great deal of my time for the last fifteen years has been my work with and service on Senator Moynihan's Judicial Screening Panel.

2. **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. To your knowledge, do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, please give particulars, including dates of membership. What have you done, if anything, to try to change these policies?**

While living in Walton, New York in the late 1970' and early 1980's I belonged to the Walton JC's and to the Lion's club. Both of these civic organizations limited their membership to males. I have never belonged to any organization that discriminates on the basis of race or religion.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

As far as I know there is no selection commission for the United States Court of International Trade.

Senator Moynihan, who I have known since 1976, recommended my name to the President. I was interviewed at the Office of White House Counsel and my candidacy was also reviewed by the Federal Bureau of Investigation and the American Bar Association.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as how you would rule on such case, issue, or, question? If so, please explain fully.**

No one involved in the judicial selection process has discussed any case or legal issue with me in a manner that could reasonably be interpreted as how I would rule on such case, issue, or question.

5. **Please discuss your view on the following criticism involving "judicial activism." The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of the other branches and levels of government.**

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-resolution;**
- b. **A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**

- c. **A tendency by the judiciary to impose broad affirmative duties upon governments and society;**
- d. **A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. **A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

A judge's duty is to resolve cases by applying the law to the facts of the cases in order to arrive at a just result. In no event should a judge endeavor to go beyond the controversies at issue in the cases themselves.

In determining if a plaintiff has a cause of action a judge must take into account standing, ripeness and mootness, and make a determination as to whether an advisory opinion is being sought or if the court is being asked to address a political question.

I worked in the United States Senate for eight years. My experiences there instilled in me the highest respect for how our laws are made. They also made me understand the wisdom of our nation's founders in giving pride of place, in the First and Second Articles of the Constitution, to the elected branches of the government. It is for those branches to determine our laws and policies. It is for the judiciary to render impartial justice and to keep in mind that it is ill equipped to try to fashion remedies beyond what justice requires in the particular case, for the particular litigants before the bar.

SENATE JUDICIARY QUESTIONNAIRE

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)
Keith Paty Ellison
2. Address: List current place of residence and office address(es).

Office:
1100 Louisiana, Suite 4600
Houston, Texas 77002

Residence:
Houston, Texas
3. Date and place of birth.

April 29, 1950
New Orleans, Louisiana
4. Marital Status (include maiden names of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Married Kathleen M. Reinbolt on June 24, 1983.
Partner - Fulbright & Jaworski, L.L.P.
1301 McKinney
Houston, Texas 77002

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Harvard University
Attended 1968 - 1972
B.A. 1972, summa cum laude

Oxford University
Oxford, England
Attended 1972-1974
B.A. 1974, First Class Honours

Yale Law School
New Haven, Connecticut
Attended 1974-1976
J.D. 1976 Editor, Yale Law Journal

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, non profit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

June 1972 - September 1972
Davis, Graham & Stubbs
Denver, Colorado
Summer Associate

June 1975 - August 1975
Covington & Burling
Washington, D.C.
Summer Associate

June 1976 - July 1976
Davis, Graham & Stubbs
Denver, Colorado
Summer Associate

July 1776 - July 1977
Chambers of Judge J. Skelly Wright
United States Court of Appeals for the District of Columbia
Law Clerk

July 1977 - July 1978
Chambers of Justice Harry A. Blackmun
United States Supreme Court
Law Clerk

September 1978 through December 1984
Associate then Partner
Conner & Winters
Tulsa, Oklahoma

January 1985 through March 1986
Partner
Mayor, Day & Caldwell
Houston, Texas

April 1986 through July, 1994
Partner
Baker & Botts, L.L.P.
Houston, Texas

August 1994 through March, 1996
Of Counsel
Caddell & Conwell
Houston, Texas

April 1996 to present
Sole Practitioner
Law Office of Keith P. Ellison
Houston, Texas

Council on Foreign Relations
Member since 1979

American-South African Scholarship Association
Director since 1989

Planned Parenthood of Houston and Southeast Texas Action Fund, Inc.
Board of Directors from 1996 - 1998

Houston Achievement Place
Advisory Member of Board of Directors since 1996

Harry A. Blackmun Scholarship Foundation
Board of Directors since 1995

Yale Law School Association
Executive Committee since 1996

Houston City Club since 1988

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

None.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Editor, Yale Law Journal;
Rhodes Scholar (Magdalen College, Oxford, 1972-1974);
First prize in the William Essay Competition in Law at Oxford, 1973;
Underhill Prize, 1973 (for academic performance in the first year of the Oxford program);
Phi Beta Kappa at Harvard;
Phillip Washburn Prize, 1972 (for the best senior thesis submitted in the Harvard History Department);
Charles Warren Research Fellowship in American History, 1971;
B.A. Oxford University, with First Class Honours in Law;
B.A. Harvard, summa cum laude.

9. Bar Association: List all bar associations, legal or judicial-related committees 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
1979 to present

State Bar of Texas
1985 to present

Houston Bar Association
1985 to present

State Bar of Oklahoma
1979 - 1991

American Bankruptcy Institute
1992 to present

Gulf Coast Legal Foundation
Board of Directors, appointed by President of Houston Bar Association
Dates: 1997 - present
Vice President since January 1, 1998

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Organizations that lobby:

Planned Parenthood

Other:

Council on Foreign Relations
Member since 1979
(non-partisan organization for discussion and analysis of foreign policy issues)

American-South African Scholarship Association
Director since 1989

Planned Parenthood of Houston and Southeast Texas Action Fund, Inc.
Board of Directors from 1996 - 1998

Houston Achievement Place
Advisory Member of Board of Directors since 1996

Harry A. Blackmun Scholarship Foundation
Board of Directors since 1995

Yale Law School Association
Executive Committee since 1996

Houston City Club since 1988

11. Court Admission: List all courts in which you have been admitted to practice, with date of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Admitted to State Bar of Oklahoma (1979), Texas (1985), and New York (1993). After 1991, I did not renew my Oklahoma bar membership.

United States District Court for the Southern District of Texas
Admitted: 1985
Active

United States District Court for Northern District of Oklahoma
Admitted: 1979
Active

United States Court of Appeals, 10th Circuit
Admitted: 1979
Active

United States Court of Appeals, 5th Circuit
Admitted: 1988
Active

United States Court of Appeals, 4th Circuit
Admitted: 1989
Active

United States District Court for Northern District of Texas
Admitted 1990
Active

United States Court of Appeals, 11th Circuit
Admitted 1992
Active

No lapses.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Prejudicial Publicity in Trials of Public Officials 85 Yale Law Journal 123 (1975)

13. Health: What is the present state of your health? List the date of your last physical examination.

As a result of an operation in 1981, I permanently lost the hearing and balance on my left side. With that exception, my health is excellent.

My last physical examination was in September 1998.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any successful candidacies for elective public office.

None.

17. Legal Career:

a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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.

Judge J. Skelly Wright
United States Court of Appeals for the District of Columbia Circuit
United States Courthouse

I graduated from Yale Law School in 1976. From July 1976 through July 1977, I served as a law clerk to Judge J. Skelly Wright of the United States Court of Appeals for the District of Columbia Circuit. Judge Wright died in 1988.

Justice Harry A. Blackmun
United States Supreme Court

From July 1977 through July 1978, I served as a law clerk to Justice Blackmun.

2. whether you practiced alone, and if so, the addresses and the dates.

April 1, 1996 to present
Sole Proprietor
Law Office of Keith P. Ellison
1100 Louisiana, Suite 4600
Houston, Texas 77002

3. the dates, names and addresses of law firms, or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

September 1978 through December 1984
Associate then Partner
Conner & Winters
2400 First National Tower
Tulsa, Oklahoma 74103

January 1985 through March 1986
Partner
Mayor, Day & Caldwell
700 Louisiana, Suite 1900
Houston, Texas 77002

April 1986 through July, 1994
Partner
Baker & Botts, L.L.P.
910 Louisiana
One Shell Plaza
Houston, Texas 77002

August 1994 through March, 1996
Of Counsel
Caddell & Conwell
1331 Lamar, Suite 710
Houston, Texas 77010

April 1996 to present
Sole Practitioner
Law Office of Keith P. Ellison
1100 Louisiana, Suite 4600
Houston, Texas 77002

- b. 1. What has been the general character of your practice, dividing it into periods with dates, if its character has changed over the years?

Throughout the 20 years I have been in private practice, I have been involved in civil litigation, primarily commercial rather than personal injury.

2. Describe your typical clients, and mention the areas, if any, in which you have specialized.

Before I began my own practice, my clients generally were large corporations and banks including Exxon, Chase Manhattan, Pennzoil, American Airlines, and Bank of America. During the 1980's, I frequently represented such clients as creditors in Chapter 11 bankruptcies. More recently, I have been representing local governments, small businesses, and individuals, in addition to large corporations such as Honeywell.

- C. 1. Did you appear in court regularly, occasionally or not at all? If the frequency of your appearances in court has varied during this period, describe each such variance, giving the dates thereof.

Regularly, throughout my practice.

2. What percentage of these appearances was in:
a. Federal courts. 90%
b. State courts of record. 10%
c. Other courts.

3. What percentage of your litigation was:
 - a. Civil. 95%
 - b. Criminal. 5%.
For the two years that I served as a judicial clerk, perhaps one-third of the cases I worked on were criminal. Since then, my only involvement with criminal law has been pro bono.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel or associate counsel.

I would estimate that I have tried ten cases to judgment as associate counsel, twenty as chief counsel and fifteen as sole counsel.

5. What percentage of these trials was:
 - a. Jury. 10%
 - b. Non-jury. 90%

18. Litigation: Describe ten of the most significant litigated matters which you personally handled. 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 judge or judges before whom the case was litigated; and
- (c) the individual name, address and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Case 1:
In re D & F Construction, Inc., Case No. 87-1903, 865 F.2d 673 (5th Cir. 1989).

1989
Chief Judge Charles Clark (Retired)
United States Court of Appeals for the Fifth Circuit

This case is now one of the most important precedents concerning the rights of a secured creditor in a "cram down" plan of reorganization. We were successful in getting the Fifth Circuit Court of Appeals to reverse the District Court and Bankruptcy Court which had each allowed the debtor to propose a plan of reorganization highly prejudicial to the FSLIC. In particular, the debtor's plan converted a short-term real estate loan from a savings and loan into a 15-year promissory note with reduced collateral. I represented the FSLIC which was the receiver for a failed savings and loan.

I was the lead attorney for the FSLIC on the appeal and made the oral argument to the Fifth Circuit Court of Appeals. As a result of our victory on appeal, the FSLIC was able to exercise its foreclosure rights and obtain a vastly greater recovery than if the debtor's plan had been consummated.

Counsel for D&F
Mr. Tim Truman
7001 Grapevine Highway, Suite 510
Fort Worth, Texas 76180
817-284-3312

Co-counsel
Michael A. McConnell
McConnell & Goodrich
Suite 220, 303 Main St.
Fort Worth, Texas 76102
817-882-0900

Case 2:
In re Texaco, Case No. 87 B 20142 (HS), United States Bankruptcy Court for the Southern District of New York. *See also* 92 B.R. 38 (S.D.N.Y. 1988).

1988
Judge Howard Schwartzberg (deceased)
United States Bankruptcy Court

The Texas bankruptcy proceeding was -- and still is -- the largest bankruptcy case in history. I was one of the attorneys representing Pennzoil Company, the largest creditor of Texaco. Pennzoil had obtained a \$10.3 billion judgment against Texaco in Texas state court. That case was subsequently appealed to the United States Supreme Court, where it settled prior to a decision. A related case filed by Texaco against Pennzoil in the United States District Court for the Southern District of Texas also was appealed to the Supreme Court, which ruled in favor of Pennzoil.

In the course of the bankruptcy proceeding, Pennzoil and Texaco agreed to settle for a payment of \$3 billion to Pennzoil. Texaco and Pennzoil then drafted, proposed, and obtained confirmation of, a joint plan of reorganization. The plan provided for full payment, with interest, of all creditors. Pennzoil's recovery was the largest of any creditor in any bankruptcy proceeding in history.

Counsel for Texaco
Mr. Harvey R. Miller
Weil, Gotshal & Manges
767 Fifth Avenue
New York, New York 10153
212 310-8000

Co-Counsel
Michael J. Crames
Kaye, Scholer, Fierman, Hays & Handler L.L.P.
425 Park Avenue
New York, New York 10022
212-836-8000

Counsel for Principal Creditors' Committee
Joel Zweibel
O'Melveny & Myers L.L.P.
153 East 53rd Street
New York, New York 10022
212-326-2000

Counsel for Industry Creditors' Committee
George Weisz
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006
212-225-2000

Case 3:

United States v. Singer Company, Case No. 89-2396, 889 F.2d 1327 (4th Cir. 1989).

1989

Judge Francis D. Murnaghan, Jr.

United States Court of Appeals for the Fourth Circuit

I was lead counsel for the intervenor, Mesa Holding Limited Partnership. The appeal concerned the correctness of a broad preliminary injunction entered against Singer Company, which owed my client more than \$70 million.

Mesa had been one of the participants in a leveraged buyout of Singer. Unbeknownst to any of the participants in the buyout, the United States had an undisclosed claim against Singer for alleged overbilling on government contracts. The federal government sought to enjoin Singer from making any repayments of its long-term debt until the federal government's claim was liquidated.

The Court of Appeals affirmed the District Court's entry of the preliminary injunction. As a consequence, Singer Company filed bankruptcy. Pursuant to the plan of reorganization, my client received more than \$70 million.

Counsel for United States
Michael B. Suessman
Civil Division
Commercial Litigation Branch
500 11th Street, N.W.
Washington, D.C. 20036
202-514-2001

Co-Counsel
William A. McDaniel
McDaniel & Marsh
118 West Mulberry Street
Baltimore, Maryland 21201
410-685-3810

Counsel for Singer
Morton H. Maneker
Proskauer Rose Goetz & Mendelsohn L.L.P.
1585 Broadway
New York, NY 10036
212-969-3000

Attorney for CAE-Link
Carole L. Fern
Berlack, Israels & Liberman L.L.P.
120 West 45th Street
New York, New York 10036
212-704-0100

Case 4:
Marina Bay Drive Corp. v. FIMSA, Inc., Case No. H90-3072, 123 B.R. 222 (S.D. Tex. 1990).

1990
Judge Lynn N. Hughes
United States District Court Judge

This was the first case in the Southern District of Texas to consider whether a bankruptcy court could, consistent with the Sixth Amendment, conduct a jury trial. Judge Hughes held, as our brief urged, that the bankruptcy court could not conduct a jury trial. This is now the authoritative decision in the Southern District on this important point.

I was counsel for appellant, First Interstate Bank of Texas, which appealed the decision of the bankruptcy court to the district court. We were successful on our appeal. The case later settled on terms very favorable for our client.

Counsel for Marina Bay
Mr. Leonard H. Simon
Boyar, Simon & Miller
4265 San Felipe
Houston, Texas 77027
713-850-7766

Co-Counsel
Lawrence B. Schreve
Andrews & Kurth
600 Travis, Suite 4200
Houston, Texas 77002
713-220-4200

Case 5:
American Trading Transportation Co., Inc. v. Hansen & Tidemann, Inc. and Texas Commerce Bank, N.A., No. 84-59425-A, in the 151st Judicial District Court of Harris County Texas

Chief Justice Alice Oliver Trevathan
First District Court of Appeals

The case involved difficult issues of international law and conflicting priorities in a debtor's bank accounts. American Trading had garnished the bank account of Hansen & Tideman which was held by my client, Texas Commerce Bank. Hansen & Tideman also owed Texas Commerce Bank substantial monies. The foremost issue was whether the bank's setoff rights or American Trading's garnishment rights would prevail.

I was counsel for Texas Commerce Bank. Texas Commerce Bank prevailed on various points of law in motions for summary judgment and ultimately obtained a favorable settlement.

Counsel for Hansen & Tideman
Mr. John M. Elsley
Royston, Razor, Vickery, & Williams
2200 Texas Commerce Tower
Houston, Texas 77002
713-224-8380

Counsel for American Trading Transportation
Daniel J. Goldberg
Ross, Banks, May, Cron & Cavin, P.C.
2 Riverway, Suite 700
Houston, Texas 77056
713-626-1200

Case 6:
Vera v. Bush, Case No.H-94-0277, in the United States District Court for the Southern District of Texas, Houston Division.

1996-1997
Judge Edith Jones
Judge David Hittner
Judge Melinda Harmon

This case was the remand of the United States Supreme Court decision declaring unconstitutional three of Texas' congressional districts. Ultimately, the three-judge district court reconfigured the different congressional districts, vacated the results of primary elections that had previously been held, and ordered new primaries.

I represented Congress members Ken Bentsen, Gene Green, and Sheila Jackson Lee, and Nick Lampson in seeking to intervene in a congressional redistricting case and in filing *amici* briefs. On behalf of my clients, my primary argument was that, because the general election was only four months away and the primaries had already been held, the redrawing of the districts should be postponed until after the November 1996 elections.

Counsel for Plaintiffs
Ted Hirtz
808 Travis
Suite 2300
Houston, Texas 77002
713-228-5570

Counsel for other Texas Congress Members
J. Gerald Hebert
800 Parkway Terrace
Alexandria, Virginia 22302
703-684-3585

Counsel for Texas Attorney General
Deborah Verbil
Office of Texas Attorney General
209 W. 14th & Colorado St.
Austin, Texas 78711
512-463-2191

Counsel for Intervenors
Charles L. Drayden
Drayden & Wychie, L.L.P.
6750 West Loop South, suite 1060
Houston, Texas 77277
713-960-0010

Case 7:
Armstrong v. Maple Leaf Apartments, Ltd., No. 80-210, 449 U.S. 901 (1980), in the
United States Supreme Court

1980
United States Supreme Court

This case raised intricate issues of Indian tribal law as it impinged on real estate conveyances from tribal members to those who were not members of the tribe.

An old and untested federal statute required court approval before members of a certain Indian tribe could convey away tribal property rights. The plaintiff had sold her property to a developer who proceeded to build a shopping center. The plaintiff then asserted that the real estate and all the improvements belonged to her because her conveyance had been invalid.

I was the primary draftsman of our brief in the United States Supreme Court opposing the grant of certiorari. Certiorari was denied.

Co-Counsel
James R. Ryan
Conner & Winters
151 Fifth Street
Tulsa, Oklahoma 74103
918-586-5711

Co-counsel

Royce Savage (Deceased)

Counsel for Armstrong
C. Rabon Martin
Martin & Associates
Martindale Penthouse
403 South Cheyenne Avenue
Tulsa, Oklahoma 74103
918-587-9000

Case 8:

In the Matter of Clara Orlanda Veliz-Aguirre, A72-407-004, in the United States
Immigration Court, Houston, Texas

Filed 1993; decided 1997

Judge Suarez
Immigration Court
Houston, Texas

The petitioner, a Guatemalan woman, sought asylum in this country because she and her family faced persecution in Guatemala on account of their political beliefs. She had joined the Reform Party and was active in recruiting party members and candidates. Threats were made against her, her husband, and their children. The husband's brother was shot and critically wounded by political opponents. The husband went into hiding, and then both fled to the United States.

I was counsel for the petitioner, and represented her and her husband pro bono. Ms. Veliz-Aguirre was granted political asylum.

Counsel for United States Immigration Service
John Donovan
Immigration and Naturalization Service
509 N. Sam Houston Parkway East
Houston, Texas 77060
713 847 7953

Case 9:

Lampson v. Garza, No. 96-11069, in the 126th Judicial District Court of Travis County, Texas

1996

Judge Williams
Travis County District Court
Austin, Texas

This suit was brought on an expedited basis to challenge a congressional candidate seeking to use a bogus nickname on the ballot. The seat in question had been held for more than three decades by Congressman Jack Brooks. A candidate who lived more than 500 miles outside the district sought to run for the seat using the name "Jack Brooks" on the ballot -- even though no one had ever heard him called that.

I was the sole counsel for the plaintiff, who is now a United States Congressman. After trial and obtaining the relief we sought, the other candidate withdrew from the race. The litigation was then dismissed with prejudice.

Counsel for "Jack Brooks"
Paul C. Velte IV
1300 Guadalupe, Suite 202
Austin, Texas 78701
512-476-2299

Case 10:

Beverley Clark v. Ken Bentsen, Jr. and Dolly Madison McKenna, No. 96-58515, in the 129th Judicial District Court for Harris County, Texas

1996

Judge Clawson
Harris County District Court
Houston, Texas

Plaintiff, an unsuccessful candidate for the runoff in Texas' 25th Congressional district, sought to be allowed to participate in the runoff or, alternatively, to have the primary election negated and re-run. On the grounds that an unusual ballot format had led to almost 20% of all ballots having been invalidated, plaintiff contended that invalidation of these ballots had a disproportionate impact on her.

I was sole counsel for Congressman Ken Bentsen, who prevailed after a well-publicized trial.

Counsel for Beverly Clark
Kenneth R. Wynne
Mark Maney
2730 Texas Commerce Tower
Houston, Texas 77002
713-227-8835

Counsel for Dolly Madison McKenna
Frederick D. Junkin
Mayor, Day, Caldwell & Keeton, L.L.P.
1900 Nationsbank Center
700 Louisiana
Houston, Texas 77002
713-225-7000

19. Legal Activities: Describe the most significant legal activities you have pursued, including significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

I have been involved in a broad range of legal issues as a Director and now Vice President of the Gulf Coast Legal Foundation, which strives to make available legal services to the needy. In addition, at any given time, I have at least two -- and generally more -- pro bono clients from whom I receive no compensation.

As a member of the Council on Foreign Relations for almost two decades, I have been a student of international legal issues, both public and private.

Recently, I have represented various municipal utility districts who were concerned over the prospect of being annexed by Houston or Galveston. This work, although it did not involve litigation, was contentious and did provide extensive exposure to issues of local governmental relations. In 1996, I represented Galveston Municipal Utility District No. 1 in drafting and consummating Texas' first Strategic Partnership Agreement between a municipality and a utility district.

I also served on the Harris County Bench Book Committee, where I worked closely with various judges.

During the 1980's, I was successful in resolving several major financial crises on behalf of different corporate clients without resorting to bankruptcy. This resulted in a greater return to creditors, and great savings to the debtor.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

As part of a fee for legal services, I did get stock options in a privately held computer hardware company called Metalithic Systems, Inc. I seriously doubt whether the options will ever be of any value.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

Having clerked for two different federal judges, I believe I am quite sensitive to conflicts of interest issues. I would propose to have lists -- known to the court clerk, other judges, and my own staff -- of the a) lawyers, the b) business entities, and the c) issues whose involvement in a case would require my recusal. When in doubt, I would seek advice from the chief judge, and would disclose the pertinent facts to the parties and their counsel to see if they perceive a conflict in my serving on a case.

3. 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

4. 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, patents, honoraria, and other items exceeding \$500 or more (If you prefer to do so, copies of financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here.)

See attached

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

See attached

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have never held a title or office in any political campaign. I have actively supported many candidates.

40-10
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR ~~1997~~ 1998

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Ellison, Keith P.	2. Court or Organization United States District Court for the Southern District of Texas	3. Date of Report 1/4/99
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nominee - United States District Court Judge	5. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination, Date _____ <input checked="" type="checkbox"/> Initial _____ Annual _____ Final _____	6. Reporting Period 1/1/98 - 12/31/98
7. Chambers or Office Address 1100 Louisiana Suite 4600 Houston, Texas 77002	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Director	American South African Scholarship Assoc.
2 Director Vice President	Harry A. Blackmun Scholar. Foundation Gulf Coast Legal Foundation
3 Advisory Director Secretary	Houston Achievement Place Assoc. Rhodes Scholarship Selection Committee District VII

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1 1987	Two retirement plans with former law firm, Baker & Botts, L.L.P. Both plans are administered by Fidelity Investments and the firm has no control over my investments or earnings.
2 1997	All monies are invested in a Fidelity Mutual Fund. Fixed contingency fee agreements with regard to the cases on attached page.

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
1 1997	(Self-employed)	\$263,903.58
2 1998	(Self-employed)	\$1,001,120.31
3 1998	Partnership interest of spouse in the law firm of Fulbright & Jaworski, L.L.P. (S)	\$
4		\$
5		\$

II AGREEMENTS (cont.)

Brown, et al. v. Coopers & Lybrand, pending in the 165th Judicial District Court,
Harris County Texas

Solv-Ex Corporation et al. v. Deutsche Bank AG, et al., pending in the Second
Judicial District Court, County of Bernalillo, State of New Mexico

Kalil, et al. v. General Motors, et al., pending in the 142nd Judicial District Court,
Midland County, Texas

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting Keith P. Ellison	Date of Report 1/4/99
---	---------------------------------

IV. REIMBURSEMENTS — transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 23-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2	Exempt	
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2	Exempt		\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1			
2	Baker & Botts L.L.P.	Loan	K
3	Savings Plan for Partners		
4	NationsBank	Loan	K
5			
6			

*Value Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000
 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Keith P. Ellison	1/4/99

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets (including trust assets) <i>Indicate, where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(A)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amt. Code1 (A-H)	(2) Type (e.g., div., rent or int.)	(1) Value Code2 (J-P)	(2) Value Method Code3 (Q-W)	(1) Type (e.g., buy, sell, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code2 (J-P)	(4) Gain Code1 (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										EXEMPT
1 West Harris Cnty Tex MUD No. 9 Bond	B	int	K	T						
2 Auraria Higher Ed. bond	A	int	J	T						
3 Ricewood MUD Bond	B	int	K	T						
4 Central TX ISD Bond	A	int	J	T						
5 Sam Rayburn TX Pwr Agy Bond	B	int	K	T						
6 Chic. Ill Ohare Int'l Bond	B	int	K	T						
7 Waterbury Conn. HSG Corp Bond	B	int	K	T						
8 Boterlove Ltd. Part.	B	div	K	R						
9 Wells Fargo Hou. (J)	A	int	K	T						
10 NationsBank Hou. (J)	A	int	J	T						
11 Fidelity Investments Savings Plan	A	div	P1	T						
12 Paine Webber SEP/IRA	A	div	L	T						
13 Morgan Stanley Dean Witter IRA	A	div	L	T						
14										
15										
16										
17										
18										

1 Income/Gain Codes: A=\$1,000 or less (See Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,000,001-\$25,000,000 J=More than \$25,000,000

2 Value Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=More than \$50,000,000

3 Value Method Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market U=Book value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Keith P. Ellison	1/4/99

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

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 was 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. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature _____ Date _____

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)

FILING INSTRUCTIONS:	
Mail signed original and 3 additional copies to:	Committee on Financial Disclosure Administrative Office of the United States Courts Suite 2-301 One Columbus Circle, N.E. Washington, D.C. 20544

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**FINANCIAL STATEMENT
NET WORTH**

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trust, 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	70,000			Notes payable to banks - secured	16,458		
U.S. Government securities- add schedule	None			Notes payable to banks- unsecured	None		
Listed securities-add schedule	134,470			Notes payable to relatives	None		
Unlisted securities-add schedule	None			Notes payable to my retirement plan	22,587		
Accounts and notes receivable:	None			Accounts and bills due	None		
Due from relatives and friends	None			Unpaid income tax	None		
Due from Others	None			Other unpaid tax and interest	None		
Doubtful	None			Real estate mortgages payable -add schedule	992,994		
Real estate owned-add schedule	2,290,000			Chattel Mortgages and other liens payable	None		
Real estate mortgages receivable	None			Other debts-itemize:	None		
Autos	20,000						
Other personal property	-						
Art and 18th century furniture and books	850,000						
Cash value-life insurance							
Other assets-itemize:	0						
Retirement Accounts	1,255,276			Total Liabilities:	1,032,039		
	0			Net worth:	3,587,707		
Total Assets:	4,619,746			Total liabilities and net worth:	4,619,746		
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor	No			ARE ANY ASSETS PLEDGED? (ADD SCHEDULE.)	Not other than home- stead		

On leases or contracts	None			ARE YOU DEFENDANT IN ANY SUITS OR LEGAL ACTIONS?	No		
Legal Claims	None			HAVE YOU EVER TAKEN BANKRUPTCY?	No		
Provision for Federal Income Tax	None						
Other special debt	None						

99000404.L05

SCHEDULE - INVESTMENTS

BONDS	QUANTITY	PRICE PER UNIT	TOTAL VALUE (AS OF 11/30/98)
WEST HARRIS CNTY TEX MUN UTIL DIST NO. 9	20,000	110.427	22,085.40
AURARIA HIGHER ED CTR COLO REVS	10,000	105.605	10,560.50
RICEWOOD MUN UTIL DIST TEX	15,000	109.230	16,384.50
CENTRAL TEX IDS PUB FAC CORP	10,000	108.907	10,890.70
SAM RAYBURN TEX MUN PWR AGY PWR SUPPLY	20,000	101.243	20,248.60
CHICAGO ILL OHARE INTL ARPT SPL FAC REV	25,000	108.325	27,081.25
WATERBURY CONN NONPR OFIT HSG CORP MTG	25,000	105.392	26,348.00
CORE ACCOUNT FIDELITY MUNICIPAL MONEY MARKET FUND (FTEXX)	859.84	1.000	859.84
TOTAL MARKET VALUE			134,469.79

99000404.L05

SCHEDULE - LIABILITIES

NationsBank NationsBank Bldg. 700 Louisiana Houston, Texas 77002	Mortgage Maturity Dec. 2008 Maturity Dec. 2008 Total	\$954,271.43 \$ 38,662.49	\$992,933.92
Baker & Botts, L.L.P. Savings Plan for Partners 910 Louisiana One Shell Plaza Houston, Texas 77002	Due in 2014 Total	\$22,587.38	\$22,587.38
NationsBank of Texas 700 Louisiana, NationsBank Bldg. Houston, Texas 77002			\$16,458.00

99000404.L05

1077

SCHEDULE - REAL ESTATE

1. Homestead
Houston, Texas

Investment: Approx. \$2,250,000
Present value: Approx. \$2,250,000

2. Limited partnership interest
Limited partner in Boterlove, a limited
partnership of former and current partners
in Law Firm of
Baker & Botts, L.L.P.
which owns a fraction of the equity in
One Shell Plaza, 910 Louisiana
Houston, Texas 77002

Acquired first interest: 1987
Total investment: Approx. \$16,458
Present value: Approx. \$40,000

3. Joint tenancy with right of survivorship in mineral interests in
Lynn County, Texas
Property Description attached
Acquired: These mineral interests have been in my family for perhaps 35 years.
Investment:
Present value: Unknown, but likely of negligible value until and unless
minerals are actually found on the property. Less than \$5,000

III. GENERAL (PUBLIC)

1. 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.
 - a. I am a volunteer lawyer in the Houston Refugee Pro Bono Project of YMCA's International Services. I would estimate that I have spent more than 1000 hours on this project in the last four years, and the work is continuing. I have also served as a lecturer in training sessions for new volunteers.
 - b. Since 1991, I have been a member of the Board of Directors of the American-South African Scholarship Association. This is a group of former Rhodes Scholars who select and finance deserving black and mixed-race South Africans in pursuit of degrees in higher education. This has involved hundreds of hours of my time. I am also the second largest financial contributor to the organization.
 - c. I am a founding Board member of the Harry A. Blackmun Scholarship Foundation, as well as its largest contributor. The Foundation offers financial support to law students who show promise of a significant contribution to the betterment of the profession and of society. This involves approximately 40 hours per year.
 - d. Since I first obtained my law license, I have represented many individuals who came to me, not through any formal pro bono or indigent services program, but by accident or happenstance. Currently, I am representing a former professional football player trying to recover from serious addiction problems, a hair stylist who is trying to collect child support payments from her ex-husband, and former asylum clients who are seeking their green cards. This work involves hundreds of hours every year.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies?

No

If so, list, with dates of membership. What you have done to try to change these policies?

Not applicable.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

The selection committee for this seat consisted of five Democratic members of Congress from this District: Solomon Ortiz, Reuben Hinojosa, Gene Green, Ken Bentsen and Sheila Jackson Lee. There was no formal interview process. Initially, the Committee sent four names to the White House and I was the top vote-getter among the four. Subsequently, the White House asked that the list be narrowed. Ruben Guerrero was the choice and I was named as the alternate. In December 1997, Mr. Guerrero and I were each interviewed by a group of lawyers selected by Senator Gramm and Senator Hutchison.

Also in 1997, I came to Washington and was interviewed by attorneys in the Department of Justice and in the office of the White House Counsel. In 1998, I went through the interview and evaluation process that the American Bar Association and the FBI customarily conduct with respect to potential nominees for the federal judiciary.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

In the 20 years that I have been appearing before judges, I have often observed an inverse correlation between a judge's willingness to expand his own authority and his success in intelligently wielding that authority. When judges go beyond deciding a case to championing a cause both the case and the cause tend to suffer.

I certainly agree with those who believe that a judge's duty is to decide particular cases and not to craft legislation. The training of a judge, and the resources available to him, leave him ill-prepared to undertake the work that should precede policy making.

I also believe that, as to the overwhelming majority of legal issues that come before federal district courts, there is a correct answer. To the extent a judge chooses not to ascertain, or to follow, the law, the individual litigants are, obviously, done a disservice. Further, by not applying the law, a judge introduces an element of unpredictability that breeds more litigation: nothing is considered to be finally resolved and litigants can always hope that, even if the law is against them, they can persuade a judge not to follow it. Lawyers and litigants cannot plan or negotiate intelligently, settlements become less likely, and more cases need to be tried.

The importance of following precedent has been particularly obvious to me with regard to issues of standing and ripeness. Until disputes have matured into a "case or controversy," judicial involvement is necessarily more legislative than adjudicative.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. **Full name (include any former names used.)**

Gary Allen Feess

2. **Address: List current place of residence and office address(es).**

Office

Los Angeles Superior Court
Department M
400 Civic Center Plaza
Pomona, California 91766

Home

South Pasadena, California

3. **Date and place of birth.**

March 13, 1948
Alliance, Ohio

4. **Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address.**

Deborah Kranze Feess
Deputy District Attorney
Los Angeles County District Attorney's Office
211 West Temple Street
Los Angeles, CA 90012

5. **Education:** List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

<u>Colleges/Law Schools Attended</u>	<u>From</u>	<u>To</u>	<u>Degree and Date</u>
Ohio State University	9/66	6/67	None
	4/68	6/70	BA cum laude; 6/70
UCSD	9/67	3/68	None
UC Berkeley Graduate School	9/70	12/70	None
UCLA Law School	9/71	6/74	JD; 6/74

6. **Employment Record:** List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

<u>Employer</u>	<u>Position</u>	<u>City</u>	<u>From</u>	<u>To</u>
McKenna & Fitting	Litigation Associate	Los Angeles	6/74	12/75
Jones Day Reavis & Pogue	Litigation Associate	Los Angeles	1/76	10/79
United States Attorney's Office, Central District of California	Assistant US Attorney	Los Angeles	10/79	2/87
Jones Day Reavis & Pogue	Litigation Partner	Los Angeles	3/87	2/88

United States Attorney's Office, Central District of California	Chief Assistant	Los Angeles	2/88	5/89
	Interim US Attorney	Los Angeles	6/89	12/89
Jones Day Reavis & Pogue	Litigation Partner; Head of Litigation Group	Los Angeles	12/89	4/92
Quinn Emanuel Urquhart & Oliver	Partner	Los Angeles	5/92	12/96
Los Angeles Superior Court	Judge	Los Angeles	12/96	Present

7. **Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.**

No.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

Ohio State University Honors Program and Individualized Plan of Study (1966-1970)

Ohio State University, Phi Beta Kappa (1969)

Ohio State University Senior Honors Fellowship (1970)

Ohio State University B.A. Awarded Cum Laude and With Distinction in History (1970)

University Graduate Fellowship in History, University of California, Berkeley (1970)

Member UCLA Law Review (1972-73)

Member UCLA Law Review Board of Editors (1973-74)

UCLA Law School, Order of the Coif (1974)

The Committee may also be interested in the following information:

I was promoted to various supervisory positions within the United States Attorney's Office including: Assistant Division Chief, Major Crimes Section (1983); Chief, Major Frauds Section (1984); First Assistant Division Chief, Criminal Division (1985); Chief Assistant United States Attorney (1988); Interim United States Attorney (Court Appointed 1989).

I was appointed to the faculty of the Attorney General's Advocacy Institute on at least two occasions (1983-1984).

I taught trial advocacy as Adjunct Professor at Southwestern University School of Law in 1982 and 1983.

I received numerous letters of commendation from federal agencies in recognition of work performed on various cases and projects while working in the United States Attorney's Office.

I was appointed Head of Litigation for Jones, Day, Reavis & Pogue, Los Angeles, California Office (1990-1992).

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

While in private practice, I was a member of the following associations:

American Bar Association -- Member; held no offices

Member, White Collar Crime Committee

West Coast Regional White Collar Crime Committee

Federal Bar Association -- Member; held no offices

Los Angeles County Bar Association -- Member; held no offices

Member Judicial Evaluation Committee (1991-1993)

Member, White Collar Crime Committee

As a member of the United States Attorneys Office, I held positions in the following internal groups within the Department of Justice:

Attorney General's Organized Crime and Drug Enforcement Task Force (1989)

Attorney General's Economic Crime Council (1984 - 1989)

Los Angeles County wide Coordinating Crime Committee (1988-89)

In addition, since I left the United States Attorneys Office, I have been a member of the Association of Former Assistant United States Attorneys (1990-Present).

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

(1) To my knowledge, I am not a member of any organization that is active in lobbying before public bodies.

(2) I am a member of the following organizations:

Marengo School Chapter of the California Parent Teacher's Association (1994 to present)

UCLA Law School Alumni Association (Approximately 1988 to present)

Friends of South Pasadena Library (1994 to present)

Friends of Eddy Park (1996 to present)

United States Golf Association (1995 to present)

Pasadena Athletic Club (1988 to present) (Copy of by-laws attached.)

San Gabriel Country Club (1996 to present) (Copy of by-laws attached.)

11. **Court Admission:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships elapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

State Bar of the State of California -- December 20, 1974; State Bar No. 61093 (on inactive status since appointed to the Superior Court in December 1996)

United States District Court, Central District of California -- December 20 1974

United States Court of Appeal for the Ninth Circuit -- June 1980 (Approx.)

United States District Court, Southern District of California -- June 1987 (Approx.)

United States District Court, Eastern District of California -- June 1987 (Approx.)

United States District Court, Northern District of California -- June 1987 (Approx.)

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

The only article I have ever published was my law review comment: The Tidelands Trust: Economic Currents In A Traditional Legal Doctrine, 21 UCLA L.Rev. 826 (1974).

While I gave press conferences as the acting United States Attorney announcing events that were occurring in court (e.g., a new indictment or a conviction in a noteworthy case), I do not believe I have ever made a speech on anything relating to constitutional law or legal policy.

13. **Health:** What is the present state of your health? List the date of your last physical examination.

Excellent. April 15, 1998.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Judge, Los Angeles Superior Court -- December 1996 to the present.

I was appointed by Governor Pete Wilson; I was re-elected in June 1998 in an uncontested election to a six year term.

The Superior Court is the state trial court of general jurisdiction.

15. **Citations:** If you are or have been a judge, provide: (1) Citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

1. As a trial judge, I rarely write what most attorneys would consider "opinions." However, I have written a number of rulings and orders in the following cases, copies of which are attached:

- (1) Morgan v. Morgan, KD 027476 (Statement of Decision after dissolution trial)
- (2) People v. Sunderjit Marwaha, KA 037640 (Ruling following hearing on demand for restitution)
- (3) Kroeller v. Courtney-Vlaminick et al., KC 017790 (Ruling on Motion for JNOV and for new trial following jury verdict in favor of defendant)
- (4) People v. Rodriguez, KA 036343 (Ruling on motion for mistrial; Ruling on motion re: psychiatric defense)
- (5) People v. Ramon Gamboa et al., BA 109549 (Rulings on Penal Code Section 995 motions)
- (6) People v. Deong In Seok, KA 039331 (Ruling on pre-trial motions)
- (7) People v. Boykin, et al., KA 037345 (Ruling on suppression motion)
- (8) Arthur Chavez v. State of California, HC No. (none assigned); [People v. Chavez, A 538927] (Ruling denying petition for writ of habeas corpus)
- (9) People v. Raymond Bonaventura, HC No. (none assigned); [People v. Bonaventura, KA 016930; KA 035192] (Ruling denying petition for writ of habeas corpus)
- (10) Manuel Montalvo v. Sue Hubbard, Warden, HC No. (none assigned); [People v. Montalvo, KA 016539] (Ruling requiring further response to petition for writ of habeas corpus)

2. I have never had a judgment of conviction reversed. However, I have been reversed in the following two cases on technical sentencing issues.

(1) In a 2 to 1 decision by the Second District Court of Appeal in People v. Jimmy Dale Lawrence, 98 Daily Journal D.A.R. 3274 (Second Dist. Court of Appeal, April 2, 1998) (copy attached), I was reversed on an issue regarding my sentencing discretion to impose a concurrent sentence. In that case, the defendant was charged with having committed a theft at a market, and with having assaulted a third party with a deadly weapon about fifteen minutes after the theft had occurred. The defendant was charged under the Three Strikes Law (Penal Code Sections 667(b)-(1) and 1170.12(a)-(d)) and was convicted on all counts after a jury trial. I interpreted the statute to require consecutive sentences and imposed a sentence of 66 years to life. Two judges on the Court of Appeal acknowledged that there was case authority for my decision, but concluded that the cases on which I relied had been wrongly decided. Accordingly, the majority held that I had discretion to run the sentences concurrently and remanded for re-sentencing. The dissenting judge would have affirmed the judgment.

The Attorney General sought review of the decision in the California Supreme Court. The Supreme Court vacated the Court of Appeal decision and remanded the case to the Court of Appeal to reconsider its opinion in light of an intervening Supreme Court decision.

The Court of Appeal has reconsidered the case and has concluded that its initial opinion was correct, again on a 2 to 1 vote with the dissenting judge voting to affirm the judgment. (Copy attached.) I have been advised that the Attorney General has again petitioned to have the case reviewed by the California Supreme Court, contending that I correctly interpreted the Three Strikes Law.

(2) In People v. Albert Vieyra, KA 031387, I was affirmed in large part but reversed on two very technical sentencing issues. In that case, Defendant Vieyra was convicted of the following charges: Count One -- second degree murder; Count Three -- first degree residential burglary (entry into the house); Count Four -- residential robbery; Count Five -- first degree residential burglary (entry into a separate living quarters in the house); Count Six -- grand theft of an automobile. Defendant was also found to have one "strike" prior which requires a mandatory doubling of any determinate sentence and the determinate portion of an indeterminate sentence. I sentenced the defendant to an indeterminate sentence of 30 years to life plus a consecutive determinate sentence of 22 years, which was imposed as follows:

Count One: 30 years to life (doubling the normal 15 year determinate portion of the term);

Count Three: Imposition of sentence was stayed under California Penal Code Section 654;

Count Four: 12 years (high term doubled) on the residential robbery consecutive to the sentence imposed on Count One;

Count Five: 32 months (1/3 mid-term doubled), consecutive to the sentence imposed on Counts One and Three;

Count Six: 16 months (1/3 mid-term doubled), consecutive to the sentence imposed on Counts One, Four and Five.

Five years consecutive under Penal Code Section 667(a)(1) -- enhancement for prior violent felony conviction

One year consecutive under Penal Code Section 667.5(b) -- enhancement for state prison commitment imposed within five years of release from state prison in a prior case.

The appellate court held that the sentence on Count Five should have been stayed under Penal Code Section 654, which precludes multiple punishment for conduct that is part of the same set of operative facts and which does not have an independent criminal objective. Furthermore, the court concluded that, even though the auto theft involved the taking of the victim's car for the purpose of making a getaway from the crime scene, the theft was part and parcel of the robbery and therefore should have been dismissed. A copy of the opinion is attached.

3. I have issued rulings in the following two cases which presented what may be viewed as significant constitutional issues.

(1) People v. Yuchen Huang, et al., KA 037988 -- This case involved a due process issue regarding the right of an alleged innocent owner to contest forfeiture of equipment used in the manufacture of counterfeit trademarked apparel items. A copy of the ruling is attached.

(2) People v. Banuelos, KA 041288 -- This case presented the question of whether a juvenile conviction could constitute a "strike" under the California "Three Strikes" law when conviction of the same offense as an adult would not constitute a "strike" prior. A copy of the ruling is attached.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. **Legal Career:**

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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;
2. whether you practiced alone, and if so, the addresses and dates;
3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each.

I never worked as a law clerk and never practiced law alone. The following are the legal positions I held prior to becoming a Superior Court Judge:

- 1974-75: Litigation Associate with McKenna & Fitting, 3435 Wilshire Boulevard, 28th Floor, Los Angeles, CA (no longer in existence). Worked with a variety of litigation partners as "second chair" on a variety of cases mostly involving litigation against financial institutions.
- 1976-79: Litigation Associate with Jones Day Reavis & Pogue, 555 West 5th Street, Suite 4600, Los Angeles, CA 90013. Worked principally with litigation partner Gerald W. Palmer on a variety of business litigation matters including criminal antitrust grand jury proceedings against corporate clients.
- 1979-87: Assistant United States Attorney, United States Attorney's Office, 312 North Spring Street, 12th Floor, Los Angeles, CA 90012. Worked as prosecutor handling federal criminal cases in a variety of units including major crimes, major narcotics and special prosecutions. I was moved into supervisory positions of increasing responsibility during this period. (See Question 8 above.)

- 1987-88: Litigation Partner, Jones Day Reavis & Pogue, 555 West 5th Street, Suite 4600, Los Angeles, CA 90013. Handled principally civil litigation in federal court.

- 1988-89: Chief Assistant United States Attorney, United States Attorney's Office, 312 North Spring Street, 12th Floor, Los Angeles, CA 90012. (2/88-5/89)

- Interim United States Attorney, Central District of California (5/89-12/89)

- 1990-92: Litigation Partner, Jones Day Reavis & Pogue, 555 West 5th Street, Suite 4600, Los Angeles, CA 90013.

- Head of Los Angeles Litigation Group (9/90-5/92)

- 1992-96: Litigation Partner, Quinn Emanuel Urquhart & Oliver, 865 South Figueroa Street, 10th Floor, Los Angeles, CA 90017.

b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

- 1974-79: During this period I worked primarily in civil litigation in a subordinate capacity as a litigation associate working under the supervision of a litigation partner.

- In 1974 and 1975, I worked primarily on cases brought against financial institutions, mostly savings and loan associations chartered under either California or federal law.

- From 1976 through 1979, I worked for a broader variety of corporations and individual businessmen in litigation matters in state and federal court. Most of the cases involved defending corporate clients in cases brought in federal district court.

- 1979-87: During this period I was engaged exclusively in the prosecution of criminal cases in United States District Court.

- 1987-88: During this period, I worked as a litigation partner handling primarily corporate defendants in civil cases filed in federal district court within California. As a partner, I was the lead lawyer on these cases.
- 1988-89: I returned to the U.S. Attorney's Office as Chief Assistant United States Attorney, and later served as the interim United States Attorney. Although I was engaged principally in management of the office during this period, I tried two criminal cases to jury verdict.
- 1989-96: After leaving the U.S. Attorney's Office, I returned to private practice as a litigation partner first at Jones Day and then at Quinn Emanuel. I was lead lawyer on a variety of civil and criminal cases during this period.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

1974-1979

During this period, I worked in a subordinate capacity on a variety of civil litigation matters including real estate disputes, bank and savings and loan regulation, trade regulation cases, and a number of cases involving entertainment law issues, including the trial of a dispute between the co-creators of the "Barney Miller" television series. The only criminal case in which I was involved during this period involved assisting in the defense of a criminal antitrust case investigated by the United States Department of Justice.

1979-1989

From 1979 to 1989, with the exception of one year in private practice, I worked in the United States Attorney's Office for the Central District of California. Initially I was an Assistant United States Attorney in the Criminal Division of that office, then the Chief Assistant United States Attorney, and finally the Interim United States Attorney. During the period from 1979 to 1987, I was almost exclusively involved in prosecuting criminal cases, with an emphasis on white collar crime. That continued while I was the Chief Assistant in 1988 and in early 1989. During those years I was in federal court at least two or three times a week, even when not in trial. During the period that I served as the Interim U.S. Attorney, I spent much less time in court because I was engaged full time in the

management of the office.

1990-1996

When I was practicing prior to my appointment to the Los Angeles Superior Court, I was engaged exclusively in a litigation practice in which I represented a variety of clients in both civil and criminal matters. The matters I handled included cases filed in the state and federal courts, civil and criminal investigations conducted by state and federal agencies and grand juries, and pre-litigation counseling.

During this period, I spent a high percentage of my time representing corporate defendants in civil False Claims Act cases and related federal criminal proceedings. I represented businesses and their officers and employees in health care related litigation, intellectual property matters including trade mark and trade secret litigation, malicious prosecution actions, real estate disputes, disputes over family business matters, environmental litigation, insurance coverage disputes, and a variety of contract-related disputes.

During this period, I was also involved in representing both corporations and individuals in criminal proceedings brought by the United States Department of Justice. My corporate clients included Hughes Aircraft Company, whom I represented on an appeal from a criminal conviction in District Court, General Motors Corporation whom I defended in a state environmental prosecution brought by the Los Angeles City Attorney's Office, and Parsons Engineering and its subsidiaries whom I represented in a series of federal investigations involving billing and cost accounting issues. My individual clients included a hospital president who was a potential subject in a health care fraud investigation, a computer software engineer accused of illegally exporting software to Japan and South Africa, and an individual who was prosecuted by the federal government for violations of the Endangered Species Act and related statutes. I also represented a number of individuals, small companies, and corporations in environmental criminal cases brought in the state courts in Los Angeles, Orange, San Bernardino, Riverside, Ventura, and Amador Counties.

Areas of Expertise and Specialization

I have had significant experience and expertise in many substantive areas of criminal law and criminal procedure, including the Federal Rules of Criminal Procedure, particularly in the area of white collar crime. I personally investigated and prosecuted numerous white collar crime cases,

and later supervised other lawyers working in that area. In my years in private practice, both before and after my service as an Assistant United States Attorney, I developed a thorough working knowledge of the Federal Rules of Civil Procedure and the Local Rules of the Central District. I also developed an expertise in the civil false claims act and related areas of government contract law, and have at least a basic grounding in most of the substantive civil areas litigated in the state and federal courts. In the state courts, I developed experience and expertise in various aspects of employment law including wrongful termination, employment discrimination, and sexual harassment in defending cases brought against my clients.

c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I appeared in court frequently throughout my career. The frequency of appearances changed as follows:

1974-79: I appeared in court approximately four to five times a month on law and motion matters. Participated as "second chair" in three cases tried to verdict in state courts

1979-1987: I appeared exclusively in United States District Court in criminal matters as Assistant United States Attorney. I was in court at least once a week when not in trial; daily when I was in trial. During this period I prosecuted between 35 and 40 cases to verdict.

1987-88: I appeared in court four to five times a month, principally on law and motion matters. Most appearances were in federal court.

1988-89: I appeared in court less frequently due to my duties as Chief Assistant United States Attorney and interim United States Attorney. All appearances were in federal court.

1990-96: I appeared in court regularly in both civil and criminal matters. I participated as lead counsel in two jury trials, one arbitration and several mediations. I participated as co-counsel in one court trial in federal court.

2. What percentage of these appearances was in:

- (a) federal courts;**
- (b) state courts of record;**
- (c) other courts.**

1974-1979: 40% federal court; 60% state court

1979-1989: 100% federal court

1990-96: 45% federal court; 55% state court; 5% other

3. What percentage of your litigation was:

- (a) civil;**
- (b) criminal.**

1974-1979: 15% criminal; 85% civil

1979-1987: 100% criminal

1987-1989: 75% criminal; 25% civil

1990-1996: 20% criminal; 80% civil

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Approximately 40; I was chief counsel on every case I tried to a jury and was sole counsel on all but two of those cases. I was co-counsel on three bench trials, and was sole counsel on two bench trials.

5. What percentage of these trials was:

- (a) jury;**
- (b) non-jury.**

90% jury trials; 10% court trials

18. **Litigation:** Describe the ten most significant litigated matters which you personally handled. 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. John Michael Rico, Case No. CR 82-439-LEW

In this criminal case I represented the United States in my capacity as an Assistant United States Attorney. I was assigned this case for investigation in 1980 when a bomb was discovered in front of the House of Iran Restaurant in Beverly Hills, California. I directed a two-year grand jury investigation which resulted in the indictment of the defendant. I was sole counsel for the government at all stages of the proceedings including the investigation, pre-trial proceedings, and trial. The case was tried to a jury verdict; defendant was convicted on all counts.

During the Iran hostage crisis, a homemade bomb built into the shell of a portable radio was placed outside the House of Iran restaurant on Wilshire Boulevard in Beverly Hills, California. The bomb was primarily designed as an anti-personnel device -- it was made to explode when it was picked up from the ground and it contained approximately 180 nails glued to the inside of the shell of the radio. It would have killed anyone who picked it up, and would have also caused extensive damage to the front of the restaurant. The explosive material was ammonium nitrate soaked in diesel fuel -- a mixture similar to that used in the Oklahoma City bombing. An alert restaurant employee spotted the device and called the bomb squad, which detonated the device. About two years after the bombing, a search of the defendant's garage disclosed a number of materials that matched the bomb components. The case was particularly challenging because of the circumstantial nature of much of the evidence and the complex scientific testimony presented to the jury.

Dates: September 1982
 Court: United States District Court, Central California of California
 Judge: Hon. Laughlin E. Waters
 Counsel: Mark O. Heaney, 9119 Sunset Boulevard, Los Angeles, California 90069;
 Telephone: 310-278-2111

2. United States v. Michael G. Michaels, Case No. CR 84-1172-KN

In this criminal case, I represented the United States in all stages of the proceedings beginning with the grand jury investigation and concluding with a jury trial in which the defendant was convicted of mail bombing and attempted murder. I was sole counsel at all stages of the proceedings.

Michaels and his victim were competing for control over a small freight forwarding company. When it became apparent to Michaels that he was losing the competition, he plotted to kill his adversary. He built a pipe bomb wired into what appeared to be a small, flat parcel and sent the package through the mail to the victim. Defendant placed this bomb in the United States mail in Los Angeles. The bomb was handled by dozens of postal employees, was placed on a TWA passenger flight and was delivered to the east coast where it was handled by more postal employees and was then delivered to the victim. When the package was opened, the parcel detonated, but through astonishingly good fortune, the intended victim survived the explosion; a piece of shrapnel from the bomb lodged against his aorta but did not penetrate the wall. The case was tried to Judge Kenyon, who found the defendant guilty on all charges and sentenced him to thirty years in federal prison.

Dates: September 1985
 Court: United States District Court, Central District of California
 Judge: Hon. David Kenyon
 Counsel: John Meyers, 2700 Colorado Avenue, Santa Monica, California 90404;
 Telephone: 310-998-8178

3. United States v. James McGowan et al., Case No. CR 82-833-DWW

In this case, I represented the United States in all stages of the proceedings commencing with a lengthy grand jury investigation, presentation of the indictment, and all pre-trial and trial proceedings. The case was tried to a jury verdict in 1983; the defendant was convicted on all counts. I was sole counsel at all stages of the proceedings.

This case involved a massive land fraud scheme in which several thousand investors were sold parcels of Antelope Valley raw desert land under false pretenses. Defendant bought huge parcels of land in the far north end of the Antelope Valley for next to nothing in the early 1960's when press reports discussed the proposed Palmdale International Airport, and related speculation regarding a high speed train from LAX, through Palmdale to Las Vegas. Defendant marketed this land at grossly inflated prices to investors located in Hawaii, Utah, Germany, Switzerland, and Italy. Defendant and his sales force told potential purchasers that these parcels were guaranteed to be part of the next real estate boom in the Los Angeles area. Defendant's investors suffered losses in excess of \$25 million, which at the time made it one of the largest real estate fraud schemes in Los Angeles history.

Date: August-September 1983
Court: United States District Court, Central California
Judge: Hon. David Williams
Counsel: Robert Kirste, 3435 Wilshire Boulevard, Los Angeles, California 90010;
Telephone: 213-739-5040

4. United States v. Robert Burton Taylor, Case No. CR 85-936-PAR

I represented the United States in this criminal prosecution. I investigated this case with assistance from FBI agents, presented the case to a federal grand jury, was sole trial counsel and tried the case to a jury verdict which resulted in the defendant's conviction.

The defendant attempted to sink a \$500,000 fishing boat to obtain insurance proceeds when the market for fish collapsed in late 1982. The case was particularly challenging because the defendant was not the owner of the boat, and the case presented against him was entirely circumstantial. The case was important not just because of the amount in controversy but also because the defendant's actions endangered the life of a teenage deckhand.

Dates: January-February 1986
Court: United States District Court, Central California
Judge: Hon. Pamela Ann Rymer
Counsel: Joel Levine, 1600 Ventura Boulevard, Suite 500, Encino, CA 91436
Telephone: 818-995-6052

5. U.S. ex rel Breene v TRW Inc., CV 90-1785 ER(Kx)

I represented defendant TRW Inc. during all phases of this case from filing through settlement just prior to trial.

In this federal False Claims Act case, the plaintiff alleged that TRW Inc. inflated contract estimates that resulted in the government agreeing to inflated prices on three contracts to build electronic black box units in connection with a very highly classified government program. The case focused on the company's method of estimating contract costs on so-called "follow on" contracts, as well as the basis on which the company computed credits to the government that resulted from over billings in the case. The plaintiff dismissed one of his two theories of liability after TRW filed a motion for summary adjudication of that issue. The remaining issues in the case were resolved by settlement prior to trial.

Dates: March 1992 through August 1994
Court: United States District Court, Central California
Judge: Hon. Edward Rafeedie
Counsel: Douglas Kuber [co-counsel], Quinn Emanuel Urquhart & Oliver, 865 South Figueroa, 10th Floor, Los Angeles, California 90017; Telephone: 213-624-7707

Dean Francis Pace [for Frank M. Breene], Pace & Rose, 1800 Avenue of the Stars, Suite 1000, Los Angeles, CA 90067; Telephone: 310-277-2900

Vincent B. Terlep, Jr. [for the United States], Senior Trial Attorney, Civil Division, United States Department of Justice, P.O. Box 261, Ben Franklin Station, Washington, D.C. 20044; Telephone: 202-307-0474

6. Zenith Insurance Co. v. Dr. Michael Lam, Case No. CV 93-4016-HLH

In this case I represented Dr. Michael Lam, a defendant in one of a series of civil RICO cases brought by Zenith Insurance Company. I was lead counsel for Dr. Lam and conducted all pre-trial proceedings and dispositive motions on his behalf. I had the assistance of a litigation associate on this case

In the early 1990's, Zenith Insurance Company, whose primary business is selling worker's compensation insurance, brought a series of lawsuits against medical clinics claiming that they were engaged in fraud. Zenith contended that these clinics either were providing no real medical service or that they were providing fewer services than were reflected in their medical bills. As part of the effort, Zenith brought a lawsuit against Dr. Lam who operated Scheffield Medical Clinic, and a companion action case against several doctors whom Dr. Lam employed, alleging that Dr. Lam and his business were engaged in the submission of fraudulent worker's compensation claims. This lawsuit threatened to destroy my client's business. My former law firm, Jones Day Reavis & Pogue, defended the other doctors in a trial which preceded Dr. Lam's. In that case, the jury returned a verdict in the doctors' favor. I then filed a motion for summary judgment on res judicata and collateral estoppel principles, which was granted in its entirety.

Date: April 1996 [Summary Judgment]
Court: United States District Court, Central California
Judge: Hon. Harry Hupp
Counsel: Arpie Balekjian [associate counsel for Dr. Lam], Quinn Emanuel Urquhart & Oliver, 865 South Figueroa Street, 10th Floor, Los Angeles, CA 90017; Telephone: 213-624-7707

Lary Alan Rappaport [for Zenith Insurance Co.], McCambridge, Deixler, Marmaro & Goldberg, 2029 Century Park East, Suite 2700, Los Angeles, CA 90067; Telephone: (310) 788-5800

Frederick L. McKnight [for individual doctors], Jones Day Reavis & Pogue, 555 West Fifth Street, 46th Floor, Los Angeles, CA 90013; Telephone: 213- 489-3939

7. United States v. Dennis Riness et al., Case No. CR 85-1131-CBM

In this criminal tax case, I represented the United States at all stages of the proceedings from the grand jury investigation through trial. I was assisted during the grand jury investigation by Assistant United States Attorney Jeffrey Modisett, but acted as sole counsel following the indictment. A co-defendant, whose case was severed and transferred to the Northern District of California, was tried by Assistant United States Attorney William C. Price.

This large tax fraud case arose from the defendants' sale of charters in the Universal Life Church as tax shelter devices. The case involved complex tax issues concerning so-called 501(c)(3) organizations. The defendants gave public presentations in which they offered -- for the sum of \$3,000 -- to assist members of the audience in setting up their own, in-home church, and thereby shelter a large portion of their income from federal income tax. Under this scheme, the individual would set up a chapter of the Universal Life Church, designate himself or herself pastor, donate 50% of their income to the church (which would pay no taxes on the money) and write off the donation as a charitable contribution. Thereafter, the individual could, according to the defendants, use the donated funds to pay for the "pastor's" family expenses. After hearings on extensive pre-trial motions, Defendant Riness submitted his case to the court on stipulated facts resulting in a court finding of guilty.

Date: 1986
 Court: United States District Court, Central California
 Judge: Counseulo B. Marshall

Counsel: Bruce I. Hochman [for Defendant Riness], Hochman, Salkin & DeRoy, 9150
 Wilshire Boulevard, Suite 300, Beverly Hills, California, 90212; Telephone: 310-
 281-3200

Martin Gelfand [for Defendant Riness], Irell & Manella, 1800 Avenue of the Stars,
 Suite 900, Los Angeles, California 90067, Telephone: 310-277-1010

Jeffrey Modisett [co-counsel during grand jury phase], Attorney General for the
 State of Indiana, Indianapolis, Indiana; Telephone: 317-233-3548

William C. Price [tried Northern California case], Quinn Emanuel Urquhart &
 Oliver, 865 South Figueroa Street, 10th Floor, Los Angeles, CA 90017,
 Telephone: 213-624-7707

8. United States v. Hughes Aircraft Company, 20 F.3d 974 (9th Cir. 1994)(per curiam)

In this case I represented Hughes Aircraft on appeal from a conviction in United States District Court, Central California, before the Hon. William Matthew Byrne. I was assisted on the case by an associate in my law firm who did the basic research and drafting of the appellate brief. I was

responsible for revising and finalizing the brief and arguing the case to the Ninth Circuit. Ultimately the Ninth Circuit affirmed the conviction.

This case involved a prosecution of Hughes and several employees for allegedly falsifying data indicating that certain electronic components had been subjected to and passed certain tests. The jury acquitted all of the Hughes employees of conspiracy and submitting false documentation to the government, but convicted Hughes on the conspiracy count. Hughes was acquitted of submitting false documents. The appeal raised two complex legal issues: (1) whether a corporation, which acts vicariously through its employees, can be convicted of an offense of which its employees have been acquitted; and (2) whether a corporation can be convicted of conspiracy based solely on the acts of its own employees. Ultimately the Ninth Circuit resolved these issues against Hughes and the conviction was affirmed.

Dates: 1992 to 1994
 Court: Ninth Circuit Court of Appeals
 Judges: Hon. Edward Leavy; Hon. Thomas Tang; Hon. Dorothy Nelson
 Counsel: Shaun Martin [co-counsel]; University of San Diego Law School; San Diego, California; Telephone: 619-260-4527

George Newhouse [for the United States]; McCutchen, Doyle, et al., 355 South Grand Avenue, Suite 4400, Los Angeles, California 90071; Telephone: 213-680-6672

9. Shaw v. Hughes Aircraft Company, et al., Case No. 743 368

In this case, I was lead defense counsel for Hughes Aircraft in a wrongful termination action brought by the plaintiff. With the assistance of an associate in my firm, I was responsible for all discovery, pre-trial, and trial proceedings in this case. The case proceeded to jury trial with a verdict being returned against my client.

This case stemmed from the investigation and termination of Gary Shaw, an attorney on Hughes Aircraft's legal staff. In approximately the summer of 1993, a female summer intern in the legal department accused Shaw of having sexually harassed her. Among other things, she claimed that he had made crude, suggestive sexual remarks to her on several occasions, and that he had offered to help her with future employment if she would "date" him. When confronted with these allegations, Hughes put Mr. Shaw on leave and hired a senior partner at the law firm of O'Melveny & Myers to investigate the allegations and prepare a written report. The report found that the allegations were true, and Mr. Shaw was fired. Thereafter, Mr. Shaw claimed that he was terminated because he was a "whistle blower" and that, in truth, the termination was in retaliation for his actions as a whistle blower. At trial, the jury paradoxically concluded that Hughes had "good cause" to terminate Shaw, but found the termination to be wrongful and in violation of the covenant of good faith and fair dealing. Hughes argued that, once the finding of good cause had been made, California law required a dismissal of the remaining causes of action. The trial court

disagreed and the matter is now before the California District Court of Appeal. This case is of particular significance because the question of whether a plaintiff can maintain a wrongful termination action when his employer bases the termination on an investigation by a neutral third party is one of the hottest issues in wrongful termination law in California.

The case was further complicated by the destruction of computer "e-mail" messages that Shaw contended contained information relevant to the trial. The court permitted an eve of trial amendment to add causes of action for spoliation of evidence. Between the entry of judgment in that case and the present, the California Supreme Court has held that there is no tort for spoliation of evidence under California law. The interjection of that issue into the case at trial increases the likelihood that the judgment in this case will be reversed.

Date: July-August 1996
 Court: Orange County Superior Court
 Judge: Hon. John Watson
 Counsel: John Cochrane, Jackson, DeMarco & Peckenpaugh, 4 Park Plaza, 16th Floor, Irvine, California 92714; Telephone: 714-752-8585

William Stein [co-counsel], Quinn Emanuel Urquhart & Oliver, 865 South Figueroa Street, 10th Floor, Los Angeles, California 90017; Telephone: 213-624-7707

10. Beylik Drilling Inc. v. Johnson Screens, Case No. 220 434

In this case, I was lead defense counsel for Johnson Screens in a breach of warranty/product liability action brought by the plaintiff. With the assistance of an associate in my firm, I was responsible for all discovery, pre-trial, and trial proceedings in this case. The case proceeded to jury trial with a partial verdict against my client finding it 50% liable for plaintiff's damages. Johnson Screens manufactures well screen -- essentially wide diameter slotted pipe used in water wells. In this case, my clients well screens were being used in an unusually deep water well being drilled in Orange County as part of the county's master plan for development of water resources. The well specifications were provided by Orange County. During the installation of the well, my client's screen allegedly failed resulting in the entire length of screen and pipe falling to the bottom of a 1,500 foot well. Plaintiff claimed that the county's specifications were defective, and that the well screen was not adequate for the job. My client defended on the ground that there was no evidence to establish plaintiff's theory for the screen's failure and that plaintiff had failed to specify that the well screen was being used in a 1,500 foot well. Because of plaintiff's failure to specify the well screen's intended use, my client argued that plaintiff could not prove a breach of the warranty of merchantability or of fitness for a particular purpose since the screen was merchantable and the particular purpose had not been disclosed. The jury concluded that there was sufficient information communicated to find that there was a warranty of fitness for a particular purpose, and that my client was 50% liable for the failure. The case settled to avoid the cost of an appeal.

Date: January-February 1995
 Court: Riverside County Superior Court
 Judge: Hon. James D. Ward
 Counsel: John Purcell [co-counsel], Quinn, Emanuel, Urquhart & Oliver, 865 South
 Figueroa Street, 10th Floor, Los Angeles, CA 90017; Telephone: 213-624-7707.

 Christopher Wilson [for plaintiff], Christopher F. Wilson & Associates, 11611 San
 Vicente Boulevard, Suite 500, Los Angeles, CA 90049; Telephone: 310-571-2500

 Clark Ide [for co-defendant Orange County], General Counsel, Orange County
 Water District, 10500 Ellis Avenue, Fountain Valley, CA 92728-8300; Telephone:
 714-378-3237

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)**

(1) Los Angeles Bar Judicial Evaluation Committee -- From 1991 to 1993, I worked on this committee, which evaluates for the governor all candidates for Municipal and Superior Court in Los Angeles County. The committee functioned as follows: every candidate for a judicial position was assigned to a subcommittee consisting of two members of the committee. The subcommittee was charged with the responsibility of circulating questionnaires to those persons who had first-hand knowledge of the applicant either by working with the applicant or having opposed the applicant in litigation. Once all of that data was collected, the subcommittee would conduct an in-person interview with the candidate at which time an inquiry was made into any negative comments made about the candidate. The entire committee met monthly at which time the subcommittees would present reports on the candidates and make a recommendation as to a rating. The committee would then discuss the matter and vote on the recommendation. Ultimately, a report was sent to the governor by the chairman of the committee on every candidate with a rating of: Exceptionally well qualified, Well Qualified, Qualified or Not Qualified. This committee assignment consumed much time, but I considered it a valuable service to the bench and bar. The committee chairman under whom I worked was: Warren Ettinger, Skadden Arps Slate Meagher & Floum, 300 South Grand Avenue, Suite 3400, Los Angeles, California 90071; Telephone: 213-687-5200.

(2) United States v. James Stafford, Case No. CR 84-359-ER

In 1981, I was assigned to conduct an investigation into allegations that public funds were being used to enrich a small number of citizens in the City of Industry, California. That investigation revealed that James Stafford, who employed most of the 60 odd residents of the City of Industry, controlled the city government and redevelopment agency. Using this control, he manipulated the awarding of construction contracts on the Industry Hills project, taking huge kickbacks from those who won bids on that project. The investigation established that Stafford received at least \$1.3 million in kickbacks from construction companies who were the beneficiaries of a rigged bidding system. Further, during the investigation, Stafford was taped and photographed attempting to bribe a witness who was cooperating with the government in the investigation. After indictment, Stafford attempted to avoid trial by a variety of means including a claim that he was medically unable to sit through trial. When that failed, he made a half-hearted attempt at suicide on the eve of trial. Ultimately Stafford entered a guilty plea to multiple felony counts, made full restitution of \$1.3 million, and was sentenced to 10 years in federal prison.

Date: July 1984
 Court: United States District Court
 Judge: Hon. Edward Rafeedie; Telephone: 213-894-6927
 Counsel: James Duff, 1 Wilshire Boulevard, Suite 2210, Los Angeles, CA 90017;
 Telephone: 213-629-7950

(3) McDonnell Douglas v. Thiokol Corporation, Case No. CV 92-4008 WJR (JRx)

In this case I acted as local counsel and "second chair" at trial in a major breach of warranty-case between two large corporations. My co-counsel and I defended Thiokol Corporation in this case.

In 1984 two communications satellites, each worth approximately \$125 million, were carried into space on the space shuttle and were to be "launched" into geosynchronous orbit from the shuttle bay by a device called a Payload Assist Module, which included a small Thiokol manufactured rocket motor. The motor failed to place these two satellites into proper orbit, resulting in a total loss of the two satellites. The satellite owners recovered the value of the satellites from two insurance companies, and the insurance companies lost in their bid to recover against MDC and Thiokol. However, as between MDC and Thiokol there still existed a dispute regarding who is to bear the cost of the failure investigation and related costs -- in excess of \$20 million. MDC claimed that Thiokol's motor failed, and that its failure constituted a breach of warranty that entitled MDC to the costs of the failure investigation. Thiokol conceded that the motors failed to place the satellites into proper orbit, but defended on the ground that the motors met all specifications, and that compliance with these specifications had been confirmed by MDC

through extensive testing. The case was tried to the Hon. William Rea who found for the defendants on all issues following a lengthy trial in October and November 1995.

Dates: 1993-1995
Court: United States District Court, Central California
Judge: William J. Rea
Counsel: Jeffrey W. Morof and Adam Thurston [for MDC], Bryan Cave, 777 South Figueroa Street, Suite 2700, Los Angeles, CA 90017-5418; Telephone: 213-243-4300

Larry S. Kaplan [lead counsel for Thiokol], Kaplan & Begy, One First National Plaza, 51st Floor, Chicago, Illinois 60603; Telephone: 312-345-3035

(4) Christopher Commission

From April to July 1992, I worked as a Deputy General Counsel for the Christopher Commission investigating the Los Angeles Police Department. My team was responsible for investigating, researching, and evaluating issues pertaining to the department's system of discipline, and then drafting a chapter on that topic for the Commission. That draft was revised and combined with the work of others regarding civilian complaints and incorporated into a chapter titled "Complaints and Discipline." A copy of the chapter is attached.

The Christopher Commission work involved between 300 and 400 hours of my time plus additional time spent by four associates of my firm who assisted me in that project. Later in the year, I volunteered another 50 to 100 hours of time working on motions to quash subpoenās that were served on Warren Christopher and other commission members by Stephen Yagman and other counsel for several plaintiffs who had brought civil rights actions against the City of Los Angeles based on alleged police misconduct.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

None. All amounts due from prior law firm were paid out in 1997.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of interest during your initial in the position to which you have been nominated.**

I would follow all rules, regulations and guidelines set out in the Code of Judicial Conduct, 28 U.S.C. §455 et seq. In furtherance thereof, I would provide the parties and counsel in any case that comes before me with background data regarding my prior employment, the nature of previous work, the identity of any companies in which I or my IRA holds any interest and ask that information be presented to me if it appears that any party or potential party to a case pending before me has any relationship to any prior client or to any company in which I have an investment. Further, I would instruct my law clerks to examine any new complaint assigned to my court for any indication of an actual or potential conflict of interest, or of any other factor that might create the appearance of impropriety.

3. **Do you have any plans, commitments, of agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.**

No.

4. **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, patents, 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.)**

A copy of the financial disclosure report is being provided with this document.

5. **Please complete the attached financial net worth statement in detail. (Add schedules as called for).**

See attached statement and schedules.

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

No.

III. GENERAL (PUBLIC)

1. **An ethical consideration under Canon 2 of the American Bar Associations' 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.**

In 1990 and 1991, I supervised the Jones, Day, Reavis and Pogue pro bono program. In connection with that program, I worked with Public Counsel to identify civil cases to be handled by young trial lawyers in the firm and then to supervise those attorneys in handling those cases. Twice a year I would go to the offices of public counsel with young associates from my firm to review cases for possible assignment to my firm. These cases ranged from credit disputes, to landlord tenant problems, to repossession cases. While I cannot recall most of the cases, I do remember one very significant case we handled involving a landlord who used arson as a means to evict a group of poor Hispanic tenants who regularly and timely paid their rent. A young associate working under my general supervision successfully obtained a six-figure judgment against the landlord. I would estimate that I spent ten hours a week supervising those cases over a 12 month period to 18 month period.

During my work at Quinn Emanuel, I supervised a case referred by Public Counsel, involving representation of a land owner in South Central Los Angeles who suffered property damage as a result of the Cal-Trans work widening the Harbor Freeway. The title of the case is Naiman Poe et al v. California Department of Transportation.

In addition to these legal activities, my wife and I are active in our local school district and volunteer annually to participate in various fund raising activities at our local elementary school (Marengo School) including "Wish Night" every fall and the country fair every spring.

I have also volunteered as an assistant coach on a number of my son's Little League Baseball teams, and my wife and I have both operated the snack stand from time to time during the season. Over the past three seasons, I have probably worked between 200 and 300 hours as a Little League volunteer.

As a member of the Los Angeles County Bar Judicial Evaluation Committee from late 1991 to March 1993, I participated in the evaluation of state court judicial applicants for positions on the Los Angeles County Superior and Municipal Courts. This involved a substantial time commitment in reviewing applications and questionnaires, interviewing references and candidates and attending meetings to evaluate and rate candidates.

2. **The American Bar Association's Commentary to the 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. Do you currently belong, or have you belonged, to an organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

No; I do not belong, and never have belonged, to such an organization.

San Gabriel Country Club has separate locker room facilities for men and women; off of the men's and women's locker rooms are areas identified respectively as the "Men's Card Room" and the "Women's Card Room." Food service is available to both of those areas. There are two general dining rooms: one a formal dining room and the other an informal dining room designated the "Mixed Grill."

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

Yes; Senator Feinstein has a committee that reviews applicants for federal judicial positions which, as I understand the process, recommends candidates for further interviews with the Senator upon committee approval. I applied for a position as a United States District Court Judge by first contacting the Senator's office and obtaining the appropriate application forms. I returned the completed forms to the Senator's Chief of Staff, who, I understand, forwarded them to the committee for review. Based on that initial review, the committee invited me to an interview. After I interviewed with the entire committee, a representative of Senator Feinstein asked me to obtain letters of reference and support. Thereafter, I was called by a representative of Senator Feinstein inviting me to interview with the Senator. Within a few days of the call, I interviewed with the Senator. After the interview, I had one contact with a member of her staff asking for additional letters of reference. In September 1998, Senator Feinstein called to advise me that she was forwarding my name to the President for nomination to a position on the United States District Court.

Since that time, I have completed questionnaires for the Department of Justice, the Federal Bureau of Investigation and the American Bar Association. In October 1998, I interviewed with staff of the Department of Justice and the White House. In November 1998, I was interviewed by the FBI, and in December 1998, I was interviewed by a representative of the ABA Committee on the Federal Judiciary.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No.

5. **Please discuss your views on the following criticism involving "judicial activism."**

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-resolution;**
- b. **A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. **A tendency by the judiciary to impose broad affirmative duties upon governments and society;**
- d. **A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. **A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

"Judicial activism" as defined by this question is a problem that has regrettably brought the judiciary into some disrepute. Federal courts are courts of limited jurisdiction, as reflected in the Constitution, in federal statutes and in the decisions of the United States Supreme Court over the past 200 years. Historically, a variety of limits have been placed on the exercise of this jurisdiction: the constitutional requirement that there be a "case or controversy" for decision; related principles of standing, ripeness and mootness; the abstention doctrine and the like. As a sitting judge having presided over dozens of trials and hundreds of motions, the logic behind these principles is clear to me. It is challenge enough to fairly decide the dispute before the court without attempting to use the case as

a means of solving some social ills. In my view, if judges do their job properly, principled decisions in individual cases will establish a basis on which others may be guided in their future conduct. This is how stare decisis is intended to work. Problems arise when the case before the court becomes secondary to an objective on the part of the court to reach out to solve some perceived social ill. In those cases, rather than allowing principles to emerge through dispute resolution, the dispute becomes the vehicle for the imposition of a rule that a non-elected official -- the federal judge -- feels should be imposed on society. This is a profoundly undemocratic approach to rule making and exceeds, in my opinion, the proper scope of the judge's role. Putting it in the traditional terms of this discussion, it is my view that judges apply law, not make law.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. **Full name (include any former names used.)**

Raymond Corley Fisher

2. **Address: List current place of residence and office address(es).**

Home: 3909 Highwood Court, N.W.
Washington, DC 20007

Office: Department of Justice
950 Pennsylvania Avenue, NW
Room 5214
Washington, DC 20530-0001

3. **Date and place of birth.**

July 12, 1939; Oakland, CA

4. **Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).**

Married to Nancy Leigh (Fairchilds) Fisher
Occupation: High school English teacher
Los Angeles Unified School District
Grant High School
13000 Oxnard Street
Van Nuys, CA 91401

On leave during my tenure as Associate Attorney General.

5. **Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.**

- (a) Stanford University - 1957-58; none
- (b) U.C. Santa Barbara - 1958-61; BA (June 1961)
- (c) Stanford Law School - 1963-66; LLB (June 1966)

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

Biographical Information
Applicant: Raymond C. Fisher

Employment

- (a) Associate Attorney General
Department of Justice
Washington, DC
(1997-present)
- (b) Shareholder/Partner
Heller Ehrman White & McAuliffe
Los Angeles, CA
(1988-97)
- (c) Shareholder/Partner/Associate
Tuttle & Taylor
Los Angeles, CA
(1968-88)
- (d) Special Assistant to Governor Edmund
G. Brown, Jr
Sacramento, CA
(January-October 1975)
- (e) Law Clerk to Justice William J. Brennan, Jr.,
United States Supreme Court
Washington, DC
(1967-68)
- (f) Law Clerk to Judge J. Skelly Wright
United States Court of Appeals (D.C. Circuit)
Washington, D.C.
(1966-67)
- (g) Research Assistant to Prof. Jack H. Friedenthal
Stanford Law School
Stanford, CA
(Summer 1966)
- (h) President (Editor in Chief)
Stanford Law Review
Stanford, CA
(1965-66)

1115

Biographical Information
Applicant: Raymond C. Fisher

- (i) Staff Assistant
Pacific Telephone Co.
Menlo Park, CA
(Summer 1964)
- (j) Manager
Pacific Telephone Co.
Los Angeles, CA
(1961-63)

Public Service

- (a) Commissioner
Los Angeles Police Commission
(1995-97)
President
(1996-97)
- (b) Commissioner
Los Angeles Civil Service Commission
(1984-89)
President
(1986-87)

Non-profit organizations

- (a) Member, Board of Directors
Constitutional Rights Foundation
Los Angeles, CA
(1979-97); President (1984-86)
- (b) Member, Board of Directors
Brennan Center for Justice
New York, N.Y.
(1995-97)
- (c) Member, Board of Directors
Los Angeles Police Academy Magnet Schools
Los Angeles, CA
(1996-97)

Biographical Information
Applicant: Raymond C. Fisher

- (d) Member, Board of Directors
Legal Aid Foundation of Los Angeles
Los Angeles, CA
(1993-96)
- (e) Member, Executive Board
Federal Bar Association
Central District (CA)
Los Angeles, CA
(1992-96)

Partnerships (Investments)

- (a) Mernan 145

This is a general partnership comprised of myself, my wife (Nancy Fisher), William A. Norris and his former wife, Merry Norris. We formed this partnership in 1983 for the sole purpose of making shared investments. The first was a 1983 investment in a limited partnership called Santa Barbara Almonds 145, which farmed almonds in Central California; this limited partnership terminated in July 1994. The general partner of Santa Barbara Almonds was Dexter J. Goodell, Santa Barbara, CA. In October 1987, Mernan 145 invested in another limited partnership, 644 Figueroa Restaurant Partners (a restaurant, "Engine Co. #28," in downtown Los Angeles), which we still hold. The general partners are: Linda Griego, President, Griego Enterprises; Ed Kasky, President, E.T. Kasky, Inc.; Jerry Magnin, President, Jerry Magnin Enterprises, Inc.; and Peter Mullin, President, Mullin Family Enterprises, Inc.

Biographical Information
Applicant: Raymond C. Fisher

- (b) VenWest Development Limited Partnership I
c/o Neil Simon
The Venture West Group, Inc. (General Partner)
Tucson AZ

I am a limited partner (as of December 1984) in this real estate development general partnership, which owns commercial properties in Arizona, Colorado and California.

- (c) Winthrop California Investors Ltd. Partnership
San Rafael, CA

This is a limited partnership interest (acquired through my qualified retirement plan in October 1986) in a commercial office building in Orange County, CA.

- (d) Jefferson Davis Associates I
c/o Robert B. Lefton
Woodland Hills, CA

I am a limited partner (as of June 1982) in this general partnership which invested in a natural gas well in Louisiana and which has produced negligible returns.

- (e) Matrix Partners III, Ltd.
c/o Christopher J. Clifford
Matrix Management Corporation (General Partner)
Salt Lake City, UT

I was a limited partner (1992-98) in this general partnership which owned and has now sold unimproved commercial land in the Decker Lake area of Salt Lake City, UT.

Biographical Information
Applicant: Raymond C. Fisher

- (f) Matrix Partners XI
c/o Christopher J. Clifford
Matrix Management Corporation (General Partner)
Salt Lake City, UT

I was a limited partner (1995-98) in this general partnership which owned and has now sold unimproved commercial land in the Centennial Park area of Salt Lake City, UT.

- (g) Del Mar Group, Inc.
c/o Harold M. Kester (Chief Executive Officer)
Carlsbad, CA

This was a limited partnership (as of June 1985) interest in a now defunct (as of 1993) company formed to develop a computerized bookselling program.

- (h) Wind Alternative 1985 Partners
c/o Parks Palmer Turner & Yemenidjian
Los Angeles, CA

I was (as of April 1985) a limited partner in this now defunct (as of 1990) wind turbine investment partnership.

- (i) Helpow 333 Bush
c/o Heller Ehrman White & McAuliffe
San Francisco, CA

I was a limited partner (as a Heller Ehrman shareholder in 1988) in this partnership which held a percentage interest in the firm's San Francisco office building; the partnership liquidated its interest in about 1989.

Biographical Information
Applicant: Raymond C. Fisher

- (j) 713 Gladys Street Ltd.
c/o Peterson and Tansey Development Co.
Los Angeles, CA

This was a limited partnership interest (as of September 1981) in a now defunct (as of 1989) commercial building in downtown Los Angeles.

- (k) Executive Inn, Ltd.
c/o Richard E. Wagner (general partner)
Wagner Properties (later Mariner Development, Inc.)
Dallas, TX

This was a limited partnership formed in 1983 for purposes of developing commercial properties. It attempted to develop a hotel property in Charlotte, North Carolina. When this proved unsuccessful, it attempted to convert the property into a "well-elderly retirement care center," which also proved unsuccessful and the property went into foreclosure. The partnership terminated in about 1988-89.

- (l) Remco/T&T Partners
Frank Cornell (general partner)
Phoenix, AZ

This was a limited partnership formed in 1978 to buy residential homes in Phoenix to hold as rental properties and ultimately resell at appreciated values. The partnership liquidated its holdings and thereafter terminated in 1988.

- (m) Pima Plaza Associates
c/o Robert Lefton (general partner)
Woodland Hills, CA

This was a limited partnership that invested in a small retail shopping strip in Scottsdale, Arizona, in 1980. The complex was sold and the partnership terminated thereafter in 1984.

Biographical Information
Applicant: Raymond C. Fisher

- (n) Third Street Associates
c/o Robert Lefton (general partner)
Woodland Hills, CA

This was a limited partnership that invested in a law office building in Phoenix, Arizona, in 1980. The project did not fare well; the building was sold; and the partnership terminated in 1983.

- (o) Roxanne and Nicolet Apartments
c/o Robert Lefton (general partner)
Woodland Hills, CA

These were two limited partnerships, one for each of two apartment buildings located in Los Angeles, California, bought for investment purposes during 1979. The buildings were eventually sold, and the partnership terminated in 1987.

- (p) Nordskog Properties
c/o Foster Tepper (general partner)
Los Angeles, CA

This was a limited partnership created in 1985 to acquire and operate a professional office building in the San Fernando Valley area of Los Angeles, California. The venture proved unsuccessful and Mr. Tepper bought out my interest 1988.

- (q) 609 South Grand/T&T Partners
c/o Tuttle & Taylor
Los Angeles CA

This was a limited partnership, formed in 1981 by Tuttle & Taylor shareholders to acquire an interest in the firm's office building (at 609 South Grand, Los Angeles, CA). The partnership interest was liquidated in 1986 and the partnership dissolved.

Biographical Information
 Applicant: Raymond C. Fisher

7. **Military Service:** Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

Yes. U.S. Army (Reserve) February 1956-64 (Active Duty: February to August 1957) Rank: Private First Class; Serial #FR 19 571 961; Honorable discharge.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

- (a) Member, American Law Institute
- (b) Fellow, American Bar Foundation
- (c) Fellow, American College of Trial Lawyers
- (d) Order of the Coif (Stanford Law School)
- (e) Blue Key National Honorary Society (U.C. Santa Barbara)
- (f) Constitutional Rights Foundation's "Bill of Rights Award" (1994). See App. A, Tab 1(a)
- (g) National Philanthropy Day Medallion Award (1992, 1994)
- (h) National Sheriffs' Association Honorary Lifetime Membership (July 1998)
- (i) 1999 University of California Santa Barbara Distinguished Alumnus Award (February 1999) (See App. A, Tab 1(b))

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

- (a) Member, American Law Institute (1988-present)
- (b) Fellow, American Bar Foundation (1991-present)
- (c) Fellow, American College of Trial Lawyers (1996-present)
- (d) Member, American Bar Association (1971-present)
 - Department of Justice Official Representative to ABA House of Delegates (1998-present)

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- Executive Branch Liaison to Administrative Law and Regulatory Practice Section's Council (1998-present)
- Litigation Section (ca. 1980-present)
- Antitrust Section (1993-1997)
- Intellectual Property Section (1995-97)
- (e) Member, Association of Business Trial Lawyers (1977-88; 1991-97)
- (f) Member, Association of Business Trial Lawyers' Committee on Pro Bono Legal Services (1977-78)
- (g) Member, Federal Bar Association (1992-97)
- (h) Member Executive Board, Federal Bar Association, Central District, CA (1992-96)
- (i) Attorney Member, Ninth Circuit Attorney Admission Fund (1991-94)
- (j) Chair, Lawyer Representative Coordinating Committee, and member of the Executive Committee, Ninth Circuit Judicial Conference (1989-91)
- (k) Member, Central District (CA) Lawyer Representatives, Ninth Circuit Judicial Conference (1986-88); Chair (1987-88)
- (l) Member, Ninth Circuit Advisory Committee on Rules of Practice and Procedures (1983-88)
- (m) Member, California State Bar (1967-present)
- (n) Member, Los Angeles County Bar Association (ca. 1970-97)
- (o) Member, Los Angeles County Bar Association Committee on Sexual Orientation Bias (1993-95)
- (p) Member, Los Angeles County Bar Association Advisory Committee for the Office of the District Attorney (1994)
- (q) Chairperson, Los Angeles County Bar Association Judicial Appointments Committee (1979-80)
- (r) Member, Barristers' Trial Attorney Training Project Committee, Los Angeles County Bar Association (1979-80)
- (s) Legal Aid Foundation of Los Angeles (Los Angeles County Bar representative on Board of Directors, 1993-96)
- (t) Member, San Fernando Valley Bar Association (1993-95)
- (u) Advisory Board, Institute for Corporate Counsel (1989-95)

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- (v) CPR Institute for Dispute Resolution (Southern California Regional Panel) (1990-1997)
- (w) Member, Chancery Club (Los Angeles) (professional luncheon-meeting club open to leading members of the bench and bar in Los Angeles, selected by nomination and vote of the membership; lunch meetings feature speakers about legal and civic matters) (1991-present)
- (x) Member, Chief Justice Bird's Special Committee on Court Congestion and Related Problems (1977-80)
- (y) Member, Los Angeles City Attorney's Citizens Committee on Internal Policy (1974)
- (z) Member, Board of Directors, Constitutional Rights Foundation (CRF) (1979-1997); President (1984-86)
- (aa) Chairperson, State Advisory Committee for Youth and the Administration of Justice (CRF) (1981-88)
- (bb) Member, Board of Directors, Brennan Center for Justice (1995-97)

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Lobbying:

Some of the bar associations listed in Question #9 may engage in some form of lobbying.

Civic/Charitable:

- (a) Ninth Judicial Circuit Historical Society (1996-present)
- (a) Stanford Law School Alumni Association (1966-present)
- (c) U.C.S.B. Alumni Association (ca. 1970-present)
- (d) Sherman Oaks (CA) Homeowners Association (ca. 1985-present)
- (e) Riviera (Santa Barbara) Homeowners Association (1991-present)
- (f) Smithsonian (1968-present)
- (g) WETA Public Radio/Television (1998-present)

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11. **Court Admission:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.
- (a) All California state courts (as member of California State Bar); 1967
 - (b) U.S. District Court, Central District of California; December 1, 1969
 - (c) U.S. District Court, Northern District of California; July 2, 1970
 - (d) U.S. Court of Appeals for the 9th Circuit; January 7, 1972
 - (e) U.S. Supreme Court; February 22, 1972
 - (f) U.S. Court of Federal Claims; January 17, 1977
12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Published Articles and Reports

- (a) "Justice Brennan's Supporting Role," 72 St. John's Law Review 905 (1998). This is based on remarks I made as part of a panel speaking at St. John's Law School on the 30th anniversary of the U.S. Supreme Court's so-called "stop and frisk" decision, Terry v. Ohio, 392 U.S. 1 (1968). Other members of the panel included Hon. Lewis Stokes (Terry's lawyer), Prof. Earl Dudley (law clerk to Chief Justice Warren) and two others involved in the Terry case or related litigation. See App. A, Tab 2.

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- (b) Report of the Independent Commission on the Los Angeles Police Department (June 1992). I was a principal editor of the report, and was the primary author of Chapter 2 ("Los Angeles and its Police Department") and Chapter 10 ("Structural Issues -- The Police Commission and the Chief of Police"). See App. A, Tab 3.
- (c) I was a member of two Los Angeles County Bar Association Committees, each of which issued public reports to which I contributed written materials and editorial input:
- L.A. County Bar Association Advisory Committee for the Office of District Attorney, pp.77,87 (1994)
 - L.A. County Bar Association Ad Hoc Committee on Sexual Orientation Bias (1993-95) See App. A, Tab 4.
- (d) Co-author, "False Pretenses: Proving Misappropriation of the Right to Publicity," L.A. Daily Journal (November 14, 1995) See App. A, Tab 5.
- (e) Co-author, "Presentation of Evidence in Highly Technical Cases: Admission of Demonstrative Evidence," Intellectual Property Litigation in Technology Cases p. 211 (Prentice Hall Trial Advocacy Instit. 1992, 1993) See App. A, Tab 6.
- (f) "Los Angeles Testing Policies - Conference Remarks," in Test Policy and the Politics of Opportunity Allocation: The Workplace and the Law, Bernard R. Gifford, Editor (National Commission on Testing and Public Policy, 1989) See App. A, Tab 7.
- (g) Co-author, "Pro Bono Legal Services: The Objections and Alternatives to Mandatory Programs," 53 Calif.State Bar J. 24 (1978) See App. A, Tab 8.
- (h) Principal writer for Judge Wright's article: "Justice at the Dock: The Maritime Worker and Mr. Justice Black: Thirty Years in Retrospect," 14 U.C.L.A. L. Rev. 524 (1967) See App. A, Tab 9.

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- (i) Writer for "The Law of Evidence" section in J. Cound, J. Friedenthal, A. Miller, Civil Procedure: Cases and Materials (West Pub.Co. 1968) See App. A, Tab 10.
- (j) Note, "Contract Restraining Alienation of Land Void as Against Public Policy," 17 Stan.L.Rev. (1965) See App. A, Tab 11.
- (k) As President (Editor-in-Chief) of the Stanford Law Review, Volume 18 (1965-66), I was responsible for the final editing of numerous articles and student-written notes and comments, and wrote the "President's Page." See App. A, Tab 12.

Speeches/Press

(a) As Associate Attorney General I have delivered a number of speeches, some formal and others in the form of "remarks," usually based on talking points. Almost always these speeches or talking points have been drafted by Department of Justice staff, and I have usually had to modify or edit them in delivery to adjust to the audience or time constraints. Thus the drafts reflect the general substance, but not always the literal words, of my statements. See App. A, Tab 13. Press coverage is included in App. A, Tab 13.

I have also been interviewed by the print and TV press (see App. A Tab 14); have substituted twice for the Attorney General at her regular Thursday press availability conferences (See App. A, Tab 15); and appeared with Secretary Richard Riley at a joint press conference on school safety (see App. A, Tab 15b).

(b) As a Police Commissioner, particularly during my tenure as President of the Commission, I gave a number of speeches that touched on law enforcement issues and, in connection with the evaluation of Chief of Police Willie L. Williams for reappointment, speeches that dealt with the provisions of the Los Angeles City Charter governing the process. The attached drafts are "message point" outlines upon which I based my remarks. Most were drafted by the Police Commission's Public

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Affairs Director. Similar to my Department of Justice speeches, above, I typically had to modify or edit the prepared draft remarks, and the drafts reflect the general substance of my remarks but not the literal statements actually made. See App. A, Tab 16.

Typically, the press did not report on my speeches as such, but there was press coverage of the subjects covered. Examples are included in App. A, Tab 17.

Legislative Appearances

I have testified before the Senate Judiciary Committee on two occasions: (a) during my confirmation hearing, September 30, 1997 (App. A, Tab 18); and (b) during the Committee's hearing on S.R. 44, regarding the proposed Victims' Rights Amendment (App. A, Tab 19).

Prior to my service as Associate Attorney General, I also testified on a few occasions before legislative bodies, but I do not have copies of any of the testimony (I did not speak from prepared remarks, and my statements are not available in written form). Specifically, as Police Commissioner I appeared before the Los Angeles City Council on several occasions to speak about LAPD issues (anti-terrorist procedures, proposed consent decree concerning hiring guidelines and discrimination issues and personnel matters relating to the Chief of Police). In 1991 I appeared before the City Council on behalf of the Christopher Commission to explain various reform recommendations requiring Council action, leading to a city charter amendment (which became Proposition F in the 1992 municipal election). During my tenure with Governor Brown in 1975, I appeared before State Senate and Assembly committees to answer questions about proposed public employee collective bargaining legislation.

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Seminars and Panel Presentations

(a) As Associate Attorney General, I have sometimes given the speeches or remarks described above in the context of a panel. Examples are the St. John's Law School presentation on Terry v. Ohio (see App. A, Tab 2), and my role as a Presider for the "Civic Education in America" panel at the February 1999 ABA Symposium on Public Understanding and Perceptions of the American Justice System (see App. A, Tab 20). I also spoke as a guest lecturer at the Harvard University Kennedy School of Government's Institute of Politics for a seminar on "The Future of Urban America: Finding Solutions Through Strategic Win-Win Partnerships and Public Advocacy." The session was largely an informal question and answer format, so I paraphrased prepared talking points. (See App. A, Tab 21)

(b) In November 1997 I appeared on CNN's legal affairs program, "Burden of Proof" as part of a panel discussing Eastwood v. National Enquirer, in which I represented Clint Eastwood. (See Question 18(a), below.) [I have a videotape] [Also, Court TV's program, "On Appeal," discussed and televised portions of the oral argument in the 9th Circuit. I did not appear live on the program as part of the discussion panel. (See App. A, Tab 22 (videotapes))

(c) Panelist, "Mediation for Business Lawyers: Alternative Dispute Resolution Comes of Age," Association of Business Trial Lawyers (February 1994). See App. A, Tab 23 (working outline of presentation by me and Judge Martin).

(d) Panelist, "Pretrial Case Management and Discovery Practice," Federal Practice Institute (California State Bar CEB/Litigation Section) (1991, 1992). See App. A, Tab 24 (working outline of panel presentation, with my handwritten annotations).

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(e) Presenter, "The Advantages/Disadvantages of Juries in Technical Cases," Intellectual Property Litigation in Technology Cases--Trial Advocacy Institute (Prentice Hall Law & Business; October 1993). See App. A, Tab 25 (outline of presentation).

13. **Health:** What is the present state of your health? List the date of your last physical examination.

Excellent; physical exam in October 1998.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not served as a judge, but have performed in a quasi-judicial capacity (a) as a private arbitrator through the auspices of the CPR Institute for Dispute Resolution (see King Provision Corp. v. Burger King Corp. discussed in Question 19(i) below); (b) as a volunteer judge pro tem in the Los Angeles Superior Court arbitration program, providing nonbinding rulings in contested hearings to promote settlement of cases; and (c) as a member of the Los Angeles City Civil Service Commission, also discussed in Question 19(i) below.

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15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable. No opinions were issued in connection with the quasi-judicial activities listed in Question 14.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

1. Associate Attorney General of the United States, Department of Justice; December 1997 to present; appointed by President Clinton and confirmed by the United States Senate.
2. Commissioner, Los Angeles Police Commission; 1995-1997; appointed by Mayor Richard Riordan, confirmed by Los Angeles City Council. (President, 1996-1997; elected by Commission.)
3. Commissioner, Los Angeles Civil Service Commission; 1984-89; appointed by Mayor Tom Bradley, confirmed by Los Angeles City Council. (President, 1986-87; elected by Commission.)
4. Special Assistant to Governor Edmund G. Brown, Jr.; 1975; appointed by Governor Brown.

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17. Legal Career:

a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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,

Yes.

- (a) Law Clerk to Hon. William J. Brennan, Jr.; United States Supreme Court (1967-68).
- (b) Law Clerk to Hon. J. Skelly Wright; United States Court of Appeals (D.C. Circuit) (1966-67)

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

I have not practiced alone.

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

- (a) Associate Attorney General of the United States, Department of Justice; Washington, D.C. 20530. (December 1997 to present)
- (b) Shareholder/Partner; Heller Ehrman White & McAuliffe; 601 South Figueroa Street, Los Angeles, CA 90017 (1988-97)
- (c) Shareholder/Partner/Associate; Tuttle & Taylor; 355 South Grand Avenue, Los Angeles, CA 90071 (1968-88)
- (d) Special Assistant to the Governor; Office of Governor Brown; Sacramento, CA (1975)

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- b. 1. **What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?**

Since December 1997 I have been serving as the Associate Attorney General of the United States, and not engaging in the active practice of law. I have, however, been responsible for a wide variety of law enforcement (primarily civil but some criminal) matters, as well as supervising the litigation activities of the civil litigating divisions at the Department of Justice (Antitrust, Civil, Civil Rights, Environment and Natural Resources, and Tax). My duties also include policy making and interagency coordination on numerous areas of the law within the Department's jurisdiction.

In my 30 years of law practice prior to becoming Associate Attorney General, my practice from the beginning (1968) consisted primarily of complex civil litigation in both federal and state courts, as well as occasional administrative or arbitration proceedings. Although I have been an active litigator throughout, there have been periods when I was (a) heavily involved in the management of my law firms; and (b) during the period (September 1996 to August 1997) devoted approximately 80% of my time to my position as President of the Los Angeles Police Commission.

More specifically regarding firm management, during the period 1986-88 at my then law firm, Tuttle & Taylor, I served as the firm's managing partner, essentially a full-time management position. In March 1988 I moved to Heller Ehrman White & McAuliffe (a San Francisco-based firm) to open its Los Angeles office, serving as the office's managing partner and as a member of the firm's governing Policy Committee until about 1992. Again, a substantial proportion of my time was given over to managing the Los Angeles office as it grew from three founding partners to a high of about 65 attorneys over a four-year period.

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- 2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.**

For the most part, my typical clients were business entities or individuals involved in business disputes. Occasionally I represented other kinds of entities such as Indian tribes and government officials. My principal areas of practice were contract disputes, antitrust, securities, intellectual property (tradenname, trademark, trade secret and some patent litigation), and a variety of matters involving federal or California constitutional issues. In the earlier part of my career I also handled labor law matters.

- c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.**

I appeared in court relatively frequently, usually on motion practice but also periodically for trials or appellate argument. When I was the managing partner at Tuttle & Taylor, I was rarely in court; but the year before (1985) I tried a patent validity and licensing case that lasted almost 11 months.

- 2. what percentage of these appearances was in:**
(a) federal courts;
(b) state courts of record;
(c) other courts.

- a. Federal: about 60%.
b. State: about 35%.
c. Other: about 5%.

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3. What percentage of your litigation was:
(a) civil;
(b) criminal.

100% civil

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried eight court cases to judgment or verdict. I was chief counsel in five cases, associate counsel in two cases, and co-counsel in one case. (I also tried two arbitration cases and one special faculty tenure hearing to judgment; I was chief counsel in all three.)

5. What percentage of these trials was:
(a) jury;
(b) non-jury.
a. court: 38% jury
b. court: 62% non-jury

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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.

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Ten significant litigated matters:

(a) Eastwood v. National Enquirer, Inc., No. 94-1404 JGD (Kx) (C.D.Cal.) I represented Clint Eastwood in litigation against the National Enquirer for publishing a fictitious "exclusive interview" and misappropriating his name and likeness in violation of tradename and privacy laws. The case also involved important First Amendment issues given Mr. Eastwood's status as a "public figure" and the applicability of New York Times v. Sullivan and its progeny, as well as the interplay between the Lanham Act and the constitutional "actual malice" standard. After a 3-week trial, the jury returned a verdict for Mr. Eastwood. The 9th Circuit affirmed on appeal (and denied rehearing en banc). Eastwood v. National Enquirer, Inc., 123 F.3d 1249 (9th Cir. 1997).

Judges: (9th Circuit) Hon. Alex Kozinski; Jerome Farris, Thomas Nelson; (USDC C.D. Cal.) Hon. John G. Davies

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(b) In re Pacific Enterprises Securities Litigation, Master File No. 92-0841-JSL. Beginning in 1992 I represented the former Chairman and CEO of Pacific Enterprises in this securities class action (and a related shareholder derivative action filed in California state court). The cases arose out of Pacific Enterprises' unsuccessful diversification program, primarily related to its Thrifty Drug subsidiary, with damages alleged in the hundreds of millions of dollars. A global settlement was reached through mediation, and approved by the District Court and the Ninth Circuit. In re Pacific Enterprises Securities Litigation, 47 F.3d 373 (9th Cir. 1995).

Judges: (9th Circuit) Hons. Jerome Farris, Cecil F. Poole, Alex Kozinski; (USDC C.D.Cal.) Hon. J. Spencer Letts

Mediators: Hon. Dickran Tevrizian; Hon. J. Lawrence Irving (Ret.)

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(c) In re Student Loan Cases, Master File No. CV 89-2286 HLH (C.D.Cal.). From September 1988 until 1992 I was co-lead defense counsel for defendant Bank of America in this breach of contract action brought by the largest Japanese banks and Citibank, arising from over \$600 million in lost guarantees on student loan portfolios due to improper loan servicing. Bank of America was sued in its capacity as indenture trustee, and also countersued the Peat Marwick accounting firm, with the cases being consolidated for pretrial proceedings. The matter settled through mediation in 1992, with the assistance of court-appointed mediator, Professor Robert H. Mnookin, then at Stanford Law School.

Judge: Hon. Harry L. Hupp (USDC C.D. Cal.)

Mediator: Robert H. Mnookin

Co-lead counsel: Robert A. Rosenfeld
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Bank of Tokyo:

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(Rabobank):

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(d) Dames & Moore v. Regan, 453 U.S. 654, 101 S.Ct. 2972 (1981). I headed the brief-writing team on this important appeal to the United States Supreme Court regarding the legality of the Iranian Hostage Agreements insofar as they nullified attachments of Iranian assets obtained by U.S. companies, including my client Dames & Moore, who were creditors of various Iranian banks. The Supreme Court upheld the Agreements.

Justices: Hons. Warren E. Burger, William J. Brennan, Jr., Potter Stewart, Byron R. White, Thurgood Marshall, Harry A. Blackmun, Lewis F. Powell, Jr., William H. Rehnquist, John Paul Stevens (U.S. Supreme Ct.)

Co-counsel:

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Rex E. Lee (Solicitor General; argued) - Deceased

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New York, NY 10017
212/697-8640

(e) FTC v. Sunkist Growers, Inc. I represented Sunkist during the late 1970s and early 1980s against FTC charges that Sunkist had monopolized the California-Arizona citrus industry. After several years of extensive investigation and discovery, the FTC offered a modest consent order calling for divestiture of a citrus juice processing plant in Yuma, Arizona and prophylactic rules regarding membership in the cooperative.

Administrative Law Judge: Miles Brown

Biographical Information
Applicant: Raymond C. Fisher

Principal opposing counsel:

David Laufer (FTC Complaint Counsel)
[Now:] Associate General Counsel
Toyota Motor Sales, U.S.A., Inc.
19001 South Western Avenue
Torrance, California 90509-2991
310/618-4762

Paul Hewitt
Federal Trade Commission
Sixth Street and Pennsylvania Ave., N.W.
Washington, D.C. 20580
202/326-2100

Ron Bloch
Assistant Director
Federal Trade Commission
Sixth Street and Pennsylvania Ave., N.W.
Washington, D.C. 20580
202/326-2100

(f) Pacific Coast Agricultural Export Assn. v. Sunkist Growers, Inc. I represented Sunkist in this private antitrust action charging Sunkist with violations of the Sherman Act in the export of small-sized oranges to Hong Kong. After an 11-week jury trial in 1973 in the Northern District of California, the jury found liability but awarded limited damages. (I was second chair on liability, and handled the damage phase.) The appeal of the case is reported at 526 F.2d 1196 (9th Cir. 1975) (I was on the brief).

Judge: Hon. Charles B. Renfrew, Jr. (USDC N.D.Cal.)

Co-counsel:

William A. Norris (Tuttle & Taylor)
[Now:] Folger Levin & Kahn, LLP
1900 Avenue of the Stars, 28th Floor
Los Angeles, CA 90067
310/556-3700

Biographical Information
 Applicant: Raymond C. Fisher

Opposing counsel:

Richard Archer
 1426 Filmore Street
 Suite 213
 San Francisco, California 94115
 415/346-3552

Kristina M. Hanson - location unknown

(g) Stanford University v. H. Bruce Franklin. I (along with Hon. William A. Norris, now retired from the 9th Circuit, see para.(f), above) represented the President of Stanford University, Richard Lyman, in prosecuting highly publicized termination proceedings brought against Professor H. Bruce Franklin in the early 1970s, arising out of violent antiwar demonstrations and involving issues of academic freedom and incitement to riot. The hearing was conducted in 1971 before a Faculty Advisory Board, comprised of seven tenured professors, chaired by Donald Kennedy, with Jan Vetter of Boalt Law School acting as legal advisor to the Board. Charges involved inciting students to occupy the University's Computer Center and to defy police orders to disperse, encouraging violent action at a nighttime campus rally which was followed by physical attacks on students, and allegedly shouting down Ambassador Henry Cabot Lodge while attempting to speak at a campus event (this charge not sustained). The hearing lasted six weeks, with testimony from 110 witnesses, and resulted in the termination of Professor Franklin. Professor Franklin, essentially, elected to represent himself (although various attorneys counselled him at different times). In later challenges to the proceedings, the termination was upheld. H. Bruce Franklin v. Leland Stanford University, 172 Cal.App.3d 322; 218 Cal.Rptr. 228 (6th Dist. 1985). (I believe Professor Franklin most recently was teaching at Rutgers University, New Jersey.)

(h) People ex rel. Deukmejian v. Brown, 29 Cal.3d 150, 172 Cal.Rptr. 478 (1981); Pacific Legal Foundation v. Brown, 29 Cal.3d 168, 172 Cal.Rptr. 487 (1981). I represented the Governor of California (and the Controller) in litigation challenging, under the California Constitution, the authority of the Governor and the State Personnel Board to

Biographical Information
Applicant: Raymond C. Fisher

implement various aspects of California's public employee bargaining legislation. (The legislation was upheld as constitutional.) This litigation also resulted in the landmark decision of the California Supreme Court upholding the primacy of the Governor's constitutional authority over that of the State's Attorney General.

Judges: (California Supreme Court) Justices Bird, Tobriner, Mosk, Clark, Richardson and Newman

Co-counsel:

Jerome B. Falk (for co-respondent State Personnel Board)
Howard, Rice, Nemerovsky, Canady, Robertson, Falk & Rabkin
Three Embarcadero Center
7th Floor
San Francisco, CA 94111
415/434-1600

Principal opposing counsel:

George Deukmejian (Attorney General)
[Now:] Sidley & Austin
633 West Fifth Street
Los Angeles, California 90071-2005
213/896-6502

Willard A. Shank (Office of Attorney General)
[Now:] Public Employment Relations Board
1031 18th Street
Sacramento, California 95814
916/323-8015

Talmadge R. Jones (Office of Attorney General)
[Now:] Sacramento County Superior Court
720 9th Street
Sacramento, California 95814
916/855-8400

Biographical Information
Applicant: Raymond C. Fisher

Ronald A. Zumbrun (for Pacific Legal Foundation)
Robert K. Best
[Now:] Zumbrun, Best & Findley
2700 Gateway Oaks Drive
Sacramento, California 95833-3501
916/641-0015

(i) Champion v. California, 738 F.2d 1082 (9th Cir. 1984) (upholding District Court's denial of injunction sought by plaintiffs). I represented the California State Employees Association in federal litigation brought by the National Right to Work Foundation raising constitutional challenges to the use of public employee "fair share fees" for various alleged lobbying purposes. The case raised an interesting question because CSEA in representing its bargaining units necessarily had to deal with the California legislature, which controlled funding for wages and benefits. The Ninth Circuit affirmed the District Court's ruling in favor of CSEA.

Judges: (9th Circuit) Hons. Eugene Wright, Warren Ferguson, Stephen Reinhardt; (USDC C.D. Cal.) Hon. Lawrence Lydick

Opposing counsel:

Nelson Kieff [for National Right to Work Legal Defense Foundation, Inc.; no longer there]
703/698-5245 - Home
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road
Springfield, VA 22160
703/321-8510

(j) Docket 80A (Rincon, La Jolla, Pala, et al. v. United States). Beginning in 1968, I served as co-counsel with California Indian Legal Services (later, Native American Rights Foundation) in representing various Bands of California Mission Indians asserting claims against the federal government for historic water rights in northern San Diego County. The Bands' claims were litigated before the Indian Claims Commission and, later, the United States Court of Claims, and continuously negotiated with the Bureau of

Biographical Information
Applicant: Raymond C. Fisher

Indian Affairs and the Department of Justice, leading to multimillion dollar settlements over a 25-year period. (My active involvement ceased in the early 1980s, as others in my firm succeeded me.)

Judges: (Indian Claims Commission) John T. Vance,
Jerome K. Kuykendal, Richard W. Yarborough, Margaret H.
Pierce, Brantley Blue

Co-counsel:

Douglas W. Beck
Tuttle & Taylor
355 S. Grand Avenue
Los Angeles, CA 90071-3101
213/689-0600

Robert Pelcyger (CILS/NARF)
Fredericks, Pelcyger, Hester & White
1881 9th Street
Boulder, CO 80302
303/443-1683

Opposing counsel:

Edward Bander
Department of Justice
Washington, D.C.
[Now: retired]

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

(a) Los Angeles Board of Police Commissioners. In August 1995, Mayor Richard Riordan appointed me as one of five commissioners on the Police Commission, the city charter-mandated head of the Los Angeles Police

Biographical Information
Applicant: Raymond C. Fisher

Department; I was confirmed by the City Council. The Commission functions much like a corporate board of directors, with general oversight and policy making authority over the LAPD which had over 12,500 sworn and civilian employees and an annual budget of over \$1 billion. In August 1996, I was elected President of the Commission. As a Commissioner and as President, I had responsibility for a variety of significant law enforcement, public safety and management issues.

(b) Independent Commission on the Los Angeles Police Department ("Christopher Commission"). During 1991-92, I served as a volunteer Deputy General Counsel to the Independent Commission on the Los Angeles Police Department ("Christopher Commission"). I was responsible for investigating the structure and operations of the office of Chief of Police and the Police Commission and was the principal drafter of revisions in the selection, retention and termination of the Chief and the oversight capability of the Police Commission. I also served as a final editor of the Christopher Commission Report (see App. A, Tab 3), and as a principal spokesperson for the Commission before the Los Angeles City Council during hearings on the proposed City Charter amendments implementing the Commission's recommendations (approved by the voters in June 1992).

(c) Los Angeles City Civil Service Commission. I served a five-year term as a member of the Los Angeles City Civil Service Commission (1984-89), including one year as President (1986-87). I was appointed by Mayor Tom Bradley and confirmed by the City Council. The Civil Service Commission, consisting of five members, has jurisdiction over the City Personnel Department and, among other things, sits as a quasi-judicial body on matters involving discipline and terminations of all City employees (except sworn personnel, such as police officers).

(d) Special Assistant to Governor Edmund G. Brown, Jr. In 1975 I served for 10 months as a Special Assistant to Governor Edmund G. Brown, Jr., with responsibility for developing and representing the Governor's position

Biographical Information
Applicant: Raymond C. Fisher

on public employee collective bargaining legislation then pending before the Legislature, and for establishing a State Office of Employee Relations. I worked closely with then-Assemblyman Howard Berman, a co-author of the legislation, and a joint legislative committee in drafting a comprehensive public employee collective bargaining statute covering municipal, county, state and educational employees. (Although the comprehensive bill ultimately failed, its key provisions -- including the creation of the Public Employment Relations Board -- were adopted over time in a series of separate bills.) Once the Office of Employee Relations was established, I returned to law practice.

(e) Los Angeles City Board of Education Citizens Advisory Committee on Student Integration. In the mid-1970s the Board of Education for the Los Angeles Unified School District created a broadly representative, volunteer Citizens Advisory Committee for Student Integration (CACSI) to devise a plan that would comply with the California Supreme Court's desegregation ruling in Crawford v. Board of Education, 17 Cal.3d 872, 120 Cal.Rptr. 724 (1976). I served as vice-chair of CACSI's Planning Committee. A majority of the School Board eventually rejected the plan developed by CACSI. I then represented, pro bono, certain CACSI members and the dissenting Board member (Diane Watson) as intervenors in the initial Superior Court hearings on various proposed desegregation plans, presenting and explaining the CACSI plan to the Court.

(f) Ninth Circuit and Federal Bar Association Activities. I was actively involved in various Ninth Circuit and Federal Bar Association activities beginning in 1983.

(1) In 1983 I was appointed by Chief Judge Browning to the Ninth Circuit Advisory Committee on Rules of Practice and Procedure, a position I held until 1988. The committee, comprised of circuit judges and federal practitioners, was responsible for the complete review and revision of the Ninth Circuit rules.

Biographical Information
Applicant: Raymond C. Fisher

(2) In 1986 I was selected by the district judges and lawyer representatives for the Central District of California as a lawyer representative member of the Central District delegation to the Ninth Circuit Judicial Conference. In 1987 I was elected Chair of the Central District delegation, a one-year term. The lawyer representatives met periodically among themselves and at times with members of the Central District judiciary (district judges as well as magistrate-judges and bankruptcy judges) to discuss and resolve issues of federal practice and procedure, and court administration -- both at the local and Circuit level. We also developed an annual district-level conference to follow through on issues raised at the Circuit conference and to deal with matters of local concern.

(3) In 1988 I was elected as one of two Central District representatives for the Circuit-wide Ninth Circuit Lawyer Representative Coordinating Committee (LRCC). In 1990 I was elected Chair of the LRCC. The LRCC was responsible for coordinating the activities of each of the district-level lawyer representative delegations throughout the Circuit and -- in conjunction with the Ninth Circuit Judicial Conference Executive Committee (on which I also served, along with other selected lawyer representatives and judges) -- planning and implementing the annual Circuit conference.

(4) In 1991, following my tenure on the Judicial Conference, Chief Judge Wallace appointed me as an attorney member of the Ninth Circuit Attorney Admission Fund, a position I held until 1994. As trustees for the Fund, our role was to review and decide requests by judges, court personnel and federal practitioners to draw on the Fund for court-related projects.

(5) In 1992 I was elected as a member of the Executive Board of the Federal Bar Association, Central District of California Chapter; and served until 1996. The Board administers the affairs of the local FBA chapter and plans and implements luncheon programs and seminars dealing with a variety of issues relevant to federal practitioners.

Biographical Information
Applicant: Raymond C. Fisher

(g) Los Angeles County Bar Association Committees.

I served on two Los Angeles County Bar Association (LACBA) ad hoc committees, convened to conduct special inquiries into matters the Association leadership deemed of great importance to the Los Angeles legal community.

(1) LACBA Committee on Sexual Orientation Bias (1993-94). This committee, comprised of a cross section of bar leaders in both private, corporate and public law practice as well as openly gay and lesbian legal professionals, was charged with surveying the Los Angeles legal community to assess the nature and extent of discrimination against gay and lesbian attorneys in their places of employment and in their legal practice generally, and to make recommendations for remedying any such discrimination. The Committee's report was adopted and published by the Los Angeles County Bar Association Board of Trustees in June 1994. See App. A, Tab 4.

(2) LACBA Committee to Review the Office of the Los Angeles County District Attorney (1994). At the request of District Attorney Gil Garcetti, the Association created this Committee to audit the operations of the DA's office -- including matters of staffing, training, case assignments and management, and trial preparation and presentation. I focused principally on case management and trial preparation and presentation, including evaluating the resources available to the deputy district attorneys and the need to enhance and improve those resources (e.g., computerization, graphic presentations, jury research). The Committee issued its report in September 1994. (My section is found at pages 77-87.) See App. A, Tab 4.

(h) Mediation/Arbitration.

As part of my litigation practice, I have participated in various activities promoting the use of mediation or arbitration as alternative forms of dispute resolution. For instance, I served on the CPR Institute for Dispute Resolution Southern California Regional Panel as a potential mediator/arbitrator. Through CPR, I was selected in 1993 to chair a three-person arbitration

Biographical Information
Applicant: Raymond C. Fisher

panel pursuant to an Order of Reference of the Florida Circuit Court (Duval County) in a matter involving alleged violations of the Florida antitrust act, tortious interference with contract and breach of contract, with damages sought in excess of \$40 million. (Former Secretary of Transportation, William T. Coleman, Jr., was one of my co-arbitrators.) We conducted a five-day mini-trial, after extensive written submissions, providing an efficient, cost-effective resolution to hotly contested, protracted litigation. King Provision Corp. v. Burger King Corp., No. 90-05718. I also served as a volunteer judge pro tem in the Los Angeles Superior Court arbitration program, providing non-binding rulings in contested hearings to promote settlement of cases. Additionally, I have appeared on panels to educate attorneys and clients about the mechanics and pros and cons of mediation and arbitration. See App. A, Tab 5.

As Associate Attorney General, I have supervisory responsibility for the Department's Dispute Resolution Office, which is responsible for promoting and implementing the use of alternative dispute resolution within the Department and the United States Attorneys Offices throughout the country, and for extending the use of ADR by federal agencies outside the Department. Accordingly, I have spoken on a number of occasions about the importance of integrating ADR conflict resolution techniques into the litigation practices of the federal government, as well as extending the concept of "appropriate" dispute resolution to the community at large. (See speeches collected in App. A, Tab 13(a))

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II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. **List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

(a) Pursuant to my employment agreement with my former law firm, Tuttle & Taylor, I am receiving monthly payments (currently at the rate of \$364) as a prorata share of accounts receivable/work in progress as of my February 1988 termination of employment with the firm, a fixed amount as of that date. The monthly payment amount is restricted by a cap which limits Tuttle & Taylor's monthly obligation to a fixed total amount, which is divided equally among all former shareholder employees currently receiving such deferred compensation payouts.

(b) I am a limited partner in several limited partnerships that may produce income in the future. See Question I.6 ("Partnerships" (Investments)), above.

2. **Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

I will be guided by the Canons of Judicial Conduct and relevant judicial precedent and any other provisions of law which would require recusal or disclosure of a potential conflict. I anticipate there may be matters I am involved in at the Department of Justice, and less likely involving my former law firm, Heller Ehrman, that could present a potential conflict-of-interest during my initial service.

Biographical Information
Applicant: Raymond C. Fisher

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service in the position to which you have been nominated? If so, explain.

No.

4. 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, patents, 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.)

A copy of my financial disclosure report (Form AO-10(w)) is attached hereto in response to this question.

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

See attached Net Worth Statement.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I was moderately active in federal, California and local Los Angeles politics since about 1969, but have not held a formal position in a campaign. For the most part, I have simply contributed modest amounts to candidates or issues; in more recent years I authorized use of my name as an endorser or supporter, and occasionally made a limited number of fund-raising calls. Since becoming Associate Attorney General in 1997, I have not participated in or contributed to any political campaign. In the following list, an asterisk

Biographical Information
 Applicant: Raymond C. Fisher

(*) indicates a higher degree of visibility or identification with a candidate or campaign (e.g, serving on dinner committee; hosting event; speaking).

Federal

*Howard Berman (Congressional campaigns since late 1970s; dinner committees)
 *Barbara Boxer (1992 Senate campaign; co-hosted attorney reception)
 Dianne Feinstein (1992 Senate campaign)
 Clinton/Gore (1992, 1996 campaigns)
 Tom Campbell (1991 Senate primary; co-hosted reception)
 Michael Dukakis (1988 campaign)
 Jimmy Carter (1976 campaign)
 Tony Beilenson (Congressional campaigns since 1980)
 Alan Cranston (Senate campaigns)
 John Tunney (Senate campaign)

State

*Kathleen Brown (Gov.) (1994) (co-hosted attorney Reception)
 *Tom Umberg (AG) (1994) (co-hosted attorney reception)
 Pete Wilson (Gov.; post-election contribution) (1991)
 Dianne Feinstein (Gov.) (1990)
 Tom Bradley (Gov.) (1982)
 John Van de Kamp (AG) (1982)
 *Edmund G. Brown, Jr. (Gov. 1974; Secy of State 1970) (advancing)
 *William A. Norris (AG (1974) (co-hosted attorney fundraiser)
 Wilson Riles (Supt.Ed.) (1970)

Local

Richard Riordan (Mayor) (1996)
 Georgia Mercer (City Council) (1996)
 James Hahn (City Atty.) (1996)
 Ted Stein (City Atty.) (1996) (hosted attorney meet and greet)
 Rick Tuttle (Controller campaigns since 1985)
 Gil Garcetti (DA) (1992, 1996)
 *Linda Griego (Mayor) (1992) (hosted reception)
 Mike Woo (Mayor) (1992)
 Burt Pines (City Atty.) (1970s)
 Tom Bradley (Mayoral campaigns since 1970s)

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Issues

Proposition F (1992): Los Angeles City Charter amendments to implement Christopher Commission reforms (endorsed passage)
*Proposition 15 - Handgun Registration Initiative (1982) (spoke on several occasions in support of Proposition)
Retention of California Supreme Court Justices (Rose Bird, Joseph Grodin, Cruz Reynoso) (1986) (included on published list of attorneys supporting retention; did not actively campaign)

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Fisher, Raymond C.		2. Court or Organization U.S.Ct. Appeals (9th Circuit)	3. Date of Report 03/15/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. Circuit Ct. Judge-Nominee		5. Report Type (check type) X Nomination, Date 03/15/1999 Initial Annual Final	6. Reporting Period 01/01/1997 to 02/28/1999
7. Chambers or Office Address Department of Justice (OASG) 950 Pennsylvania Ave. N.W. Washington, D.C. 20530		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION / ENTITY
<input type="checkbox"/> NONE (No reportable positions)	
1 Associate Attorney General	Department of Justice
2 General partner in 4-person limited partnership	Nernan 145 (investment in restaurant limited partnership)
3 Member, Board of Directors (1979-97)	Constitutional Rights Foundation (nonprofit), Los Angeles CA

II. AGREEMENTS (Reporting individual only; see pp.14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements)	
1 1988	Tuttle & Taylor (law firm); termination agreement re accounts receivable; I have no control and payment fixed as of 1988 termination.
2 1997	Heller Ehrman (law firm); termination agmt.; fully paid fixed amount @ date of termination (11/97); plus 100% return of capital
3 1997-99	City National Investments IRA Custodial Account (Heller Ehrman); I control investments; rolled over into personal IRA @ 3/99

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (years, not spouse's)
<input type="checkbox"/> NONE (No reportable non-investment income)		
1 1997-99	Tuttle & Taylor termination payments	\$ 9,874.00
2 1997-99	Department of Justice (Associate Attorney General); salary	\$ 136,261.00
3 1997	Heller Ehrman White & McKuliffe (former law firm); compensation	\$ 462,943.00
4 1997	(S) Los Angeles Unified School Dist; salary	

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

IV. REIMBURSEMENTS – transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements)	
1	EXEMPT	
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts)		
1	EXEMPT		
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input checked="" type="checkbox"/>	NONE (No reportable liabilities)		
1			
2			
3			
4			
5			
6			

* VAL. CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

FINANCIAL DISCLOSURE REPORT VII. Page 1 INVESTMENTS and TRUSTS— income, value, transactions *(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)*

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DK)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g. dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g. buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
							(2) Date Month Day	(3) Value Gain Code (J-P)	(4) Identity of buyer/seller Code (A-H)
NONE (No reportable income, assets, or transactions.)									
1 Liquid Treasury Fund #2 (No.Am.Trust Co.)	A	Interest	J	T					
2 Berkeley Money Market Fund (No.Am.Trust)	A	Interest	J	T					
3 ThomePrice(TRP)Equity Inc.Fund	B	Interest	K	T					
4 TRP GRNA Fund	D	Interest	L	T					
5 TRP Growth & Income	A	Interest	K	T					
6 TRP Growth Stock	A	Dividend	L	T					
7 TRP High Yield	D	Interest	L	T					
8 TRP International Stock	A	Dividend	J	T					
9 TRP Mid Cap Growth Stock	B	Dividend	L	T					
10 TRP Prime Reserves	B	Interest	K	T					
11 TRP Science & Tech	A	Dividend	K	T					
12 TRP Small Cap Value	A	Dividend	K	T					
13 CATS Series T - Zero % bond - 2001	A	Interest	J	T					
14 Financing Corp.-Zero% bond 2002	A	Interest	J	T					
15 US Treasury Note-5.75% 2003	B	Interest	K	T					
16 CATS Series E-Zero% bond 2003	A	Interest	J	T					
17 US Treasury Note 5.87% 2004	A	Interest	J	T					
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$15,001-\$50,000 E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000 M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000 N=\$250,001-\$500,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

VII. Page 2 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DK)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g. dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g. buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month-Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
18 US Treasury Strips - Zero% Bond 2004	A	Interest	J	T						
19 CATS Series Q Zero% Bond 2005	A	Interest	J	T						
20 CATS Series T - Zero % bond - 2006	A	Interest	J	T						
21 Coupon Treas. Rect. - Zero % bond - 2007	A	Interest	J	T						
22 Coupon Treas. Rect. Zero % bond - 2008	A	Interest	J	T						
23 Resolution Funding Corp.bond - 2009	A	Interest	J	T						
24 US Treasury strips - Zero % bond - 2010	A	Interest	J	T						
25 Resolution Funding Corp Coupon Strips 2011			J	T						
26 Resolution Funding Corp Coupon Strips 2012			J	T						
27 Merrill Lynch Retirement Reserves	B	Interest	K	T						
28 Colonial Small Cap Value Fund			K	T						
29 Colonial Global Equity Fund	A	Dividend	K	T						
30 Davis NY Venture Fund	A	Dividend	L	T						
31 Ivy US Emerging Growth Fund			K	T						
32 MFS Research Fund	B	Dividend	L	T						
33 MI Basic Value Fund	A	Dividend	L	T						
34 Phoenix-Engemann Growth Fund			L	T						
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market										

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

VII. Page 3 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
35 Seligman Frontier Fund			K	T					
36 Seligman Henderson Global Smaller Cos. Fund			K	T					
37 Templeton World Fund	A	Dividend	K	T					
38 Washington Mutual Investors Fund	A	Dividend	K	T					
39 Pasadena Growth Fund	A								
40 US Treasury Note 8.125% 1998	B	Interest							
41 Resolution Funding Corp Zero % Bond 2001			J	T					
42 Coupon Treasury Rect. Zero% bond - 2002			J	T					
43 Resolution Funding Corp. Zero% bond - 2005			J	T					
44 Resolution Funding Corp. Zero% bond - 2006			J	T					
45 Resolution Funding Corp. Zero% bond - 2007			J	T					
46 Resolution Funding Corp. Zero % bond - 2008			J	T					
47 Resolution Funding Corp. Zero % bond - 2009			J	T					
48 Financing Corp Zero% Bond 2010			J	T					
49 Resolution Funding Corp Zero% Bond 2011			J	T					
50 US Treasury Strips Zero% Bond 2013			J	T					
51 Financing Corp Zero% Bond 2014			J	T					
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

VII. Page 4 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DK)" for ownership by dependent child.</i> <i>Place "(0)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month-Day	(3) Value Code (LP)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
52 Merrill Lynch Ret. Reserve Fund (#2)	A	Interest	J	T					
53 Smith Barney Money Funds	A	Interest	J	T					
54 S/B Europe Fund	A	Dividend	K	T					
55 S/B Schroeder All Asia Fund									
56 S/B Fidelity Advisor Ser II Growth Fund			J	T					
57 Calif. EDL USC Ser.A Bonds	B	Interest							
58 Schwab Montgomery Growth Fund (RCF)			K	T					
59 Schwab Mgrs.Special Equity Fund (RCF)	A	Dividend	K	T					
60 Schwab 1000 Fund (RCF)	A	Dividend	K	T					
61 Schwab Muni Money Fund (RCF)	A	Interest	K	T					
62 (S) Schwab 1000 Fund (MLF)	A	Dividend	K	T					
63 (S) Schwab Muni Money Fund (MLF)	A	Interest	K	T					
64 Citifunds US Treasury Reserve	D	Interest	M	T					
65 Citifunds CA Tax Free Reserves	B	Interest	K	T					
66 DOJ Thrift Savings Plan G and C Funds	A	Interest	J	U					
67 Coachman Common stock			J	T					
68 City Natl. Bank IRA (RCF)	A	Interest	J	T					
1 Inco/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Fisher, Raymond C. Date of Report 03/15/1999

VII Page 5 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(j)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month Day	(3) Value Code (L-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
69 (S)City Natl. Bank IRA (NLF)	A	Interest	J	T					
70 Best American Fund Annuity - IRA	B	Dividend	K	T					
71 Heller Ehrman Pension fund	B	Dividend							
72 (S)TSA Annuities - Jackson Natl. Life (NLF)	C	Interest	L	T					
73 (S)Calif. State Teachers Retirement System (NLF)	B	Interest	K	U					
74 (S)Bank of America savings acct. (NLF)	A	Interest	K	U					
75									
76 Limited Partnerships									
77 (J)Matrix Partners III - Decker Lake	F	Distribut ion							
78 Matrix Partners XI Ltd	F	Distribut ion							
79 (J)Mernan 145 (644 So. Figueroa restaurant)	C	Distribut ion	J	U					
80 (J)Venwest Development LP1			L	U					
81 Winthrop Calif. Investors LP			K	U					
82									
83 1997/98 Only									
84 Motorola Inc. 0% Bond									
85 Masco Corp. Sub. Deb.	B	Interest							
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

VII. Page 6 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
86 AT&T Corp. stock	A	Dividend							
87 Albertsons Inc. stock									
88 AIG stock									
89 Ameritech Corp. stock	A	Dividend							
90 AMP Inc. stock	A	Dividend							
91 Avery Dennison stock	A	Dividend							
92 Bank of NY stock	A	Dividend							
93 Caterpillar Inc. stock									
94 Chevron Inc. stock	A	Dividend							
95 Walt Disney stock									
96 Dresser Indus. stock									
97 General Electric stock	A	Dividend							
98 Gillette Co. stock	A	Dividend							
99 WW Grainger stock									
100 Hewlett Packard stock									
101 Intel Corp. stock									
102 Lucent Tech. stock									
1 Inco/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 H2=\$5,000,001 or more E=\$15,001-\$50,000									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Fisher, Raymond C. Date of Report: 03/15/1999

VII. Page 7 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DK)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (O-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month Day	(3) Value Gain Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions)										
103 Mellon Bank stock	A	Dividend								
104 Merck & Co. stock	A	Dividend								
105 Motorola Inc. stock	A	Dividend								
106 NCR Corp. stock										
107 Nestle SA Rep.Fg. stock										
108 Norwest Corp. stock	A	Dividend								
109 Roche Holding Ltd. stock										
110 Royal Dutch Pets NY stock	A	Dividend								
111 Sigma Aldrich Corp. stock										
112 Time Warner Inc. stock										
113 Williams Co. stock	A	Dividend								
114 Merrill Lynch Dragon Fund (Asia)	A	Dividend								
115 Fort Howard Corp. bond	B	Interest								
116 Cetus Corp. conv. debenture	B	Interest								
117 Eagle Hardware & Garden debenture	B	Interest								
118 Pasadena Growth Fund										
119 Stockton Calif. CPTS bonds	B	Interest								
1 Ino/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 H2=\$5,000,001 or more E=\$15,001-\$50,000										
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more										
3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated										

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Fisher, Raymond C.	Date of Report 03/15/1999
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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)
NONE

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Fisher, Raymond C.	Date of Report 03/15/1999
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SECTION HEADING. (Indicate part of report.)
Information continued from Parts I through VI, inclusive.

PART 1. POSITIONS (cont'd.)

Line	Position	Name of Organization/Entity
4	Member, Board of Directors (1995-97)	Brennan Center for Justice (nonprofit), New York NY
5	Member, Board of Directors (1996-97)	Los Angeles Police Academy Magnet Schools (nonprofit), Los Angeles CA

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Fisher, Raymond C.	Date of Report 03/15/1999
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IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature  Date 3/15/99

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

1167

**FINANCIAL STATEMENT
NET WORTH
(12/31/98)**

ASSETS	LIABILITIES
CASH	REAL ESTATE MORTGAGES
Checking Accounts	Residence - Sherman Oaks
Savings	Residence - Santa Barbara
TOTAL	TOTAL
SECURITIES/MONEY MARKET FUNDS	CONTINGENT LIABILITIES
Merrill Lynch	Lease on D.C. Residence
Merrill Lynch #2	
North American Trust	
Solomon Smith Barney	
Schwab One - RCF	
Schwab One - NLF	
Citifunds - USTR	
Citifunds - CA Tax Free	
Coachman Stock	
TOTAL	<u>TOTAL LIABILITIES</u>
REAL ESTATE	<u>NET WORTH</u>
Residence (Sherman Oaks)	
Residence (Santa Barbara)	
Percentage Interest (Sherman Oaks)	
Percentage Interest (Riverside)	
TOTAL	<u>TOTAL LIABILITIES & NET WORTH</u>
LIMITED PARTNERSHIPS	
Mernan 145 (6/30/98)	
Venwest	
Winthrop	
TOTAL	
DEFERRED COMPENSATION	
Tuttle & Taylor termination agreement (\$109,000 gross; \$46,000 npv)	
RETIREMENT FUNDS	
City National Bank - IRAs	
Best America annuity	
Jackson National Life annuities	
DOJ TSP	
California STRS	
TOTAL	
AUTOS AND OTHER PERSONAL PROPERTY	
Auto #1 (1995)	
Auto #2 (1994)	
Personal Property	
TOTAL	
LIFE INSURANCE - CASH VALUE	
<u>TOTAL ASSETS</u>	

Biographical Information
Applicant: Raymond C. Fisher

III. GENERAL (PUBLIC)

1. **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.**

I have attempted to serve the disadvantaged in a variety of ways, some direct and others involving public service activities that include beneficial impact on disadvantaged groups and individuals.

(a) I devoted substantial time to my service as a Police Commissioner and President of the Los Angeles Police Commission, and previously as a member of the Christopher Commission. See Question 19(a), (b) above. In these capacities, I addressed such issues as racism and gender bias, excessive use of force, and constructive ways to deal with at-risk juveniles to keep them out of or rescue them from criminal misconduct (e.g., DARE, the Los Angeles Police Academy Magnet Schools program, truancy enforcement, mobilization of public and private community resources to assist at-risk youth).

(b) I served on boards of foundations whose missions have included providing services to the disadvantaged. The Legal Aid Foundation of Los Angeles focuses specifically on providing free legal services to indigent clients. The Brennan Center for Justice includes clinical programs directed at indigents and low income people. The Constitutional Rights Foundation (CRF) focuses on educational programs that teach youth -- including large numbers of lower income and minority students about constitutional principles, good citizenship, business ethics and community service. CRF was my major community activity beginning in 1979 (until my Police Commission appointment in 1995), to which I devoted thousands of hours and for which I was awarded CRF's highest honor, the "Bill of Rights Award," in 1994. My service on the LAFLA and Brennan Center boards consisted primarily of periodic board meetings, some committee meetings and fundraising.

Biographical Information
 Applicant: Raymond C. Fisher

(c) I represented disadvantaged groups on a pro bono basis, or reduced or contingent fee basis. This included several hundred hours of volunteer time in the 1970s for the Los Angeles City Board of Education Citizens Advisory Committee on Student Integration, and representation of various Bands of Mission Indians in water rights litigation, Docket 80A (see Question 18(j)). I also represented the Chemehuevi Indians in disputes arising out of intra-tribal affairs.

2. Do you currently belong, or have you belonged, to any organization which discriminates on the basis of race, sex, or religion -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

I do not belong to any such organizations. In the past I have belonged to organizations that restricted membership based on gender or, possibly, religious views. My college fraternity, Sigma Phi Epsilon, at a national level did (in the 1958-61 time period involved) discriminate on racial and religious grounds -- but at our local level (U.C. Santa Barbara chapter) we did not adhere to these policies. As a fraternity, we did not admit women. In high school (1956-57), I belonged to a YMCA club that was restricted to males. As a child or teenager I belonged to Cub Scouts, Woodcraft Rangers, DeMolay and the YMCA, all of which restricted membership to males (ca. 1948 to 1955). I also belonged to Methodist Youth Fellowship in about 1955-56, a church youth group that may have had religious restrictions.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

Senators Feinstein and Boxer each has a commission to identify and recommend candidates for the district court, and Senator Feinstein has had an advisory committee to review candidates for the circuit court.

Biographical Information
 Applicant: Raymond C. Fisher

My nomination has not been processed through these commissions. However, in connection with my earlier efforts in 1993-94 to earn a nomination to either the court of appeals or district court, I was interviewed by Senator Feinstein's committee for the circuit court and Senator Boxer's commission for the district court. I was in the process of reapplying to Senator Boxer's commission in 1996-97 when I was nominated for my current position as Associate Attorney General, and I withdrew my application for a district court judgeship.

My current nomination originated with a request in late October 1998 from the White House (Mr. Ruff) that I consider appointment to the 9th Circuit; I was not seeking or considering a judgeship at the time. I have not participated in any formal interviews, although I have spoken informally to the Attorney General, the White House Counsel, Charles Ruff, and Eleanor D. Acheson, Assistant Attorney General for Policy Development.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

NO.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;

Biographical Information
Applicant: Raymond C. Fisher

- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

First, the federal judiciary's role and jurisdiction, although important, are limited under the constitutional doctrine of separation of powers and the laws of the United States. See e.g., Marbury v. Madison, 1 Cranch 137, 2 L.Ed. 60 (1803). The role of a federal judge is to adjudicate properly presented cases and controversies according to the Constitution and federal laws, consistent with the doctrine of stare decisis. These concepts are embodied in judicial precedent established by the United States Supreme Court. For example, the standing and ripeness doctrines, as well as principles of appropriate deference to legislative, executive or administrative authority, all limit the powers of the federal judiciary. A federal judge's duty is to interpret and apply the law to the facts of a particular case, not to legislate or to shape the outcome to accord with the personal views of the judge.

My role as a judge would be to follow the law where it is clear, and where it requires interpretation to be guided by established judicial precedent. I would be guided by my 30 years of experience as a litigation attorney who has had frequent and substantial dealings with the

Biographical Information
Applicant: Raymond C. Fisher

federal courts, and my strong belief that the judicial system must be, and appear to be, one that proceeds with integrity, fairness and restraint. I also would bring to the bench the perspective of one who has served in executive and administrative positions that have provided me with insights into the need for appropriate judicial deference to the legislative and executive branches of government. Specifically, as Associate Attorney General I have been charged with implementing and enforcing the laws enacted by Congress, including defending those laws against challenges in federal courts. I have a first-hand appreciation of the role of the Congress and the Executive Branch, and the processes that undergird our federal system. Because of my experience on the Los Angeles Police Commission, and earlier as a Civil Service Commissioner, I also have an appreciation for the role of local (and state) authorities who are attempting in good faith to govern at the local level. In sum, I have a healthy respect for the role in our democratic system of the other branches of government, and the need to keep the judicial function a limited one.

**I. BIOGRAPHICAL INFORMATION
(Public)**

1. **Full name:** *(Include any former names used).*
Ronald Murray Gould.
2. **Address:** *List current place of residence and office address.*

(Home)
Mercer Island, Washington 98040.

(Office)
Perkins Coie
1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099.
3. **Date and place of birth:**

October 17, 1946
St. Louis, Missouri.
4. **Marital Status:** *(Include maiden name of wife, or husband's name.) List spouse's occupation, employer's name and business address.)*

I have been married since 1968. My spouse's full name is Suzanne Helene Gould and her maiden name was Suzanne Helene Goldblatt. My spouse has not been employed outside of the home since 1975.
5. **Education:** *List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.*

University of Pennsylvania, Wharton School of Business and Commerce, 1964-68, B.S. in Economics, 1968; and

University of Michigan Law School, 1970-73, J.D., May 1973, *magna cum laude*.
6. **Employment Record:** *List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.*

A. Paid Employment

- (1) September 1968 to May 1970, employed as Assistant Manager by:
Franchise Investments, Inc.¹
1221 Locust Street
St. Louis, Missouri 63103.
- (2) 1970-1972, for certain periods part-time Research Assistant to Professor Jerold H. Israel, at University of Michigan Law School, in areas of criminal procedure.
- (3) July to August 1972, before graduation from law school, summer associate at the law firm of Arnold & Porter in Washington, D.C.
- (4) Approximately August 1973 to July 1974, Law Clerk for The Honorable Wade H. McCree, Jr., on the United States Court of Appeals for the Sixth Circuit.
- (5) Approximately August 1974 to July 1975, Law Clerk for The Honorable Potter Stewart on the United States Supreme Court.
- (6) December 1975 to present, Perkins Coie, a law firm in Seattle, Washington, Associate, 1975 to 1980, and Partner, 1981 to present.²
- (7) 1986 Spring Quarter (mid-March to mid-June),³ 1987 Spring Quarter (mid-March to mid-June) and 1989 Winter Quarter (mid-December 1988 to Mid-March 1989), Adjunct Teacher of

¹ Upon my graduation from college, my father was ill and I worked in his business for the period indicated assisting him and deferring my plans to attend law school. The company listed was my employer. However, he also had interests in other closely held companies that had ownership of particular franchise investments such as a dairy convenience store and a fast-food restaurant. I believe that I may have been technically an "officer" of some other closely held companies owned wholly by my father, but have no records of these companies that will identify their precise names.

² As a partner, for the period September 24, 1982 to December 31, 1990, I was the sole shareholder of a professional corporation, Ronald M. Gould, P.S., which was a corporate partner of Perkins Coie. For the period January 1, 1991 to the present, I have been one of several shareholders and a vice president of Perkins Coie II, a corporate partner of the law firm of Perkins Coie.

³ "Paid" employment was limited to a modest honorarium for 1986 Spring Quarter.

Dispute Resolution at University of Washington Law School in
Seattle, Washington.

B. Other Volunteer and Unpaid Employment or Community Service
Leadership as Officer, Trustee, Director or Active Member of
Organization.⁴

DATE	ORGANIZATION	TITLES
1983 to 1987	Metrocenter YMCA	Today's Constitution and You, Chair of Executive Committee
1985 to 1988		Board Member
1984 to present	Chief Seattle Council, Boy Scouts of America	Executive Board
1985		Chairman of Jamboree Committee
1987 to 1989		Vice President for Program
1990 to 1992		Vice President for Exploring
1993 to 1995		Vice President for Special Events
1986	People to People Citizen Ambassador Program	Member, East Asia Legal Delegation
1988		Member, Japan Legal Delegation
1989		Leader, Eastern Europe Legal Delegation
1991 to 1992	Governor Mike Lowry's Finance Committee	Co-Chair
1992 to 1996	Citizens Cabinet	Member
1992 to 1994	Economic Development Council of King County	Member of Board

⁴ Where I have served as an officer, trustee, director or active member of a bar association or other law-related organization, these are listed solely in response to Question 9 and are not repeated here.

DATE	ORGANIZATION	TITLES
1992	Governor Lowry's Transition Task Force on Ethics in Government	Member
August 1993 to present September 1995 to July 1996	Bellevue Community College	Trustee Chair, Board of Trustees
1996 to November 12, 1997	National Jewish Democratic Council	Board Member
1996 to October 1997	Senator Patty Murray's Finance Committee	Co-Chair
1997	Presidential Rank Review Board I was appointed by the Director of the United States Office of Personnel Management (OPM) to serve in 1997 as a Review Board Member for the Meritorious Presidential Rank Award. This involved reviewing contributions of career federal officials and providing scores to be considered by the OPM in the making of the President's awards.	Board Member

7. **Military Service:** *Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.*

No.

8. **Honors and Awards:** *List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.*

I was Editor-in-Chief of the Michigan Law Review in 1972-73 and was a member of the Michigan Law Review for 1971-72. Furthermore, during law school, I received the Abram W. Sempliner Memorial Award for legal excellence in 1972 and the Henry Bates Memorial Scholarship in 1973, was in the Order of the Coif as of March 1973, and graduated *magna cum laude*. Also, during law school I received American Jurisprudence book awards in the following classes: Trusts and Estates I in Fall 1971, Property in Winter 1971, Contracts in 1972, and Labor Law in Winter 1972.

Award from King County Bar Association in 1987 for Distinguished Service to the Legal Profession and Public.

Elected to be a Fellow of the American Bar Foundation in recognition of professional attainment, distinguished service and commitment, 1990 to present.

Elected President of Washington State Bar Association for 1994-95 term.

Ex-Officio Member of the American Law Institute, September 1994 to September 1995.

Silver Beaver Award from Chief Seattle Council, Boy Scouts of America, February 11, 1995 (highest award Council may give to volunteer leaders).

9. **Bar Associations:** *List all bar associations, legal or judicial-related committees 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.*

BAR ASSOCIATIONS, AND LEGAL OR JUDICIAL-RELATED COMMITTEES, CONFERENCES AND ORGANIZATIONS	TITLES, DATES OF MEMBERSHIP AND OFFICES
American Bar Association	Member, 1976 to present
Antitrust Section	Member, September 7, 1976 to September 22, 1989; and October 26, 1996 to present
Economics Committee ⁵	Member, approximately 1980 to 1985
Public Contract Law Section	Member, August 9, 1985 to September 22, 1989
Section of Litigation	Member, September 7, 1976 to present
Alternative Means of Dispute Resolution	Member, 1987
Antitrust Litigation	Member, 1980 to present
Committee on Corporate Counsel	Member, 1984 to present

⁵ I have not been able to confirm through the ABA a precise date of my participation, but I was a member of a Committee on Economics when that Committee was chaired by Jay Greenfield of the Paul Weiss firm in New York.

BAR ASSOCIATIONS, AND LEGAL OR JUDICIAL-RELATED COMMITTEES, CONFERENCES AND ORGANIZATIONS	TITLES, DATES OF MEMBERSHIP AND OFFICES
Subcommittee on Budgeting for Litigation	Co-Chair, 1986, Member, 1986 to 1988
Committee on Commercial and Banking Litigation	Member, 1982 to present
Section of International Law and Practice	Member, August 24, 1987 to October 23, 1992
<p>Central and Eastern European Law Initiative (CEELI)</p> <p>During this past year, the Washington State Bar Association asked me to organize a presentation to a visiting group of judges and lawyers from Uzbekistan who were visiting under the auspices of the ABA's CEELI project.</p>	Presenter, 1997
Regional Moot Court Competition	Moot Court Judge, 1997
American Bar Foundation	Fellow, 1990 to present
Asian Bar Association	Member, 1995
American Judicature Society	Member, June 1994 to present
American Law Institute	<i>Ex officio</i> Member, September 1994 to September 1995
<p>Equal Justice Coalition</p> <p>This is a bipartisan coalition of more than 50 organizations and community leaders.</p>	Member, 1995 to present
Federal Bar Association for the Western District of Washington	Member, early 1980s to present Trustee, approx. 1985 to 1987
Appellate Practice Committee	Member, 1994 to present
Jewish Federation of Greater Seattle	
Cardozo Society	Member, 1995 to present
King County Bar Association Public Information Committee	Member, 1976 to present Member and then Chair, late 1970s
Young Lawyers Division	Trustee, approx. 1979 to 1981

BAR ASSOCIATIONS; AND LEGAL OR JUDICIAL-RELATED COMMITTEES, CONFERENCES AND ORGANIZATIONS	TITLES, DATES OF MEMBERSHIP AND OFFICES
King County Bar Foundation	Contributor, 1992 to present, President's Council 1993 to present
LASER (Lawyers and Students Engaged in Resolution) While Washington State Bar Association President-Elect and then President, I co-chaired with Attorney General Christine Gregoire this project to develop mediation in the high schools.	Co-Chair, 1994 to 1995
LASER Foundation	Board Member, 1996
National Conference of Bar Presidents	Member, September 1994 to September 1995; and January 1997 to present
Ninth Judicial Circuit Historical Society	Member, September 1990 to present
	Board Member, 1994 to present
People to People Citizen Ambassador Program	Member, 1986 Legal Delegation to East Asia Member, 1988 Legal Delegation to Japan Leader, 1989 Legal Delegation to Eastern Europe
Supreme Court Historical Society	Member, January 1, 1977 to present
University of Michigan Law School Committee of Visitors	Member, 1988 to 1992, <i>Emeritus</i> Member 1993 to present
University of Michigan Law School Fund	Contributor, 1974 to present
University of Washington Law School	Adjunct Teacher of Dispute Resolution, Spring Quarter 1986, Spring Quarter 1987 and Winter Quarter 1989
University of Washington Law School Public Service Advisory Board	Board Member, approx. 1993 to 1994

Washington State Bar Association	Member, 1976 to present
Board of Governors	President, September 1994 to September 1995 President-Elect, January 1994 to September 1994 Board Member, 1988-1991
Judicial Recommendation Committee	Member, approx. early to mid-1980s
Law School Liaison Committee	Member, approx. late 1970s
Litigation Section	Member, 1980s to present
Corporate Law Department Section	Member, 1980s to present
Washington Association of Attorneys With Disabilities	Member, 1996 to present
Washington State Board for Judicial Administration	Board Member, November 1991 to December 1995
Washington State Trial Lawyers Association	Member, 1988 to present
Washington Women Lawyers	Member, April 1994 to present

10. **Other Memberships:** *List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.*

Organizations to which I belong that I believe engage in some lobbying before public bodies are the American Bar Association (Member), Chief Seattle Council of Boy Scouts of America (Executive Board), Equal Justice Coalition (Member), Federal Bar Association for the Western District of Washington (Member), Jewish Federation of Greater Seattle (Member), King County Bar Association (Member), Perkins Coie (Partner), Trustees Association of Community and Technical Colleges (Member), Washington State Bar Association (Member), Washington Association of Attorneys With Disabilities (Member), Washington State Trial Lawyers Association (Member) and Washington Women Lawyers (Member).

Other organizations to which I belong⁶ are as follows: American Bar Foundation (Fellow), American Judicature Society (Member), B'nai B'rith (Member), Bellevue Community College (Trustee), Columbia Tower Club (By-Laws are Exhibit A) (Member), Herzl Ner Tamid Conservative Congregation and Herzl Mens Club which assists in service and social projects for the Synagogue (Member), Jewish Federation of Greater Seattle's Cardozo Society (Member), National Conference of Bar Presidents (Member), Ninth Judicial Circuit Historical Society (Member and Board Member), The Rainier Club (By-Laws are Exhibit B) (Member), Sigma Alpha Mu (Fraternity-Theta Chapter, University of Pennsylvania) (initiated in 1965, undergraduate member in 1965 to 1968 and alumni status from 1968 to present), Supreme Court Historical Society (Member), University of Pennsylvania Alumni Association (Member) and Penn/Wharton Club (of Seattle) (Member), University of Michigan Law School Fund (Contributor) and University of Michigan Law School Committee of Visitors (*Emeritus* Member).

11. **Court Admission:** *List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.*

Supreme Court of the State of Washington (January 1976).

Admission to the Supreme Court of the State of Washington carries with it admission to all state tribunals at every level within the State of Washington.

Supreme Court of the United States (October 1981).

U.S. Court of Appeals for the Federal Circuit (May 1986).

U.S. Court of Appeals for the Ninth Circuit (June 1980).

U.S. District Court for the Eastern District of Washington (July 1982).

⁶ I received President Clinton's nomination for the position of Circuit Judge for the United States Court of Appeals for the Ninth Circuit on November 8, 1997. During the following week, I wrote letters to several organizations that were political in nature withdrawing from participation and resigning my membership because of my intent to avoid political activities as a nominee. These political organizations from which I resigned and was previously a member are the Democratic Congressional Campaign Committee, the Democratic National Committee, the Democratic Senatorial Campaign Committee and the National Jewish Democratic Council. In addition, I resigned from the American Jewish Committee and the American Israel Public Affairs Committee because their functions included a legislative agenda.

U.S. District Court for the Western District of Washington (February 1976).

In addition, I have been admitted *pro hac vice* in courts in other jurisdictions for limited purposes of appearing in particular cases. Most recently, I have been admitted *pro hac vice* in Superior Court for the State of Alaska, and in the United States District Court for the District of Alaska. I have been similarly admitted *pro hac vice* in other cases during the last twenty years in federal courts in Oregon and Alaska, state court in Alaska and possibly other venues.

12. **Published Writings:** *List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.*

My published writings or edited writings, and speeches, lectures or notes on same, listed chronologically, to the best of my recollection and knowledge, are:

- Student Note, by Ronald M. Gould, "Wilkins v. Bentley: Getting Out the Student Vote in Michigan," Vol. 70, Michigan Law Review 359 (1971).
- Editor-in-Chief, Michigan Law Review, Vol. 71, 1972-73. I did not write any of the articles in Vol. 71, but served as Editor-in-Chief during this period. I recall that I had some editorial participation on the Student Comments and Notes that are found at pp. 538-70 (Note on Disqualification of Judges for Interest), pp. 1042-61 (Note on Res Judicata in the Derivative Action), pp. 1438-63 (Note on Aesthetics in Legal Context), pp. 1641-53 (Note on Enforceability of Religious Law in Secular Courts).
- Washington Civil Procedure Before Trial Deskbook, published by Continuing Legal Education Committee of the Washington State Bar Association (1981). I participated on the editorial board of this Washington Civil Procedure Before Trial Deskbook. I was also one of the contributing authors on the chapter relating to jury trial, chapter 43, concerning "Jury Trial of Right." I was a co-author of that chapter along with my partner Theodore J. Collins of Perkins Coie. To the best of my recollection, chapters on which I participated in the editing process were chapter 39, concerning summary judgment, and chapter 40, concerning injunctions.

- 1984 Monograph prepared by Economics Committee and published by American Bar Association Antitrust Section, concerning "The Use of Economists in Antitrust Litigation."
- December 10, 1984, "Damages," a chapter of Practising Law Institute, Corporate Law and Practice, Court Handbook Number 470, Antitrust Litigation.
- Lecture and class discussion or inquiry notes for teaching Dispute Resolution as adjunct faculty member at University of Washington Law School, 1986 Spring Quarter, 1987 Spring Quarter, and 1989 Winter Quarter.
- 1986 Supplement to Washington Civil Procedure Before Trial Deskbook, published by Continuing Legal Education Committee of the Washington State Bar Association (1986). For the 1986 Supplement of the 1981 Deskbook, I was on the Editorial Board. In addition, I updated chapter 43, governing Rule 38, "Jury Trial of Right," on which I was now the primary author assisted by my associate Bruce Williams.
- March 19, 1986, paper and speaker, "Territorial and Customer Limitations," New York Law Journal Distribution Seminar (1986-87).
- June 23, 1986 to July 9, 1986, portion of People to People Citizen Ambassador Program Journal concerning East Asia Legal Delegation. Delegation members shared the task of writing parts of the journal. I was asked to write a summary of an introduction to Japan's legal system presented by the public prosecutor's office on June 23, 1986.
- September 30, 1986, paper and speaker, "Overview of FSLIC/FDIC Litigation" and "Director/Officer Liability," Washington Savings League Financial Institutions Seminar for Thrift and Bank Counsel.
- March 5-6, 1987, paper and speaker, "Practical Aspects of Presenting a Case in Arbitration," prepared for "International Arbitration: Practical Approaches and Considerations," American Bar Association with Section of Litigation and Section of International Law and Practice (San Francisco 1987).
- September 4, 1987, Remarks of Ronald M. Gould, at University of Michigan Law School Memorial Proceedings for The Honorable Wade H. McCree, Jr., Lewis H. Simes, Professor of Law.

- December 1987, Guest Editorial for Hamakor, The Source, a newsletter sharing information and highlighting activities of the Jewish Day School of Metropolitan Seattle, article on "Hannukah and the United States Constitution: A Common Legacy of Religious Freedom."
- April 25, 1988, paper and speaker, "Director/Officer Liability," Federal Home Loan Bank Board of Seattle's Litigation Seminar (1988).
- June 1988, paper prepared by American Bar Association, Section of Litigation, Committee on Corporate Counsel, Subcommittee on Budgeting for Litigation, entitled "Case Histories on Budgeting for Litigation." I prepared the summaries about the case budgeting practices of FSLIC and Perkins Coie which are included at pages 10-12 and 39-45 of the report.
- June 13, 1988, paper and speaker for Household International Conference relating to overview of FSLIC litigation concerning liability of officers and directors.
- Approximately 1989 or 1990, talk to legal secretaries group regarding alternative dispute resolution techniques, based on notes from University of Washington Law School teaching.
- April 1989, paper and speaker, International Arbitration in Action, Continuing Legal Education program, held on or about May 2, 1989.
- May 26, 1989 to June 9, 1989, People to People Citizen Ambassador Program journal concerning Eastern Europe Legal Delegation. I was the reporter for and wrote the part of the journal describing a May 26, 1989 visit in the morning to the Czechoslovakian Society of Foreign Relations and a visit that afternoon to the United States Embassy in Czechoslovakia with Ambassador Julian Niemczyk. In addition, as leader of the delegation, I was on occasion quoted by reporters in other meetings, making statements that were ceremonial or for goodwill purposes, as reflected at pages 7, 15, 26, 43 and 45 of the journal.
- August 22, 1989, notes of speech on: ADR Discussion Points for WSBA Corporate Counsel Section.
- October 1990 notes and outline of speech to Washington State University pre-law class concerning appellate process.

- 1992 Washington Civil Procedure Deskbook, Chapter 38, concerning Rule 38, "Jury Trial of Right." I co-authored this chapter with my partner, Albert Gidari, Jr. I prepared an initial version of this chapter for the Washington Civil Procedure Before Trial Deskbook, published in 1981 and then updated in 1986.
- October 16, 1992, Moderator, "Regulators' Claims Against Financial Institution Attorneys and How to Avoid Them," Washington Savings League's Financial Institutions Seminar for Thrift and Bank Counsel.
- January 25, 1994, press release concerning my election as President-Elect of the Washington State Bar Association.
- Approximately May 20-24, 1994, speech to Washington Association of Legal Secretaries.
- September 1994 to September 1995, monthly articles for one year for the Washington State Bar Association, Bar News, President's Page.
- September 12, 1994, outline of speech to Washington State Judicial Conference.
- December 9, 1994, Outline of Remarks to Visiting Judges from Kazakhstan and Kyrgyzstan, delivered in meeting at Washington State Supreme Court chaired by Justice Robert Utter.
- December 30, 1994, text of a column for the Bar News on prevention of youth violence, used as the basis for a speech.
- January 25, 26, 27, February 2, 6, 7, March 14, and May 4, 1995, papers entitled "Outline for Talk on Referendum."
- March 20, 1995, draft and a final version dated March 23, 1995, of speech entitled, "The Organized Bar and Legal Professionalism," the substance of a speech delivered in a professionalism seminar with the Spokane County Bar Association on March 9, 1995, and to another bar group on March 23, 1995.
- July 10, 1995, President's Report, published in the Washington State Bar Association's Bar News in September 1995 as my term concluded.
- September 8, 1995, press release concerning Washington State Bar Association President's Award to Davis Wright Tremaine law firm.

- September 28, 1995, outline of speech to Judges Conference for Board of Industrial Insurance Appeals.
- February 14, 1996, outline of speech to Mercer Island Rotary Club on what business persons should expect from attorneys.
- March 1997 Bar Bulletin Profile on Kimberly T. Ellwanger, written for the King County Bar Association's Bar Bulletin.

These writings are designated as Exhibit C, submitted chronologically in a notebook with separate bound volumes of a few items.

13. **Health:** *What is the present state of your health? List the date of your last physical examination.*

My general health is excellent.

I have a chronic illness of multiple sclerosis that impairs my mobility but does not have any impact on my ability to perform legal work. I was diagnosed with multiple sclerosis in 1990. I have routine annual physical examinations, see a neurologist and a physical medicine specialist periodically, and have regular checkups concerning my health.

I most recently had a general physical examination on October 1, 1997, with my internist and primary care physician, Dr. Roger Bush. I last had an examination by my consulting neurologist, Dr. John Ravits, on September 13, 1997. I last had an examination by my consulting physical medicine specialist, Dr. George Kraft, on September 24, 1997. I last had an eye examination, with Dr. David Betts, on April 14, 1997. I was examined by a urologist, Dr. Michael Mayo, on September 30, 1997. I had a hearing test on October 7, 1997.

14. **Judicial Office:** *State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.*

None.

15. **Citations:** *If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

Not applicable.

16. **Public Office:** *State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.*

I was appointed to serve on the Washington State Board for Judicial Administration, from November 1991 to December 1994. That board then consisted of the Washington State Supreme Court's Chief Justice, its Acting Chief Justice, Chief Judges of our intermediate courts of appeals and representatives of other court levels within the State of Washington, as well as two lawyer representatives.

I have also held appointed office as a Trustee for Bellevue Community College commencing July 16, 1993 to the present. I was appointed by the Governor and confirmed by the Washington State Senate.

17. **Legal Career:**

- a. *Describe chronologically your law practice and experience after graduation from law school including:*
1. *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;*
 - Law Clerk for The Honorable Wade H. McCree, Jr., on the United States Court of Appeals for the Sixth Circuit, approximately August 1973 to July 1974.
 - Law Clerk for The Honorable Potter Stewart of the United States Supreme Court, approximately August 1974 to July 1975.
 2. *whether you practiced alone, and if so, the addresses and dates;*

I have not practiced alone.
 3. *the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;*

- Perkins Coie, a law firm, December 1975 to present; Associate, 1975 to 1980; Partner, 1981 to present. From September 24, 1982 to December 31, 1990, I was the sole shareholder and president of Ronald M. Gould, P.S., a corporate partner of Perkins Coie. From January 1, 1991 to the present, I have been a shareholder and vice president of Perkins Coie II, a corporate partner of Perkins Coie.

Address: 1201 Third Avenue, 40th Floor
Seattle, Washington 98101-3099.

- University of Washington Law School, 1986 Spring Quarter (mid-March to mid-June), 1987 Spring Quarter (mid-March to Mid-June), 1989 Winter Quarter (mid-December 1988 to mid-March 1989). Adjunct Teacher of Dispute Resolution, temporary position.

Address: School of Law, University of Washington
1100 Northeast Campus Parkway
Seattle, Washington 98105-6617.

- b.1. *What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?*

In total, over the more than twenty years of my practice, I have handled civil commercial litigation for varied corporate clients, for occasional individuals and for federal agencies regulating financial institutions. My cases have involved contracts, products liability, antitrust and trade regulation, government contract claims, construction litigation, trade secret and trademark disputes, consumer protection matters adverse to the Washington State Attorney General's Office, claims for pro bono clients, defensive cases against the FTC, offensive and defensive cases for FSLIC, RTC and FDIC, insurance coverage declaratory judgment cases, state and federal court class actions, defense of securities claims, defense of workers' compensation claims, plaintiffs' claims for the federal regulatory agencies asserting professional liability of directors,

officers, appraisers, lawyers and accountants, other litigation related to banking and other matters.⁷

My practice can be divided into four periods:

- 12/1/75 to 6/30/84

Commencing work at Perkins Coie in December 1975, I had a general commercial practice, with significant experience in antitrust litigation and counseling. I did antitrust work on several cases in the early years of my practice. As an associate I worked on several cases with partner Richard E. Williams defending alleged price-discrimination, price-fixing and monopolization by major companies. Also, in this period I defended firm clients in connection with required document productions pursuant to Federal Trade Commission ("FTC") investigations in two cases. Later, as lead counsel I represented Otis Elevator Company in an antitrust suit filed by one of its former employees in federal court in Fairbanks, Alaska.

I also handled construction litigation for a general contractor on several disputes involving federal and state court lawsuits and private arbitration.

I represented two food manufacturers in federal court litigation. In one case we successfully challenged another company's use of my client's trade name and trademarks. In another case, I successfully defended a products liability case alleging that botulism had been caused by my client's product.

I also worked on a broad range of commercial disputes. For example, I represented varied firm clients in a lease dispute that involved real estate; a joint venture contract dispute overseas that would have been in an international arbitration if not settled; a contract bid dispute where we challenged the award of a contract for insurance programs for employees of the State of Alaska and its political subdivisions; a contract declaratory judgment action against

⁷ I have handled two criminal defense matters. One was for an individual charged with assault. The other involved alleged white collar crime in which I represented a company through a plea bargain in connection with challenges to practices with their pension plans. Additionally, during litigation for FSLIC and FDIC concerning failed financial institutions, in some cases there were parallel grand jury investigations, criminal referrals by my firm and criminal prosecutions by the Office of the U.S. Attorney.

a mining company that had by long-term agreement gained control of tens of thousands of acres of land owned by a client; an employment dispute concerning a termination, a medical partnership dissolution; a products liability claim relating to a worker injured by a power saw; jury trials based on administrative records in workers' compensation cases; and other matters.

As an associate, from time to time I spent an afternoon at a Seattle legal services office, handling pro bono cases.

- 7/1/84 to 12/31/93

In 1984 I was retained by the Federal Savings and Loan Insurance Corporation ("FSLIC") to investigate potential claims against directors, officers, and other third persons who may have contributed to the failure of Queen City Savings & Loan Association in Seattle. (This case is described in response to Question 18.)

This work for FSLIC in the Queen City case ultimately led to a significant change in my practice. I attracted from FSLIC many cases involving failed savings and loans in the State of Washington and then in other Northwest states.

I was retained by FSLIC in connection with other savings and loan association failures. Some of these involved investigations of claims and recommendations where no law suits followed. In other cases claims were asserted in litigation. I delegated some cases to other partners, but generally retained supervision of director and officer liability issues. Thus, as further examples, I participated in investigation or assertion of litigation claims relating to failures of Citizens Federal Savings & Loan Association in Seattle, United First Federal Savings in Idaho, Community First Federal Savings in Oregon, and Westside Federal Savings & Loan Association of Burien, Washington. (A case involving Westside Federal is described in response to Question 18.)

I had other cases involving representation of banks: I represented First Interstate Bank of Washington and First Interstate Bank of Idaho in contract litigation related to a mishap concerning an investment for the State of Idaho. I represented Pacific First Federal with success after trial on the merits. (This case is described in response to Question 18.) I represented Gentra Capital Corporation in asserting a fidelity bond claim against Reliance Surety relating to certain conduct of a predecessor bank's employee. I represented Bank of Montreal in a series of assets realization or loan workout cases involving a

combination of negotiation and actual or potential litigation and bankruptcy matters. I represented First Hawaiian Bank as the lead lender and its loan participant First Interstate Bank of California in a claim relating to a major creditor in potential litigation and bankruptcy proceedings.

During this period I handled other commercial cases. I represented a consumer finance company in responding to inquiries from the State of Washington Attorney General's Office, which was resolved without litigation. I represented a law firm in defense of legal malpractice claims. I represented a lumber company in a criminal case involving pension plan matters, which was resolved with a plea bargain. I represented The Boeing Company in a government contract dispute about cost accounting standards described in response to Question 18.

I also handled some pro bono cases defending persons liable for writing bad checks and cases involving consumer protection.

- 1/94 to 9/95

For the period January 1994 through September 1995, I was President-Elect and President of the Washington State Bar Association. I therefore receded from day-to-day discovery and motions practice, but I continued to supervise on issues of case strategy, motions, settlement and trial preparation.

In this period my personal efforts as Bar President included a referendum contest and campaign by the organized Bar Association to preserve its right to have discretionary and nonregulatory programs to provide benefits to members; a continuing review of the governance system of the Washington State Bar Association; efforts on professionalism; development of a project for lawyers to assist in mediation in high schools to prevent youth violence; and outreach to voluntary bar associations.

- 9/95 to the present

In September 1995, I returned to a full-time commercial litigation practice including antitrust, consumer protection, and contract matters and including defense of individual suits and class actions.

I represented a closely held corporation in a land-use dispute with the City of Seattle concerning a proposed heliport. I represented parties in two separate cases, defending actions brought by the

Federal Trade Commission. I represented defendant Great Western Bank, a California financial institution, in defending against a Washington state court class action brought by a homeowner, challenging fees charged for reconveyance upon the final payment on a mortgage.

Commencing in December 1975 to the present, I represented an insurance brokerage and holding company, Aon Corporation, and certain of its current or former subsidiaries, in a dispute with the Consumer Protection Division of the Attorney General's Office relating to certain operations of one of Aon's former subsidiaries. During this period I concluded representation in an accounting malpractice action brought by the FDIC against Price Waterhouse relating to the failure of Alaska Statebank. (This case is described in response to Question 18.)

2. *Describe your typical former clients, and mention the areas, if any, in which you have specialized.*

Most of my clients have been corporate clients. These have included established clients of Perkins Coie such as The Boeing Company, as well as litigation for smaller corporate clients.

After becoming a partner, I generally represented corporate clients. From 1984 to approximately 1994, I spent a major part of my time representing first Federal Savings and Loan Insurance Corporation ("FSLIC") and then Federal Deposit Insurance Corporation ("FDIC") and Resolution Trust Corporation ("RTC") in federal court litigation relating to professional liability of officers, directors, and other persons who owed duties as professionals to the failed financial institutions and in other federal court litigation involving FSLIC, RTC or FDIC.

I gained knowledge about financial institutions and banking, and I then had experience that permitted me to represent banking clients for whom I did litigation only and not regulatory work.⁸ From 1985 to 1995, the litigation matters that I handled for banks were substantial in the aggregate, although I did only occasional litigation for any one financial institution. Thus, I handled single or occasional litigation for First

⁸ I represented bank clients only in nonregulatory litigation (i.e., I did not represent any financial institution in front of the federal regulatory agencies and did not counsel any client on federal regulatory matters). My law firm also avoided any conflict of interest with the federal agencies regulating banking.

Interstate Bank of Washington, First Interstate Bank of California, First Interstate Bank of Idaho, Genra Capital Corporation (a unit of Royal Trust), Pacific First Federal of Washington, Bank of Montreal, First Hawaiian Bank and Great Western Bank.

I handled litigation for KSTW-TV (formerly owned by my client Gaylord Broadcasting) for many years in contract and employment lawsuits. Also, I handled cases for corporate clients and individuals adverse to the Federal Trade Commission or the State of Washington on consumer protection matters. More generally, for over twenty years I have had a diverse civil commercial litigation practice.

- c.1. *Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.*

I have appeared regularly in court during my twenty-two years of active litigation practice. Most of my recent appearances in court were on preliminary injunction, discovery and other pretrial matters, working in complex cases that settled before trial. I also appeared in appellate cases. My presidency of the Washington State Bar Association and time committed to the Bar during 1994-95 substantially displaced the "trial" and litigation action for part of this period and cases I have taken since then have not reached trial. My appearances in court were more frequent before 1994.

2. *What percentage of these appearances was in*

- (a) *federal courts - 75%*
- (b) *state courts of record - 20%*
- (c) *other courts - 5%*

3. *What percentage of your litigation was:*

- (a) *civil - 98%*
- (b) *criminal - 2%*

4. *State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.*

The following chart reflects cases I tried to verdict or judgment from 1976 through 1993.

<u>Number</u>	<u>Court</u>	<u>Sole, Chief or Associate Counsel</u>	<u>% Jury</u>
3	State Superior	3 as sole counsel	100%
4	Federal District	1 sole, 2 chief and 1 associate counsel	0%
2	Administrative	1 sole and 1 associate counsel	0%

The above statistics do not include trial-type arbitrations, of which I had a few, nor cases in which I obtained for my client(s) a summary judgment or dismissal before trial on motion. They also do not include during that period two significant cases that went to trial but not to verdict before juries, one that was settled after about six weeks of trial in federal court and another that was settled after about a week of trial in state court before verdict.

5. *What percentage of these trials was:*

- (a) *jury - 33.3%*
- (b) *nonjury - 66.7%*

18. **Litigation:** *Describe the ten most significant litigated matters which you personally handled. 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) FDIC v. Price Waterhouse, No. A94-154CIV, United States District Court for the District of Alaska. I represented FDIC as plaintiff in this accounting malpractice claim brought in 1994 by FDIC against Price Waterhouse in federal court in Alaska.

The complaint alleged that Price Waterhouse breached duties of care and failed to follow generally accepted auditing standards in its audits of Alaska Statebank before the bank's failure, and alleged a lack of proper independence of one of the Price Waterhouse auditors. I headed the investigation team of outside counsel for FDIC and brought these claims alleging a lack of independence and other professional malpractice by the accountants that FDIC contended had contributed to and assisted in the failure of Alaska Statebank.

The case involved extensive document discovery relating to the audits of Alaska Statebank by Price Waterhouse over several years before the bank failed. There was discovery of bank employees and officers, members of the Price Waterhouse audit team, regulators and experts. Following pretrial discovery and testimony of expert witnesses, the case was settled by Price Waterhouse paying FDIC \$2.5 million.

I was lead counsel for FDIC during the investigation of the claims against Price Waterhouse and the decision to commence suit, which occurred in 1994. Because of my commitment as President-Elect and then President of the Washington State Bar Association during 1994-95, I shifted substantial responsibility on the case to one of my partners, Richard L. Baum, who then took a primary role in the conduct of discovery. I continued to supervise and to participate in key decisions. After September 1995, I returned to active participation in the case, including handling important expert discovery and counseling FDIC relating to settlement.

This was one of only a handful of accounting malpractice lawsuits brought by FDIC against accounting firms alleging that they had breached duties to a financial institution and had caused damage thereby.

- (a) The dates of the representation:

The case was brought in 1994 after lengthy investigations and extensive legal work and representation by me in prior years. The case was not tried because of the settlement concluded as of August 2, 1996.

- (b) The name of the court and the judge before whom the case was tried:

United States District Court for the District of Alaska, before The Honorable Russell Holland.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

<u>Lawyer (Co-Counsel)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Richard L. Baum, Esq. Deborah J. Phillips, Esq. Joseph E. Bringman, Esq. Stephan R. Illa, Esq.	Perkins Coie 1201 Third Avenue Seattle, WA 98101 (206) 583-8888	(for Illa) 3000 Smith Tower 506 Second Avenue Seattle, WA 98104 (206) 464-4142 (for Phillips and Bringman)-- (same) (For Baum) Perkins Coie 1201 Southwest Fifth Avenue Suite 1500 Portland, Oregon 97204-3715 (503) 727-2021
James N. Leik, Esq.	Perkins Coie 1029 West Third Avenue Suite 300 Anchorage, AK 99501-1970 (907) 263-6923	(same)
[FDIC Supervising Counsel] Jeffrey Ross Williams, Esq.	FDIC Legal Division Professional Liability Section 550 17th Street, N.W. Room H-6069 Washington, D.C. 20429 (202) 736-0648	(same)
Richard Gill, Esq.	FDIC Legal Division Professional Liability Section 550 17th Street NW Washington, D.C. 20429	FDIC Receivership Goodwill Washington, D.C. 20429 (202) 942-3622

<u>Lawyer (Representing Price Waterhouse)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Peter Wald, Esq. Renata Sos, Esq.	Heller, Ehrman, White, & McAuliffe 333 Bush Street San Francisco, CA 94104-2878 (415) 772-6632	(for Wald) Latham & Watkins 505 Montgomery Street San Francisco, CA 94111 (415) 395-8006 (for Sos)--(same)
Jerry E. Melcher, Esq.	Heller, Ehrman, White & McAuliffe 550 West 7th Avenue, Suite 1900 Anchorage, AK 99501 (907) 277-1900	(same)

- (2) FDIC v. Crosby, et al. and Crosby, et al. v. St. Paul Fire & Marine Insurance Co., No. C91-575R, United States District Court for the Western District of Washington at Seattle. I represented FDIC in a suit alleging negligence and breach of fiduciary duty of Lynnwood Savings against the directors and officers and also in a declaratory judgment suit against the St. Paul Fire & Marine Insurance Company to establish the directors and officers' right to insurance coverage.

FDIC had conducted its own review after the failure of Lynnwood Savings, and had concluded that the directors and officers had not followed appropriate standards of care in extending loans and in administering loans to certain parties, which had proximately caused substantial damages to the failed savings and loan association. We were retained and filed suit against the directors and officers alleging negligence and breach of fiduciary duty and related state law claims. The directors and officers' insurance company defended the case with a reservation of rights disputing the existence or scope of insurance coverage for the challenged conduct.

There were attempts at settlement. On behalf of FDIC, we had asked The Honorable Barbara Jacobs Rothstein to appoint a settlement judge. She appointed The Honorable William L. Dwyer who acted as a mediator for the parties. It became clear that the case could not be settled by the sued director and officer defendants if they did not have insurance coverage.

Accordingly, to conserve litigation expenses and judicial resources, we urged the Court to stay the underlying director and officer liability suit while discovery and other proceedings would continue to resolve the declaratory judgment case against the St. Paul Fire & Marine Insurance Company. The defendants whom we had sued were claimants in the case against their insurance company, and FDIC had also intervened in that action because of its interest. Because of FDIC's substantial interest, we took a substantial role in the proceedings seeking to establish the insurance coverage.

This type of coverage case is in large part a contract interpretation case. After extensive pretrial proceedings, we obtained a partial summary judgment from Judge Rothstein that established insurance coverage. Shortly after that, the suit was settled against the directors and officers, based on a payment by the insurance company to FDIC of more than \$1.5 million.

(a) The dates of the representation:

The suit commenced in 1991 following investigations by me and my firm in 1990; a partial summary judgment establishing insurance coverage in Crosby, et al. v. St. Paul Fire & Marine Insurance Co. was granted by Judge Rothstein on March 26, 1992. After it was established that there was insurance coverage for the actions of defendants directors and officers, the underlying director and officer liability case, FDIC v. Crosby, et al., was settled through negotiation and was not tried. In the director and officer liability suit there was a decision granting plaintiff FDIC's motion to strike defendants' affirmative defenses of contributory negligence, failure to mitigate damages, ratification, waiver, estoppel and laches, reported at 774 F. Supp. 584 (June 24, 1991). While the insurance coverage decision was not reported, there was a reported decision in this matter permitting FDIC's intervention pursuant to FRCP 24 in the insurance coverage case of Crosby, et al. v. St. Paul Fire & Marine Insurance Co., which is found at 138 F.R.D. 570 (Aug. 13, 1991).

(b) The name of the court and the judge before whom the case was tried:

United States District Court for Western District of Washington at Seattle, before The Honorable Barbara Jacobs Rothstein.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

<u>Lawyer (Co-Counsel)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Joseph E. Bringman, Esq. Javier Perez, Esq.	Perkins Coie 1201 Third Avenue, 40th Fl. Seattle, WA 98101-3099 (206) 583-8888	(for Bringman)--(same) (for Perez) 2707 - 45th Avenue S.W. Seattle, WA 98116 (206) 932-8656
Jeffrey Ross Williams, Esq.	FDIC Legal Division Professional Liability Section 550 - 17th Street, N.W. Room H-6069 Washington, D.C. 20429 (202) 736-0648	
<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
David J. Lenci, Esq. Bruce W. Hilyer, Esq.	Culp Guterson & Grader 2700 One Union Square 600 University Street Seattle, WA 98101-3143 (206) 624-7141	(for Lenci) Deputy Prosecuting Attorney 2918 Colby Avenue, Suite 203 Everett, WA 98201 (425) 388-6340 (for Hilyer) 1420 5th Avenue, Suite 3510 Seattle, WA 98101-2333 (206) 689-5616
Peter D. Byrnes, Esq. Ralph E. Cromwell, Esq.	Byrnes & Keller 38th Floor, Key Tower 1000 Second Avenue Seattle, WA 98104 (206) 622-2000	(same)
Richard L. Lambe, Esq.	Ulin & Lambe 1501 4th Avenue, #2180 Seattle, WA 98101-1622 (206) 624-4848	Ulin Lambe & Hicks, P.S. 1501 4th Avenue, #2180 Seattle, WA 98101-1622 (206) 624-4848

<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Jay H. Zulauf, Esq.	Mundt, MacGregor, Happel, Falconer, Zulauf & Hall 4200 First Interstate Center 999 Third Avenue Seattle, WA 98104-4082 (206) 624-5956	(same)
John P. Payseno, Esq.	15 South Grady Way Suite 414 Renton, WA 98055 (206) 271-7216	(same)
Phillip D. Noble, Esq.	Hellsell, Fetterman, Martin, Todd and Hokanson 1325 Fourth Avenue 1500 Puget Sound Bank Plaza P. O. Box 21846 Seattle, WA 98111 (206) 292-1144	Hellsell Fetterman 1325 Fourth Avenue Suite 1500 P. O. Box 21846 Seattle, WA 98111 (206) 292-1144
David Strout, Esq.	Danielson, Harrigan & Tollefson 4400 First Interstate Center 999 Third Avenue Seattle, WA 98104	Bush Strout Kornfeld 601 Union St., #5500 Seattle, WA 98101-2373 (206) 292-2110

- (3) Fidata Trust Company New York and Colson Services Corp. v. Community First Federal Savings & Loan, Pacific First Financial Group, Pacific First Bank, and FSLIC as Trustee for Community First Federal Savings & Loan, No. C88-633TB, United States District Court for the Western District of Washington at Tacoma. In this matter I represented FSLIC and several banking defendants who were sued by another bank that had provided funds for a certificate of deposit ("CD") and had never been repaid. Plaintiff Fidata Trust Company's predecessor, Bradford Trust Company, had deposited in Community First Federal in 1985 about \$1.5 million, with funds aggregated from individual investors.

Community First Federal had been acquired by Pacific First Federal Savings & Loan in a federally assisted acquisition. FSLIC agreed to

indemnify and hold harmless Pacific First Federal and its affiliates from any undisclosed liability. Subsequent to the assisted acquisition, Fidata Trust Company brought suit against FSLIC as receiver for Community First Federal and against the Pacific First Federal entities that had acquired and assumed the liabilities of Community First Federal asserting a claim for an alleged failure of repayment to Fidata Trust Company on what was termed a "jumbo CD."

Bradford Trust Company, the plaintiff's predecessor, had been in the business of aggregating investor funds for deposits of jumbo CDs garnering higher rates of return generally than the individual CD investors limited to \$100,000 of insured funds would be able to obtain. Bradford Trust Company had wired funds to Community First Federal for a jumbo CD. The account had been opened based on a phone call from a broker named First United.

The certificate of deposit was initially made out incorrectly in the name of First United rather than Bradford Trust Company. When the CD was due, it was not initially repaid but was "rolled-over" with interest continuing to accrue. Bradford Trust Company was going through a reorganization and never made a claim for the funds on maturity. At some point Community First Federal realized that it had funds continuing to accrue interest on the rolled-over CD and, based on its accounts, contacted First United. One of First United's brokers who received the call went to the president of the company (who later was imprisoned for fraud against other financial institutions) and advised of the inquiry. The response, according to testimony, was, "if they're that stupid, let's take the money." First United took the money, transferred the money offshore to Europe and the money was never recovered. Several years later, Fidata Trust Company as Bradford Trust Company's successor asserted that the jumbo CD had never been repaid to Bradford Trust Company, even though Bradford Trust Company had repaid the underlying investors. Fidata Trust Company, then, brought this action against Community First Federal and its successors seeking repayment of the investor funds involved.

The case was in federal court because of FSLIC's presence as receiver for Community First Federal. Defendants whom I represented obtained judgment in their favor based on a determination after trial that Bradford Trust Company had given First United apparent authority to deal with the account, and that Community First Federal reasonably relied on the statements of First United's agents and representatives in directing the

repayment of the funds. The Ninth Circuit affirmed Judge Bryan's opinion and judgment.

- (a) The dates of the representation and trial period:

Plaintiff sued in 1988 and I was soon thereafter retained to represent all defendants. After extensive discovery, I tried the case commencing on April 9, 1990. The court on May 3, 1990, found in favor of my clients, the defendants, on all claims, rendering an oral decision that was subsequently amplified by written findings of fact and conclusions of law filed June 6, 1990. The United States Court of Appeals for the Ninth Circuit affirmed on October 16, 1991, 946 F.2d 898.

- (b) The name of the court and the judge before whom the case was tried:

United States District Court for the Western District of Washington at Tacoma, before The Honorable Robert J. Bryan.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

<u>Lawyer (Co-Counsel)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Albert Gidari, Jr., Esq.	Perkins Coie 1201 Third Ave., 40th Fl. Seattle, WA 98101-3099 (206) 583-8888	(same)
Scott E. Schwartz, Esq.	Federal Home Loan Bank Board 1700 G Street, N.W. Washington, D.C. 20552	Office of Thrift Supervision 1700 G Street, N.W. Washington, D.C. 20552 (202) 906-6361
<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Louis Maione, Esq. Christopher J. Collins, Esq.	Maione & Collins Attorneys at Law One State Street Plaza, 12th Floor New York, NY 10001 (212) 344-4500	(for Maione) Salon, Marrow & Dyckman 685 Third Avenue New York, NY 10017 (212) 661-7100

<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
		(for Collins) Legal Strategies Group 5905 Christie Avenue Emoryville, CA 94608-1925 (510) 450-9625

- (4) Seattle Baseball v. Gaylord Broadcasting, No. 90-2-12212-3, Superior Court of Washington for King County. I represented Defendant Gaylord Broadcasting in the above suit in which the plaintiff alleged breach of contract and sought a declaratory judgment to terminate a broadcast agreement relating to the baseball team.

The declaratory judgment action was brought by the former owner of our city's baseball team, Seattle Baseball LP, seeking a declaration that a multiyear broadcasting contract with my client KSTW-TV, owned by defendant Gaylord, should be deemed terminated. My client defended the action and asserted counterclaims. The plaintiff's theory of the case was that the television station had breached a contractual obligation to use "best efforts" to gain affiliated stations. My client, the television station, believed it had performed admirably under the contract. I moved for preliminary injunction based on our counterclaims. We gained supportive testimony from the baseball team's prior president under past ownership who had negotiated the agreement. We prevailed and obtained a restraining order in Superior Court, preventing the baseball team from negotiating a broadcasting contract with any other party until our claims were resolved. Thereafter, the case was settled by agreement that KSTW-TV would retain its broadcast agreement for the life of that agreement.

- (a) The dates of the representation:

The complaint was filed on June 15, 1990. The case did not go to trial; hearing on the preliminary injunction occurred late in 1990 with a favorable order issued on October 31, 1990. After further proceedings a settlement was reached and a Stipulated Order of Dismissal was entered on or about December 20, 1990.

- (b) The name of the court and the judge before whom the case was tried:

King County Superior Court, before The Honorable
Carol Schapira.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

<u>Lawyer (Co-Counsel)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Joseph E. Bringman, Esq.	Perkins Coie 1201 Third Ave., 40th Fl. Seattle, WA 98101-3099 (206) 583-8501	(same)
Edward M. Lane, Esq.	Smith Alling Lane 1102 Broadway Plaza Suite 403 Tacoma, WA 98402 (206) 627-0191	(same)

<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
William F. Cronin, Esq.	Bogle & Gates Two Union Square, Suite 4700 601 Union St. Seattle, WA 98101-2346 (206) 682-5151	(same)
Ramsey M. Al-Salam, Esq.	Bogle & Gates Two Union Square Suite 4700 601 Union St. Seattle, WA 98101-2346 (206) 682-5151	Seed & Berry 701 Fifth Ave., #6300 Seattle, WA 98104 (206) 622-4900

- (5) The United States v. The Boeing Company, Appeal No. 86-927, 802 F.2d 1390 (Fed. Cir. 1986), and decision of Armed Services Board of Contract Appeals ("ASBCA"), 85-3 BCA ¶ 18,435 (ASBCA 1985). In this case I was in a second-chair position, assisting on case development and briefing with my senior partner, Harold F. Olsen, who at the time was also the senior partner in our firm responsible for the account of The Boeing Company, our firm's largest client. Boeing prevailed before

the ASBCA which rejected a contracting officer's denial of Boeing's claims to be reimbursed for costs incurred in 1980 under a pension plan known as an unfunded Supplemental Executive Retirement Plan (SERP), which was to provide benefits to some of Boeing's executives. The amounts that were accrued under the SERP were measured on an actuarial basis and recorded as an expense and liability even though no payments were made until the eligible executives retired. While the claims related to a disallowance of costs for one year, it was a "test case" that would have relevance as a precedent for Boeing's ongoing SERP program.

At the ASBCA level, it was determined that the facts generally were not in dispute and questions of law were presented. The ASBCA directed the parties to prepare a statement of stipulated facts, which thereafter was the basis for the opinions. The ASBCA held that Boeing was entitled to be reimbursed for accrued and unfunded costs of its SERP. It reasoned that this was permissible under Cost Accounting Standard ("CAS") 412, which had the effect of law and which permitted allocation of these SERP costs to the contracts involved. The government had argued that Defense Acquisition Regulation ("DAR") 15-205-7(f)(2)(ii)(B) limited allowability of pension costs to those that were tax deductible in the tax year when recorded. The government urged that CAS 412 dealt only with allocability of costs and not with allowability which, the government contended, was governed by the DAR provision above cited. Under the government's position, the SERP costs could never have been allowed and reimbursed because they had to be allocated as costs under CAS 412 when accrued but they were not paid to employees and tax deductible at that time.

The ASBCA rejected the government's position and held that Boeing was entitled to recover its SERP costs as allowable when they were accrued and required to be allocated to contracts under CAS 412. The United States Court of Appeals for the Federal Circuit affirmed this position. It reasoned that the Department of Defense had imposed contradictory cost accounting requirements on Boeing. It noted that the Department of Defense's own 1972 Defense Procurement Circular 99 had stated that "[s]hould there be a conflict with respect to the allocability between the ASPR (Armed Services Procurement Regulations) and the CAS, the former regulation will be superseded." The appellate court concluded that to adopt the government's view would permit the Department of Defense to exercise procurement authority "in an arbitrary and capricious manner by completely ignoring a particular cost accounting standard." Thus the ASBCA concluded that

CAS 412 was controlling with respect to allocating SERP costs, and that the DAR provision that contradictorily required pension costs to be deductible in the same year for income tax purposes could not properly limit Boeing's recovery of SERP costs to the extent properly determined and allocated under the CAS.

While I was not the lead counsel, in view of my senior partner Harold Olsen's participation, I was responsible for research and briefing leading to the resolution. This case gave me acquaintance to a complex area of procurement regulation and the workings of an important administrative agency governing appeals on government contract decisions.

(a) The dates of the representation:

I was involved in this case as the second chair from 1983 to 1986. The case was decided in the ASBCA based on stipulated facts and the legal briefings of the parties. The ASBCA's decision issued September 17, 1985, and the decision of the United States Court of Appeals for the Federal Circuit on October 1, 1986.

(b) The name of the court and the judge before whom the case was tried:

The case was initially heard in the ASBCA, the decision of which is set forth at 85-3 BCA ¶ 18,435 (ASBCA 1985). On September 17, 1985 Administrative Judge Rollin A. Van Broekhoven as a member of the ASBCA issued an opinion, concurred in by Administrative Judges Daniel M. Arons and William J. Rubbery, sustaining the appeal of The Boeing Company challenging the contracting officer's disallowance of SERP costs. The appeal of the government thereafter was heard by a panel of the United States Court of Appeals for the Federal Circuit composed of Chief Judge Markey and Circuit Judges Davis and Bissel. Judge Bissel wrote the appellate opinion affirming the ASBCA and the position of The Boeing Company, reported at United States v. Boeing Co., 802 F.2d 1390 (Fed. Cir. 1986).

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:⁹

<u>Lawyer (Co-Counsel)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
Harold F. Olsen, Esq. Richard L. Baum, Esq. Linda Troutman O'Sullivan, Esq. (Ms. O'Sullivan was involved only in the appeal to the Federal Circuit and not in the ASBCA.)	Perkins Coie 1325 Fourth Avenue Suite 1900 Seattle, WA 98101 (206) 682-8770 (For O'Sullivan) Perkins Coie 607 14th Street, N.W. Washington, D.C. 20005- 2011 (202) 628-6600	(For Olsen) Perkins Coie 1201 Third Ave., 40th Floor Seattle, WA 98101-3099 (206) 583-8888 (For Baum) Perkins Coie 1211 S.W. 5th Avenue Suite 1500 Portland, OR 97204-3715 (503) 727-2021 (For O'Sullivan) Miller & Chevalier 655 15th St., NW, Suite 900 Washington, D.C. 20005- 5701 (202) 628-0858
 Lawyer (Other Parties)	 Previous Address/ Telephone	 New Address (if different)/ Telephone (if different)
ASBCA Proceeding		
Colonel Bruce R Houston, Esq. USAF, Chief Trial Attorney Donald J. Kinlin, Esq. Lt. Colonel Carl Tobey, Jr., Esq. USAF Trial Attorneys	(For Houston) Department of Air Force Contract Law Center Headquarters Air Force Logistics Command Department D Wright-Patterson Air Force Base Ohio 45433 (513) 255-6111	(For Houston) Administrative Law Judge Bruce R. Houston United States Postal Service 475 L'Enfant Plaza S.W. Washington, D.C. 20260- 0010

⁹ In addition to the parties' counsel, briefs were submitted by several other large defense contractors as *amicus curiae*. These are identified in the reported federal appellate decision.

<u>Lawyer (Other Parties)</u>	<u>Previous Address/ Telephone</u>	<u>New Address (if different)/ Telephone (if different)</u>
On Appeal to Circuit Court	(For Kinlin and Tobey)	(For Kinlin)
Jane W. Vanneman, Esq.	Office of Chief Trial Attorney	Thompson Hine & Flory LLP
Donald J. Kinlin, Esq.	Division B	2000 Courthouse Plaza, N.E.
	Department of Air Force	Dayton, Ohio 45402-1706
	HQ Air Force Logistics	(937) 443-6600
	Command	(For Tobey)
	Wright-Patterson Air Force	Gardner & Ferguson, Inc.,
	Base	A Professional Corporation
	Ohio 45433	745 East Mulberry, Suite 100
	(513) 255-6111	San Antonio, Texas 78212
		(210) 733-8191
	(For Vanneman)	(For Vanneman)
	Commercial Litigation	Federal Government
	Branch, 2nd Floor	Justice Department Civil
	Todd Building	Division Claims Court
	Department of Justice	Todd Building
	Washington, D.C. 30530	550 11th St., N.W.
		Washington, D.C. 20530-
		0008
		(202) 307-6288

- (6) Albert Odmark v. Westside Bancorporation, No. C85-1099R, United States District Court for the Western District of Washington at Seattle. I represented the Federal Savings and Loan Insurance Corporation ("FSLIC") as a successor to Westside Federal Savings and Loan Association ("Westside Federal") in an action alleging negligence and breach of fiduciary duties by directors and officers of the failed association.¹⁰ I was the lead counsel for FSLIC with regard to its

¹⁰ The FSLIC receivership for Westside Federal involved not only the above litigation but also many other lawsuits and all of the affairs of liquidating the assets and liabilities of Westside Federal. In contrast, most other federal regulatory cases that we took involving failed banks followed federally assisted acquisitions where a new financial institution assumed assets and liabilities, and claims remained with the federal regulatory agency to be investigated and, where appropriate, asserted in court.

receivership and various proceedings concerning Westside Federal. In this capacity I took the lead role in investigation of claims against the directors and officers of Westside Federal, aided by my partner Jack Alkire.

As with many other savings and loans, Westside Federal was seeking the highest of profits on the most risky of loans for development on which it could purportedly charge the highest interest rates and fees. The "points" charged developers and shown as income for Westside Federal were all paid out of loan proceeds, and ultimately Westside Federal collapsed when the underlying collateral values were insufficient to secure repayment on the loans.

Westside Federal's practices enhanced its stock value in the short term but placed all the risks on the FSLIC insurance fund and ultimately taxpayers as a bail out was required. After investigation FSLIC sued certain, but not all, officers and directors, and also reached an agreement to resolve administratively or to negotiate or litigate issues between the shareholders and the Westside Federal receivership at a later time, deferring that controversy. We then proceeded, aligned with the shareholders' class and some separate shareholder plaintiffs, against the directors and officers, with separate issues relating to insurance coverage from CNA Insurance Companies. The insurance policy had a limit of \$20 million and contained potential exclusions. Also, the policy provided that defense costs would reduce the total amount of the policy coverage, decreasing coverage as defense costs were incurred. Aligned with the shareholders' class action plaintiffs' counsel, we went to trial after failed settlement judge mediations.

I headed the investigation that resulted in filing of the lawsuit and participated in discovery. Because I was primarily responsible for many Westside Federal litigation cases and management of other disputes that were part of the overall "receivership case" from FSLIC, and because of my previously scheduled May to August 1986 sabbatical, my partner Jack Alkire took the "lead" trial responsibility. I continued to handle certain important witnesses, and these witnesses that I took

Proceedings in the Westside Federal Receivership were handled generally between 1985-89. Westside Federal and its parent corporation, Westside Bancorporation, were defendants in a major shareholder class action claim when FSLIC declared Westside Federal insolvent and took over. After evaluation, FSLIC as Receiver for Westside Federal asserted its rights to make claims in that action against certain of the directors and officers.

responsibility for at trial included the "outside directors" who had not been sued and several expert witnesses. My partner Jack Alkire made the opening statement and coordinated with the shareholders' trial counsel who were aligned with us as plaintiffs. While the trial was proceeding, I continued to take responsibility for negotiating with the CNA Insurance Companies and with the shareholder class in an attempt to see if settlement could be reached.

After about six weeks of jury trial, we reached a favorable settlement involving payment of \$13 million by the CNA Insurance Companies to settle claims of the shareholder class and of FSLIC. We split the proceeds on an agreed basis that was about \$4 million for the shareholder class and about \$9 million of recovery for FSLIC.

Jointly with FSLIC personnel, I helped resolve or supervised resolution of tens of millions of dollars of exposures and claims from various parties, assisted in the liquidation of assets, and ultimately the Receivership yielded a high percentage payout to all creditors. I was responsible for other litigation and negotiation matters relating to the Westside Federal receivership overall.

FSLIC and Shareholder Class Action Litigation:

- (a) The dates of the trial period and ancillary proceedings were from November 4, 1987 through February 20, 1988; my participation was in November and December 1987.
- (b) The name of the court and the judge before whom the case was tried:

United States District Court for the Western District of Washington at Seattle, before The Honorable Barbara Jacobs Rothstein. Some procedural and substantive issues were adjudicated by motion in the Odmark case as reported at 636 F. Supp. 552 (Feb. 26, 1986) and in the consolidated case of Baer v. Abel, also before The Honorable Barbara Jacobs Rothstein, at 637 F. Supp. 343 (Feb. 26, 1986), and 648 F. Supp. 69 (Mar. 21, 1986), with me in the lead for FSLIC on the briefing and argument.
- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

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- (7) Federal Savings & Loan Insurance Corp. v. Olin Loomis, et al., No. 85-636, United States District Court for the Western District of Washington at Seattle. I represented the Federal Savings and Loan Insurance Corporation ("FSLIC") in this suit against directors and officers of a failed savings and loan association.

FSLIC v. Loomis arose out of the failure of Queen City Savings based in Seattle. In 1984, FSLIC retained me to conduct an investigation, and in March 1985 we filed a suit alleging various theories of liability against the directors and officers of the savings and loan association, including negligence and breach of fiduciary duty. The case also involved fraud allegations against an outsider, Jerry Smith, who was not an officer or director but who had manipulated the parties. I investigated and pursued that case as lead counsel for FSLIC.

Queen City had been a small savings and loan association with local directors making local loans. When Queen City was on the brink of an insolvency of about negative \$1 million, Jerry Smith appeared and orchestrated a sale of a controlling interest of Queen City stock to a Canadian investor and the substitution of a new board of directors. In the period between the initial stock acquisition and change of control agreement and the effective date of change of control, Smith caused or influenced the association to extend various loans to entities in Texas with which he was in some way affiliated. Through fraudulent "land

flips" and other devices, Smith and entities he or his friends controlled apparently skimmed at least \$2 million out of about \$20 million in new loans or joint ventures, as FSLIC alleged. When the new board took control under the new ownership, the board approved some loans to other entities that were affiliated in some way with the new owner and certain of the new directors or officers. On behalf of FSLIC, we challenged the loans and sued the old board, the new board, certain officers and Smith and some of his related entities in Texas who had been borrowers.

We obtained a favorable ruling from The Honorable Barbara Jacobs Rothstein at some point establishing that each separate negligently or fraudulently made loan would be considered an "occurrence" for purposes of establishing policy limits, thereby making the potential insurance limits potentially as high as about \$20 million rather than only \$1 million as the insurance carrier had contended. This then facilitated the settlement of the underlying claims against the insured directors and officers for \$9.95 million.

Claims continued against parties who were not insured officers and directors of Queen City. Thus claims continued against Jerry Smith and against certain entities involved as borrowers. Subsequently, the claims against Smith were dismissed in the civil case because he was convicted in a criminal prosecution, and FSLIC was able to obtain an award of restitution exceeding \$10 million from Smith in the criminal case.

(a) The dates of the representation and trial period:

I commenced representing FSLIC on this matter in mid-1984 and FSLIC's director and officer liability suit was filed April 12, 1985. It was settled before trial after extensive discovery and motion proceedings. The order resolving the case against the insured defendants permitting recovery of \$9.95 million for FSLIC was entered on or about June 23, 1987.

(b) The name of the court and the judge before whom the case proceeded:

The director and officer liability case and the civil fraud case against Smith in which I was in the lead proceeded before The Honorable Barbara Jacobs Rothstein in the United States District Court for the Western District of Washington at Seattle. The case was later transferred to The Honorable John C. Coughenour

at some period after settlement with the insured defendants. The civil case was never tried because of the settlement.

The criminal case against Smith was handled by the U.S. Attorney's Office, and was before The Honorable John C. Coughenour. In Judge Coughenour's court FSLIC presented a claim for restitution as a victim and had a hearing on its restitution claim, in which our evidence was presented by the Assistant U.S. Attorney John C. Carver and my then associate Bart J. Freedman.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

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- (8) International Commodities Export Co. v. Wolfkill Feed & Fertilizer Corp., No. C76-897V, United States District Court for the Western District of Washington at Seattle. This was a contract dispute in which I and Perkins Coie represented defendant Wolfkill Feed & Fertilizer Corp. As a practical matter, I was in the lead in this case. Our client and its owner had been represented by the firm's senior litigation partner, J. Paul Coie, who sat through trial as a friend of the Wolfkill family and as an advisor to me. J. Paul Coie offered me advice and encouragement but did not make argument or handle witnesses.

The plaintiff, ICEC, was an international trading company based in New York and part of a much larger corporate conglomerate. ICEC had asserted that it had a contract with Wolfkill for a certain number of tons of diammonium phosphate. Wolfkill had planned to purchase the product from a different supplier, Kaiser Chemical, and supply it to ICEC, but Kaiser had not delivered the product. Wolfkill claimed that it had never reached a binding agreement with ICEC.

The price of the product involved had "gone through the roof" during the planned delivery period and, if there were liability, the amount of damages claimed under traditional UCC analysis was grave for this relatively small family business.

The trial judge ruled in favor of my client, relying in part on internal evidence of ICEC, a worksheet showing that ICEC routinely entered simultaneous "back-to-back" purchase and selling contracts. However, in the case of this purported agreement with Wolfkill, while ICEC had made an entry for a purchase, it had no corresponding sale recorded in its books. This absence of a matching sale was considered probative by Judge Voorhees of the position advanced by Wolfkill that the arrangement had been tentative and never finalized because the Wolfkill supplier had never come through with the delivery. The judge ruled that there was no contract and therefore no liability of Wolfkill.

(a) The dates of the representation and trial period:

The case was filed in 1976; I was retained, handled discovery and then tried the case commencing on or about December 10, 1979, for about one week.

(b) The name of the court and the judge before whom the case was tried:

United States District Court for the Western District of Washington at Seattle, before The Honorable Donald S. Voorhees, now deceased. The United States Court of Appeals for the Ninth Circuit, affirmed the trial court's judgment for my client defendant and appellee Wolfkill on October 8, 1981, in Case No. 80-3164, reported at 32 U.C.C Rep. Serv. 687 (1981).

(c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

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- (9) P.J. Taggares Co. v. Simplot Industries, Inc., No. 80-1171, United States District Court for the District of Oregon. I represented the plaintiff Taggares in a receivership and contract dispute in federal court in Oregon. I was in effect the lead counsel for our client throughout most of this matter. My senior partner, Richard E. Williams, initially was on the pleadings with me but because of health reasons withdrew from active representation in much of this case.

This involved a joint venture dispute between Washington potato farmer P.J. Taggares, and his Idaho counterpart, Jack Simplot, who were the largest potato farmers in their respective states. They had a joint venture on 40,000 acres of land in Boardman, Oregon, called SimTag Farms. They grew potatoes there and each used the potatoes in processing operations for his own potato processing businesses. There was a feed lot on the property and farming activities related to the business ventures of Messrs. Taggares and Simplot. Taggares and Simplot had reached an impasse about how the joint venture was to be handled and could not reach agreement on a sale of one's interest to the other. There were disputes about management of the operations.

On behalf of Taggares, we filed a federal court action for receivership that was heard by The Honorable Owen Panner in the District of Oregon.

Judge Panner granted our motion for a receiver and appointed Robert Wilson, former Chairman of the Board of Weyerhaeuser Company, to act as the receiver. In proceedings before the court and receiver, it was determined that we would arbitrate the value of a half-interest in the joint venture. That arbitration hearing was then held before a retired Oregon Supreme Court Justice, E. H. Howell.

The arbitration proceeding was a formal trial-type hearing that took approximately a week. The arbitrator declared that the joint venture had a net value exceeding \$17 million, consistent with Taggares' views. However, based on the terms of the joint venture agreement, that arbitration did not require Simplot to buy Taggares' share of the joint venture at the arbitrated price and was essentially advisory. The case continued in the receivership proceedings before Judge Owen Panner and in negotiations regarding operational disputes and potential case resolution. A settlement was reached whereby Taggares bought Simplot's interest. This business solution rendered moot the operational disputes in the receivership.

Major contributions to the litigation were made both by Harry H. Schneider, Jr., my co-counsel at Perkins Coie, and by Gregory R. Mowe, my co-counsel at the Stoel Rives firm.

(a) The dates of the representation:

The receivership action before The Honorable Owen Panner commenced in 1980 and was resolved in August 1981. The arbitration was held in 1981. Our records are incomplete relating to the precise date of the arbitration hearing, which was before Justice Howell and described as the SimTag Arbitration.

The receivership proceedings were concluded in Judge Panner's court on or about August 1981.

(b) The name of the court and the judge before whom the case was tried:

The receivership case proceeded before The Honorable Owen Panner in the U.S. District Court for the District of Oregon. The valuation of the joint venture was arbitrated in a trial-type hearing before The Honorable E. H. Howell, a then-retired Oregon Supreme Court Justice.

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

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- (10) King Electrical Manufacturing Company v. Tennessee Plastics, Inc. (TPI), No. 792-72C2, United States District Court, Western District of Washington at Seattle. I represented the defendant TPI in this antitrust case in which plaintiff asserted claims of price discrimination under the Robinson-Patman Act, and price-fixing and monopolization under the Sherman Act. I tried this case as an associate with supervision by Richard E. Williams, an experienced partner. It involved antitrust law challenges made by a local manufacturer of electrical baseboard heaters and other heating equipment against my firm's client, TPI, which was a

manufacturer of baseboard heaters, with a major market share nationwide.

A third-person competitor named Nelco had taken a major account, Pay 'N Pak, from TPI. TPI then took the price that Nelco had offered to Pay 'N Pak and offered it generally to electrical distributors in the marketplace in the Northwestern states. The plaintiff King lost business, and it sued my client TPI, the defendant.

King claimed that the distribution channels through mass retailers such as Pay 'N Pak and electrical wholesalers were in different markets and that a "meeting competition" defense was invalid. It is generally a defense to a price discrimination claim if the defendant's lower price was made in good faith to meet a price of a competitor.

I participated from 1976 through the end of the trial proceedings and a judgment rendered for plaintiff. My participation in discovery late in the case and at trial was in a second-chair position to my supervising partner, Richard E. Williams, on behalf of defendant. The liability and damages phases of the trial were bifurcated. The length of the trial, approximately six weeks or so in total, because of court congestion required that the proceedings be in separate segments over a long period of time.

While plaintiff prevailed on liability, the award of damages was only a part of what had been claimed. About \$42,000 in damages were determined before trebling, about \$126,000 trebled, although the damages claimed by plaintiff had been much greater.

(a) The dates of the representation and trial periods:

This case started long before I joined Perkins Coie; I commenced work on it almost immediately after joining the firm in December 1975. After extensive discovery, the trial of liability and of damages were bifurcated. A congested docket made it necessary to divide the presentations intermittently into several periods. These trial periods were as follows: On liability, April 18-22, 1977; July 25-28, 1977; August 1, 1977; August 21-31, 1978; November 13-22, 1978. After determination of liability, there were additional proceedings on December 13-14, 1978 and October 11-12, 1979. Final orders were entered on various matters in December 1980; the judgment was entered March 31, 1981; a satisfaction of judgment was entered June 15, 1982.

- (b) The name of the court and the judge before whom the case was tried:

United States District Court for the Western District of Washington at Seattle, before The Honorable Donald S. Voorhees

- (c) The individual name, addresses and telephone numbers of co-counsel and of counsel for each of the other parties:

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(206) 287-3543
(Perkins Coie Associate supervised in 1996)

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).*

I have had a substantial course of legal work involving mediation. I am listed on the local panel as a volunteer mediator under Rule 39.1 of the Local Rules for the United States District Court for the Western District of Washington. In this capacity for more than a decade I have voluntarily handled without charge mediations when requested by the parties to federal court litigation in this district. I probably handled more than 20 such mediations in the period from 1982 to the present. On a few occasions I was retained to act as a mediator with pay, but most of these have been done simply as a service to the Bar and to the federal court to aid in the resolution of these cases.

While my practice has been focused on litigation and dispute resolution, my litigation work for a few clients led them to ask me to be their principal counselor. For these businesses I have acted as a liaison between the companies' executives and other lawyers in our firm who would handle the business matters on which they needed legal work.

I have taught as an Adjunct Teacher of Dispute Resolution at the University of Washington Law School for one quarter in each of 1986, 1987 and 1989. I have served on the Board of the Ninth Judicial Circuit Historical Society since 1994. I have participated in People to People Citizen Ambassador Program legal goodwill trips to the People's Republic of China and to Eastern Europe countries of Poland, Hungary and Czechoslovakia as these countries were starting to be receptive to Western legal ideas. I have served on the State of Washington's Board of Judicial Administration from 1991 to 1995 gaining perspective on issues of judicial administration. I have aided several bar associations including service as a trustee of the Federal Bar Association for the Western District of Washington and participation in other bar associations detailed in answer to Question 9 herein.

For the Washington State Bar Association, I served on its Board of Governors in 1988-91 and as President-Elect and President in 1994-95. This gave me exposure to legal issues attracting the attention of the approximately 20,000 lawyers within the State of Washington in varied practices.

I have a business interest in Perkins Building Partnership. Perkins Building Partnership owns an interest in the building at 1201 Third Avenue, Seattle, Washington 98101, in which Perkins Coie's Seattle Office is located. My partnership interest under the Perkins Building Partnership Agreement may be sold to another member of that partnership. Before or within 30 days of confirmation, I will divest myself of my interest in Perkins Coie Building Partnership by sale of that interest to another member of the partnership.

2. *Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.*

I will review cases that come before me to ensure that I do not have a financial stake in any of the parties, such as common stock ownership. I will place assets in investment vehicles that are not likely to generate conflicts of interest in litigation before the Ninth Circuit. I will also be sensitive to potential conflicts of interest relating to any former clients of Perkins Coie for whom I have actually worked as an advocate in any substantial capacity and appellate cases handled by Perkins Coie for any party for a period consistent with the judicial conduct standards. In assessing and dealing with potential conflicts, I will follow the guidelines and standards in the Code of Judicial Conduct. More generally, I will avoid any conflict of interest, or appearance of conflict, where my impartiality could reasonably be questioned.

3. *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.

4. *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, patents, 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 form AO-10 attached as Exhibit D.

5. *Please complete the attached financial net worth statement in detail (Add schedules as called for).*

See current financial net worth statement attached as Exhibit E.

6. *Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.*

I have served on election committees or was an endorser in the State of Washington judicial election campaigns of Chief Justice Barbara Durham, Justice Charles Johnson, and Justice Charles Z. Smith in 1996; and of Washington State Superior Court Judges Sharon Armstrong in 1985, Dale Ramerman in 1988; and Michael S. Spearman in 1993. I have no records of judicial campaigns and am listing these campaigns to the best of my recollection.

I have served as a Co-Chair of Governor Mike Lowry's finance committee during his 1992 election campaign and during 1996 to October 1997 was a Co-Chair of Senator Patty Murray's finance committee for her 1998 Senate race. I have never been employed by a campaign organization; the above committee positions are as a volunteer. I was a member of Governor Mike Lowry's transition Task Force on Ethics in Government in 1992, and on Governor Lowry's Citizens Cabinet during a period between 1992-96. To the best of my knowledge, there have been no complaints lodged against me or any committee of which I have been a member.

**III. GENERAL
(Public)**

1. *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.*

I have had a long-standing history of support for the Boy Scouts of America ("BSA"). I gained benefit from Scouting in my youth, and became an Eagle Scout in 1962. After entering law practice in Seattle, an opportunity arose for me to pay back Scouting and to help others by serving, from 1984 to present, on the Executive Board of the Chief Seattle Council of BSA which serves over 40,000 youth and participating adult leaders. I have served in leadership positions for the Boy Scout Council acting as Vice President for Program, as Vice President for Exploring, as Vice President for Special Events and as Chair of Jamboree Committee. I received the Silver Beaver Award from the Chief Seattle Council of BSA on February 11, 1995. My best estimate is that I have spent between 50-100 hours per year in activities on behalf of the Boy Scouts on average from 1984 to 1994, and a diminished amount of time since then because of other responsibilities.

I have served Bellevue Community College as a Trustee from 1993 to the present. I served as Chair of the Board of Trustees in 1996. The Board meets regularly and seeks to establish policy and oversight that affect the welfare of more than 15,000 students annually. I estimate that my service for Bellevue Community College in Board meetings, related committee meetings and other activities involved about 100 hours per year or more from 1993 to the present, with more time spent in 1996 when I was Chair of the Board of Trustees for a year.

I have taken pro bono cases for those who are unable to afford a lawyer. For many years I was on the panel for the King County Bar's referral service on pro bono work, and as a young lawyer I spent some afternoons in the Legal Services office taking cases. These have included helping individuals deal with state agencies, defending and helping to resolve claims against individuals who had written bad checks and who were then saddled with penalty-sized judgments; and consumer protection counseling and potential litigation. While one matter involved litigation filed, my pro bono matters have almost all been cases that could be resolved through counsel to the pro bono clients and negotiation with the involved agency, entity or individual. Time spent on pro

bono cases between 1976 and 1986 was probably on average 50-100 hours per year. The amount of time I spent on pro bono work has decreased after I became more involved in Bar Association and other civic activities. Commencing while President of the Washington State Bar Association in 1994, I cooperated with legal services groups to help them gain reasonable funding from the Washington State Legislature. Since 1995, I have been a member of the Equal Justice Coalition, a bipartisan coalition of State of Washington bar leaders and bar associations urging adequate funding for legal services.

I have spent many voluntary hours with no compensation serving as a mediator for federal court cases under Rule 39.1 of the Local Rules for the United States District Court for the Western District of Washington. I have served as a moot court appeals judge for the YMCA Youth in Government program (while I was WSBA President), for the University of Washington Law School's moot court competitions and most recently for an ABA regional moot court competition held in Seattle.

I have served on the Board of Metrocenter YMCA for several years, and as the Chair of the Executive Committee of Today's Constitution and You, a bipartisan project to celebrate the Constitution's bicentennial. Many of my community service efforts have related to helping to provide educational benefits to youth, such as activities for the Boy Scout Council, work on the Board of Metrocenter YMCA, initiating the LASER project, and serving as a Trustee of Bellevue Community College.

I have served as a member of legal delegations under the People to People Citizen Ambassador Program, founded by President Eisenhower in the 1950s, and since then supported by each of our Presidents as a means of enhancing international personal diplomacy and goodwill. In 1986 I was in a legal delegation that went to East Asia--both a brief visit in Tokyo, Japan and extensive visits in six cities in the People's Republic of China. In 1988 I participated in a delegation led by then-Attorney General Edwin Meese to Tokyo. In 1989 it was my privilege to be the leader of a legal delegation to Eastern Europe (Hungary, Czechoslovakia and Poland), sharing ideas with professional leaders in the legal and judicial communities in those countries. Within the past year I provided assistance to the ABA's Central and East European Law Initiative program by organizing and hosting at Perkins Coie a presentation in Seattle for visiting judges and lawyers from Uzbekistan. The trips to China and to Eastern Europe each were several weeks long.

When I was President-Elect and as President of WSBA, the issues facing the legal profession in the State of Washington were of primary importance to me. I spent more than half of my professional time from January 1994 through

September 1995 in efforts for the WSBA. While on the Board of Governors of WSBA in 1988-1991, I probably spent between 300-400 hours per year preparing for and attending meetings and handling related responsibilities.

My bar and case activities have brought me into contact with many excellent lawyers, broadening my understanding. As WSBA's President, I gained a deeper understanding of the interests and concerns of state bar associations, ethnic bar associations and other specialty and voluntary bars.

2. *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. Do you currently belong, or have you belonged, to any organization which discriminates--through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What have you done to try to change these policies?*

No. I do not currently belong and I have not in the past belonged to any organization that invidiously discriminates on the basis of race, sex or religion.

3. *Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).*

There is no selection commission in my area recommending candidates for nomination to the United States Court of Appeals for the Ninth Circuit. In 1997 I received an inquiry from the White House relating to an opening for a position as a result of The Honorable Robert Beezer's taking senior status. I expressed interest and was invited to come to Washington, D.C. for interviews with White House and Department of Justice personnel. I was interviewed by representatives of the Department of Justice Office of Policy Development and by representatives of the White House Counsel's Office. Thereafter, I was asked to prepare complete answers to the ABA form and also to prepare and send to the White House the SF-86 form for the FBI. I was interviewed by an FBI agent in Seattle in October 1997 and was interviewed by the ABA's representative in early November 1997. I prepared responsive forms for the Attorney General's Office and for the Senate. In 1997 I also had a discussion with Senator Patty Murray and one with Senator Slade Gorton about the nomination process in the White House and the Department of Justice and the Senate process.

4. *Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.*

No.

5. *Please discuss your views on the following criticism involving "judicial activism."*

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;*
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;*
- c. -A tendency by the judiciary to impose broad, affirmative duties upon governments and society;*
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and*
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.*

The judiciary has a proper role to decide particular cases and controversies, and not to legislate. It is up to the Congress to pass laws and for the judiciary to interpret these laws based on their plain meaning when possible and, when ambiguous, based on the clearly expressed intent of the legislature. Thus, courts do not sit to provide broad brush solutions to societal problems but instead to respond to particular cases and controversies that have been fully briefed for decision. Given the nature of judicial power, judges need to exercise appropriate restraint and to keep in mind the limitations of judicial power established by Article I of the Constitution and the scope of Article III

on judicial power: Article I gives all legislative powers to Congress. The judiciary under Article III has a duty to resolve actual cases and controversies. Judges should make rulings only when the proper parties with standing are before the court, the controversy is ripe for resolution and its resolution would not embroil the court in a "political question" that is not justiciable.

April 15, 1985

COLUMBIA
TOWER
CLUB

MEMBERSHIP BYLAWS

ARTICLE I.

NAME AND PURPOSE

The name of this club is Columbia Tower Club (hereinafter called "Club"). The Club is owned and operated by Columbia Tower Club, Inc., a Washington corporation (hereinafter called "Corporation").

ARTICLE II.

MEMBERSHIP

Section 1. Classes and Privileges

The membership shall consist of the following classes, each of which shall enjoy the full or limited privileges of the Club specified by the terms and conditions contained in these bylaws.

A. Resident, Life and Non-Resident

(1) Resident. This membership includes all privileges of the Club for the member applying. Spouses of members and all children living at home or college under twenty-one (21) years of age who are unmarried and without a separate source of income shall also be entitled to the privileges of the Club, subject to the current house rules.

(2) Life. This membership shall have the same privileges as Resident members. The member's spouse and children shall also have the same privileges as the Resident's spouse and children, subject to the current house rules.

(3) Non-Resident. This membership is for members whose principal residence and principal place of business are located outside King County, who, with their spouse and children, shall have privileges identical to the privileges granted to Resident members.

Non-resident members who commence to live or transact their business within King County at any time must apply for election as a Resident or Corporate Resident member within thirty (30) days from becoming eligible for Resident membership. In the event such Non-resident member fails to make such application within thirty (30) days after moving his place of business or residence to within King County, or upon his failure to be elected to Resident or Corporate Resident membership, such member shall be automatically dropped from the club membership rolls. If elected to Resident or Corporate membership, the member shall pay to the Club as an

EXHIBIT A

initiation deposit the amount of the difference between the initiation deposit paid for his Non-resident membership and the initiation deposit then being paid for a Resident or Corporate Resident membership, together with the tax applicable to such payment, if any, and shall begin to pay the same monthly dues then being paid by other Resident or Corporate Resident members.

When a Resident member ceases to live and transact his business within King County and desires to become a Non-resident member, upon expressing such desire to the Board of Directors in writing, he shall become a Non-Resident member and shall be entitled to a reduction in monthly dues to conform with the amount then being charged other Non-residents members. Any Resident member who ceases to live and transact his business within King County and elects to retain his Resident membership must continue to pay the monthly dues as a Resident Member.

B. Corporate Memberships

(1) Corporate memberships shall be designated Resident, Non-Resident, or the like, and are issued in the name of the corporation or firm receiving the membership. The rights and privileges bestowed thereunder inhere in the corporation or firm and are to be subsequently assigned to a director, officer or executive of the firm for use, such person to be approved by the Club. Such privileges of use shall extend to the spouse and children (unmarried under eighteen years of age) living in the home of the designee.

(2) Each Corporate membership shall have only one designee. The designee may be changed by the corporation from time to time, subject only to the requirements that the designee be approved by the Club and that the Corporation pay the corporate transfer fee, if applicable.

C. Other Types of Membership

The Board of Directors shall have the authority to establish or discontinue any type of membership, such as Junior, Clergy, Associate, Military, Honorary, Social, and such other types as the Board from time to time may determine to be to the best interest of the Club, and to prescribe initiation deposits, dues and regulations applicable thereto.

D. General Conditions of Membership

(1) Upon the death of a member, his membership shall rest in his or her spouse so long as said spouse remains unmarried and no transfer fee shall be charged. In the event that such member remarries, membership may be transferred into the name of the new spouse.

(2) Each member, whether individual or corporate, shall pay monthly in advance the requisite dues. There shall be no assessment of any kind or nature ever levied against memberships.

(3) All members shall pay such dues as are from time to time prescribed by the Corporation.

(4) No dividends shall ever be declared or paid by the Club or the Corporation to any member.

(5) Each member shall be financially responsible for his conduct and actions as well as those of his family and guests. Further, each member shall be responsible to the Club for any indebtedness incurred by his guests.

(6) Should any member institute suit against the Club, or should the Club institute legal action against any member and should the Club be successful or sustained in its position in such legal action, then such member shall be required to reimburse the Club for its legal expenses incurred, including attorney's fees in a reasonable amount, court costs and other expenses necessarily incurred in such proceedings.

Section 2. Screening of Invitees

A. The evaluation of prospective invitees shall be conducted with the intent and purpose of securing the optimum number of members with concordant social, vocational and professional attainment from all segments of the surrounding business community.

B. The initial roster of membership invitees shall be composed of persons nominated by members of the Board of Governors. Subsequent rosters of membership invitees shall be composed of the names of persons nominated by members of the Club.

C. Invitations to be extended and unsolicited applications will be evaluated on the basis of the following criteria:

(1) Interest or potential interest of an invitee or applicant in the use of a Club membership for business promotion and/or social purposes.

(2) Financial responsibility and qualification of the invitee or applicant either as an individual or as a corporate entity.

(3) Compatibility of an invitee or applicant with Club members, with respect to business and social settings.

Invitations shall be extended on the above criteria without regard to race, sex or religion.

Section 3. Application for Membership

A. All applications for and acceptances of membership shall be made on the form supplied by the Club. Each application shall include the name and address of the applicant, required family and business information, signature, class of membership, and names of sponsors, where applicable.

B. All applications for membership shall be accompanied by an initiation deposit, as fixed by the Board of Directors. Such deposit shall immediately be refunded to the applicant if the application for membership is disapproved. If the applicant is accepted for membership in the Club, the initiation deposit shall be repayable in full to the member, his heirs or assigns, thirty years from the date of acceptance. A member may not elect to offset dues and charges against the initiation deposit.

Section 4. Admissions Committee

At the direction of the Board of Governors, it may select from its number or from the general membership of the Club an Admissions Committee to act from time to time. The Admissions Committee shall be appointed by the Chairman of the Board of Governors and their proceedings shall be secret, confidential and final. A majority vote may be required for the approval of any applicant and each application shall be passed upon separately. No person failing for election shall be again proposed for membership until after the expiration of one (1) year from the time of such action.

Section 5. Resignation from Membership

A. A member may resign from the Club at any time by giving thirty (30) days advance written notice to the Club and by paying all dues or other charges for which he may be liable. From the effective date of resignation, the member will no longer be liable for dues, however, the facilities of the Club will be no longer available to such resigning member. Resignation itself shall in no way adversely affect such resigning member's right to repayment of his initiation deposit as provided in Section 3(B).

B. In the event of a member's death, the surviving heirs, assigns or estate of the deceased shall be liable for any dues and charges incurred by the member until the date of his death.

ARTICLE III.

EXPULSION

Section 1.

The Board of Directors shall have power, by vote of two-thirds (2/3) of all members thereof then elected and serving, to reprimand, suspend or expel any member guilty of any violation of the bylaws or house rules of the Club, or for conduct unbecoming a member, or for other good and sufficient cause, or for any offense against the best interest of or good government of the Club.

Section 2.

When dues or any indebtedness of any member of the Club shall remain unpaid for a period of seventy (70) days after billing, notice thereof by

registered mail shall be sent to such member, and if delinquency continues for ten (10) days after the date of such notice, the member's and his family's credit shall be suspended. If payment is not made within ten (10) days after credit is suspended, the name of such member shall be reported to the Board of Directors for appropriate action, which may include expulsion, limitation of privileges, or suspension of privileges.

Section 3.

In the event of expulsion pursuant to Section 2 above, the member shall be notified by the President in writing of his expulsion, such notification to be sent by registered mail, but in the event that registered delivery of said notice is impracticable, notice deposited in mails, directed to the member's last known address, shall be sufficient. Expulsion under this provision does not require a hearing before the Grievance Committee or any of the requirements of Section 1 of this Article III.

ARTICLE IV.

BOARD OF GOVERNORS

Section 1. Number and Qualifications

The President of the Corporation shall appoint a Board of Governors. Likewise, he shall appoint the Chairman of the Board of Governors.

Section 2. Activities of the Board

The Board of Governors of the Club shall advise and counsel with the Board of Directors and the Club management on any and all items relating to the conduct of Club affairs, including, but not limited to, the following areas:

- A. Membership admission policies.
- B. Design and functional arrangement of Club facilities.
- C. Initiation deposits and dues for all categories of membership.
- D. House rules and regulations, guest policy and normal operating hours of the Club.
- E. All policies having to do with questions of conduct, mode of dress and all other related disciplinary matters.
- F. All plans for renovating, remodeling, modernizing or expansion of the Club premises.

Section 3.

Vacancies occurring on the Board of Governors due to death, resignation or any other reason shall be filled by appointment by the President with the advice and counsel of the Board.

Section 4.

The Chairman of the Board of Governors for the Club may from time to time establish from members of the Board of Governors such committees as he may deem reasonable for the orderly conduct of the Club. Other members of the Club in addition to members of the Board may also be appointed to such committees. The function, tenure and number of committee members shall be at the discretion of the Chairman of the Board of Governors.

ARTICLE V.

OPERATION AND MANAGEMENT

Section 1.

The operation of the Club and Club property shall be vested in the Corporation, acting through its officers, executives or Board of Directors as appropriate.

Section 2.

The Board of Directors of the Club shall coordinate the activities of membership with Club operations as more fully described in Article VI.

Section 3.

The Board of Directors is authorized and empowered to adopt and promulgate rules and regulations governing the use of the facilities of the Club; every member is subject thereto and shall abide thereby.

Section 4.

The Corporation shall have unrestricted control of the property of the Club and shall have final decision in any and all matters concerning said property or its management as a Club. It shall have complete and undisputed authority in all matters directly affecting or pertaining to its financial status. The following, though not intended to be exclusive, are examples of matters affecting finances:

- A. Initiation deposits;
- B. Dues, subject to bylaw provisions;
- C. Structure of Club memberships as to classes;
- D. Quota or limits for each class of membership;
- E. Changes or expansion of Club facilities; and
- F. Dining room and bar charges.

Enumeration of the above items is not intended to be construed as eliminating any other items over which the Board of Directors of the Corporation may wish to exercise control.

Section 5. Accounts Receivable Procedures

Acknowledging that the failure of a member to promptly pay all dues and charges is to the detriment of his fellow members, each member's Club account shall be due and payable upon receipt of his monthly statement. Members' accounts unpaid thirty (30) days after the billing date shall be considered delinquent and a one-time late charge equal to ten percent (10%) of the past due amount (maximum \$10.00) shall be added to the member's next statement. If any member's account shall remain unpaid for a period of seventy (70) days from the date of first billing, the name of the member and the amount due shall be posted in the clubhouse, such member shall be suspended from all Club privileges. If payment is not received within ten (10) days of suspension, the matter shall be reported to the Board of Directors for appropriate action which may include expulsion pursuant to Article III, Section 2.

ARTICLE VI.

DIRECTORS

Section 1.

Control and management of the affairs of the Club shall be vested in the Board of Directors.

Section 2.

If during the year any member of the Board of Directors resigns or for any reason is unable to fulfill the duties of the office to which he was elected, the President shall, with the approval of the Board, within thirty (30) days, appoint a new director to fill such vacancy.

Section 3.

Any member of the Board of Directors may be removed, with cause, by a two-thirds (2/3) vote of all Directors at the time in office at any regular or special meeting of the Board.

Section 4.

Subject to the express provisions of these bylaws, the management and control of the affairs of the Club shall be exercised or under the authority of the Board of Directors. Specifically, they shall have and exercise the following powers:

- A. Conduct, manage and control the business of the Club and make and prescribe rules and regulations regulating from time to time the affairs and conduct of the Club.
- B. Prescribe rules and regulations governing the use of the clubhouse and any other facilities of the Club by members, visitors and guests. The

Board may delegate such power to such committee(s) as the President may select.

C. Reprimand, suspend or expel members and impose fines or other penalties or disciplinary measures upon members, as provided in Article III or for any infraction or violation of these bylaws or any rules or regulations of the Club.

D. Call special meetings of the members of the Club or of the Board of Directors when it is deemed necessary by the President or the Board of Directors.

ARTICLE VII.

OFFICERS

Section 1.

The officers of the Club shall be President, Vice President, Secretary and Treasurer.

Section 2.

Each officer shall be elected by the Board of Directors at its annual meeting. The term of each officer shall continue until his successor shall have been elected and qualified, until his death, or until he shall resign or be removed in the manner provided in these bylaws.

Section 3.

Any officer may resign at any time by giving written notice to the President or the Secretary. Any such resignation shall take effect at the time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4.

Any vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled for the unexpired portion of the term of the Board of Directors.

Section 5.

The duties and responsibilities of the officers shall be those enumerated in the bylaws of the Corporation.

ARTICLE VIII.

DEFINITION OF TERMS

Section 1.

"Directors" shall mean and refer to the Board of Directors of Columbia Club, Inc.

Section 2.

"Governors" or "the Board" shall mean and refer to the Board of Governors of Columbia Tower Club.

Section 3.

"Corporation" shall mean and refer to Columbia Club, Inc., a Washington corporation.

Section 4.

"President" shall mean and refer to the President of the Corporation.

Section 5.

"Chairman" shall mean and refer to the Chairman of the Board of Governors.

ARTICLE IX.

MEMBERSHIP MEETING

Section 1. Notice

Special meetings of the Club membership may be called at any time by the President of the Corporation or the Chairman of the Board. The call of the meeting shall set forth the purpose of the meeting, a notice thereof shall be mailed by the Secretary to each member ten (10) days prior to the time of such meeting. No other business than that specified in the call or notice shall be considered or transacted.

Section 2. Quorum

Fifty (50) members shall constitute a quorum at any meeting of Club members.

ARTICLE X.

AMENDMENT OF BYLAWS

These bylaws may be amended at any time by a two-thirds (2/3) vote of the Directors of the Corporation.

1245

THE RAINIER CLUB
820 4th Avenue
Seattle, Washington 98104
Telephone: (206) 296-6848

ARTICLES OF INCORPORATION

The Rainier Club was first incorporated as a stock corporation in July, 1888. The Club was reincorporated as a nonprofit corporation in February, 1899. Copies of the Articles of Incorporation, as amended in October, 1987, are available at the Club House office.

EXHIBIT B

THE RAINIER CLUB BYLAWS

ARTICLE I

Membership

Section 1. The membership of The Rainier Club shall consist of gentlemen and ladies who are now members of The Rainier Club or may hereafter be accepted as members in the manner hereinafter provided.

Section 2. Membership is classified as follows: Resident, Inactive, Life, Non-resident, Honorary, Surviving Spouse, and Associate.

Section 3. Each member of the Club, upon acceptance of membership, assumes the obligation to render to the Club, when called upon, such assistance with the objectives, purposes and customs of the Club as lies within the abilities of the member.

Section 4. No person under the age of 21 shall be eligible for membership.

Section 5. Resignation from membership must be in writing.

Quorum for Election of Members

Section 6. At least twelve members of the Board of Trustees shall be present and vote at any meeting of the Board at which a candidate for membership is to be considered, and a three-fourths majority vote of the trustees present shall be required for election, provided, that any Trustee may at the same meeting move the reconsideration of the vote at the next regular or special meeting of the Board. No rejected candidate shall be again proposed until the expiration of six months from the date of said meeting or from the date of the final polling of the Board of Trustees in the event the Board shall be polled as provided in Section 7 of this Article.

Protest

Section 7. A written protest against the admission of any candidate, signed by a Resident Member of the Club and presented to the Secretary, if such is requested by the member, shall require the Board to hold a hearing on the proposal at the next Board meeting, or at such other time as determined by the Board within 30 days of such meeting, at which time any protesting member may appear and be heard. The Board shall set the procedures that will govern the hearing.

In any case in which a protest has been filed by a member, the entire Board of Trustees shall be polled and a three-fourths majority vote of the entire membership of the Board shall be required to elect the candidate.

Section 8. The proceedings of the Board of Trustees upon the question of admission to membership shall be held strictly confidential.

Reinstatement

Section 9. In the event a member has at any time in good faith resigned from the Club for any reason other than upon request of the Board of Trustees, said former member may, upon written application, again become a member of the Club, if elected as such by the Board of Trustees, upon the payment of the applicable fee.

ARTICLE II

Section 1. The number of Resident members of this Club shall be established from time to time by the Board of Trustees but not exceed 1400.

Section 2. A candidate for admission to membership (excepting Associate membership, as hereinafter provided), if either the principal place of residence or the principal place of business of the candidate is within a radius of 20 miles of the Club House, must be proposed for Resident membership by one Resident member or Nonresident member and seconded by another Resident member or Nonresident member. The proposal containing the name and address of the candidate, signed by the members proposing and seconding the candidate and otherwise in such form as the Board of Trustees shall prescribe, shall be referred to the Membership Committee which shall make such investigation as it may determine to be appropriate. If the proposal is approved by the Membership Committee it shall report such fact to the Board of Trustees. The Board shall cause a notice to be sent to each Resident member of the Club at least two weeks before final action on such proposal is taken by the Board, which notice shall state the name of the candidate, the names of the members proposing the candidate, and such other data as may be prescribed by the Board of Trustees. The Secretary shall keep a register wherein shall be noted the name of each candidate, the names of the members proposing such candidate, and such other data as may be determined by the Secretary. The register shall be kept at the Club and be subject at all times to the examination and inspection thereof by its members. At the expiration of such period of two weeks, the name of the candidate shall be submitted to the Board of Trustees, who shall vote upon the proposal. A candidate may be proposed or seconded by any officer of the Club or by any member of the Board of Trustees; provided, however, any officer or member of the Board who has proposed or seconded a candidate shall abstain from voting on the candidate's admission to membership.

Section 3. All individuals who have been elected as Resident members shall become such on signing the Bylaws of the Club and paying the applicable fee.

Section 4a. A Resident member in good standing who, on account of disability, or absence from the Club's designated service area (as defined by resolution of the Board of Trustees) for a period in excess of six months, or for good cause shown at the discretion of the Board of Trustees, may upon request, and by three fourths majority vote of the Board of Trustees present at a regular meeting, be enrolled as an Inactive Resident member for a period not exceeding one year. This period may, by a like three-fourths majority vote, be extended from time to time for not more than one year at a time. An Inactive resident member shall not be required to pay Club dues becoming payable during the approved period. All assessments or similar dues or fees becoming payable during such period shall be deferred and paid or resumed upon reinstatement. Membership privileges of an Inactive Resident member, including, but not limited to, voting rights, shall be suspended until reinstatement. An Inactive Resident member shall be automatically reinstated as a Resident member at the conclusion of the approved period;

provided, however, if the Club is then at its maximum limit for Resident Members, such reinstatement may be postponed until an opening is available.

Section 4b. A Resident member in good standing may apply for temporary Nonresident status due to absence from the Resident area for a period in excess of three months.

Section 5. Members who have been full dues-paying Resident members of the Club for fifty years shall be elected by the Board of Trustees to be Life members of the Club. Life members shall be entitled to all privileges enjoyed by Resident members but shall not be called upon to pay dues.

Firm Membership

Section 6a. The membership of the Club is composed entirely of individuals; however, firms may, upon approval of the Board of Trustees, hold title to a membership in The Rainier Club which entitles them to propose members of their firm as Resident members of the Club. Such memberships shall be in the names of the individuals and they shall be subject to all the Bylaws relating to Resident members, including the rules of admission as provided in Article II, Section 2.

Section 6b. Any Resident member, where the ownership is held by a firm, may apply for an individual Resident or Non-Resident membership. Upon being elected, such member may qualify by paying the applicable fee.

ARTICLE III

Nonresident Members

Section 1. A candidate, whose principal place of residence and principal place of business are not within a radius of 20 miles of the Club House, may be proposed for Nonresident membership. Nonresident members shall be entitled to all privileges of Resident members save those of voting and holding office. A candidate for Nonresident membership (excepting Resident members, as hereinafter provided) shall be proposed and be voted on in the same manner as candidates for Resident membership. Having been duly elected, they shall become Nonresident members upon signing the Bylaws and paying the applicable fee. The number of such members shall not at any one time exceed 25 percent of the Resident members of the Club.

A Nonresident member having established either a principal place of residence or a principal place of business within a radius of 20 miles of the Club House, must within three months thereafter apply for transfer to Resident membership, pay the balance of the initiation fee as provided for Resident members, and upon written application to the Board of Trustees, the member's name shall be submitted to the membership and voted on in the same manner as candidates for Resident membership. Such applicant, upon election, shall be admitted as a Resident member even though the quota may be filled. Should such a Non-Resident member fail to make application for transfer to Resident membership within the three months' period, such member shall cease to be a member of any class, unless waived by the Board of Trustees for good cause shown.

A Resident member of the Club who has ceased to have a principal place of residence and to have a principal place of business within a radius of 20 miles of the Club House may upon

written application to and approval by the Board of Trustees, become a Non-Resident member but no part of the initiation fee of such Resident member so becoming a Nonresident member shall be refunded. A Resident member who has become a Nonresident member shall upon again having established either a principal place of residence or a principal place of business within a radius of 20 miles of the Club House be transferred to Resident membership by giving written notice to the Board of Trustees and shall not be required to pay any additional initiation fee.

Section 2. The membership of the Club is composed entirely of individuals; however, firms may, upon approval of the Board of Trustees, hold title to a membership in The Rainier Club which entitles them to propose members of their firm as Nonresident members of the Club. Such memberships shall be in the names of the individuals and they shall be subject to all the Bylaws relating to Nonresident members, including the rules of admission as provided in Article III.

Section 3. A Nonresident member in good standing who, on account of disability, or absence from the Club's designated service area (as defined by resolution of the Board of Trustees) for a period in excess of six months, or for good cause shown at the discretion of the Board of Trustees, may request Inactive Nonresident status upon the same conditions and following the same procedures as provided in Article II, Section 4(a).

ARTICLE IV

Other

Section 1. Associate Member. Members of the Armed Forces of any nation, or representatives of the United States Government, or Diplomatic, Consular and other duly accredited representatives of foreign countries who are temporarily and not regularly residing in, and are not engaged in business or the practice of a profession in the State of Washington or members of the judiciary or public office, or such other persons as the Trustees may deem appropriate due to the significance of their position or office, may by unanimous vote of the Trustees be elected Associate members for the period of not exceeding one year. This period may, by a like unanimous vote, be extended from time to time for not more than one year at a time. Such Associate members shall pay no initiation fee, but shall pay the applicable fees. Associate members shall not have the right of voting or holding office, and shall have no interest in the Club property. The number of such members shall not at any time exceed fifteen percent of the Resident membership of the Club. On ceasing to meet the qualifications for such membership, may make application for Resident or Non-Resident membership in the Club and, upon being elected, may qualify upon paying the applicable fees.

Any distinguished person may also be elected an Associate member of the Club, for a period not exceeding one year, at the discretion of the Board of Trustees, but only by a unanimous vote.

Section 2. Surviving Spouse Member. The Surviving Spouse of any Resident member shall be elected by the Board of Trustees upon application of such Surviving Spouse as a Surviving Spouse member. Surviving Spouse members shall be entitled to all privileges enjoyed by Resident members but shall not be entitled to vote or hold office and shall have no interest in the Club property. The membership of a Surviving Spouse member shall terminate upon remarriage. Upon remarriage, the Surviving Spouse member can apply to be reinstated as a Resident or Nonresident member. Once elected, such member may qualify by paying the

applicable fees. Surviving Spouse members shall pay no initiation fee but shall pay such dues as may from time to time be established by the Board of Trustees.

ARTICLE V

Suspension or Expulsion of Members

Section 1. The Board of Trustees may, by a three fourths majority vote of the entire Board of Trustees, suspend any member of the Club for any violation of the Bylaws or House Rules or other offensive conduct, from the privileges of the Club for such time as it may see fit, or expel such member altogether, but such member shall have at least ten days' notice of any proposal to suspend or expel, together with a copy of the charges preferred against such member, and shall be entitled to be heard by the Board and produce before the Board such evidence in defense as such member may desire, before final action is taken..

Section 2. Dues shall be payable in advance together with any indebtedness to the Club previously incurred. If payments be not made on or before the 20th day of the second month following the month in which the same are payable, they shall become delinquent and a delinquent member shall be notified thereof in writing by the Manager. From the date of such notification, all further credit shall be denied such member until the amount is paid in full. If any such member shall fail to pay such indebtedness to the Club within thirty days after the date of notification, such member shall cease to be a member of the Club and shall be notified of the facts by the Secretary, provided, however, that the Board of Trustees shall have power on good cause shown to restore any such member after such loss of membership on such conditions as it shall deem proper.

ARTICLE VI

Officers and Trustees

The elected officers of the Club shall be a President, a President-Elect, a Secretary, and a Treasurer. They, together with the immediate past President of the Club, and fifteen Trustees shall constitute the Board of Trustees of the Club. All shall be active Resident members of the Club.

ARTICLE VII

Election of Officers

Section 1. The President-Elect shall automatically become President of the Club when a successor is elected and installed and shall hold office for one year or until succeeded by such successor. The President-Elect, Secretary and Treasurer shall be elected by ballot in accordance with the following provisions of Article VII and shall hold office for one year or until their successors have been elected and installed.

Election of Trustees

Section 2. The fifteen elected Trustees shall hold office for three years and until their successors are elected and installed. Five of their number shall be elected at the same time as officers are elected.

Date of Election

Section 3. The annual election shall be held on a date to be fixed by the Board of Trustees, which date shall be in April. The officers and Trustees so elected shall be installed on or before July 1st by the Board of Trustees.

Nominations

Section 4. Not less than sixty days prior to the annual election, the President shall appoint, with approval of the Board of Trustees, a Nominating Committee of seven or more Resident members at least two of whom shall be past officers. The names of the committee members shall be immediately posted on the Club House bulletin board.

At least 30 days prior to the annual election, the Nominating Committee shall nominate one candidate for each of the offices of President-Elect, Secretary and Treasurer and not less than two candidates for each vacancy on the Board of Trustees which is to be filled. The names of such nominees shall immediately be posted on the Club House bulletin board.

Only persons nominated by the Nominating Committee shall be eligible for election unless the member shall be a Resident member nominated for a stated office by written notice signed by at least twenty-five Resident members of the Club which notice shall have been delivered to the President or Secretary of the Club not less than fifteen days prior to the annual election. Such nomination by notice shall be immediately posted on the Club House bulletin board.

No petitions bearing on the nomination or election of any officer or Trustee shall be permitted, save and except as provided in the foregoing paragraph of this Section 4.

When vacancies for terms of different length in the Board of Trustees are to be filled, all nominations therefor shall specify the term for which each person is nominated.

Notice of Election

When the time within which nominations may be made has expired and at least ten days prior to the annual election, the Secretary shall mail to each Resident member a notice of such election and a ballot. The names of all nominees shall be printed on the ballot mailed to all Resident members, alphabetically arranged under the titles of the respective offices for which they have been nominated. The Secretary shall include with the ballot a printed statement separately showing the nominations proposed by the Nominating Committee and those nominations proposed by petition, listing the names appearing on each such petition. Two envelopes shall be enclosed with the ballot, an inner one and an outer one for use in voting the ballot. The outer envelope shall be addressed to the Secretary of the Club and shall have a line on its exterior for the signature of the voting member.

Voting

Section 5. To vote, the member shall mark the ballot and seal it in the inner envelope. The member shall then seal the inner envelope in the outer envelope and sign the latter. The ballot shall then be mailed so as to reach the Club House prior to 4:00 o'clock p.m. on the date fixed for the annual election or otherwise deposited at the Club House prior to that time.

Judges of Election

Section 6. The Board of Trustees prior to the annual election shall appoint a committee of five to act as judges of election who shall be members of the Club other than the nominees. The Judges of Election, at 4:00 o'clock p.m. on the date fixed for the annual election shall commence to count the votes received up to that hour by mailing or other deposit for each office to be filled, in the presence of members who, prior to the date fixed for the annual election, have expressed a desire to be present, and in the presence of each other. The judges have the right to invalidate improperly marked or mailed ballots. They shall immediately report the result to the President serving at the time such votes are cast, who shall then declare those receiving a majority of votes cast elected to the office to which they were respectively nominated. No ballots deposited at the Club House or arriving by mail after 4:00 p.m. on that date shall be counted in the election.

Tie Vote

Section 7. In the event that no person shall receive a majority of the votes cast for any office, the officer or trustee position shall be determined by a runoff election process.

ARTICLE VIII

Vacancies in Offices and Trustees

Section 1. All vacancies in office and in the Trustees shall be filled by the Board of Trustees, except the office of President.

Section 2. Whenever a vacancy shall occur in the Trustees the Board of Trustees shall elect a new Trustee from the membership of the Club. Should the vacancy occur in the office of President, President-Elect, Secretary or Treasurer, the vacant office shall be filled by the following procedure. Should the vacancy be in the office of President, the President-Elect shall automatically become President for the remainder of the term and also for the following year. Should the vacancy occur in the office of President-Elect, Secretary or Treasurer, the vacancy shall be filled by the Board of Trustees at its next meeting from the membership of the Board of Trustees. The term of an officer elected by the Board of Trustees shall run only until the next annual election.

Section 3. A Trustee chosen from the membership of the Club to fill a vacancy on the Board shall serve only until the next annual election, even though the Trustee replaced had been elected to a longer term. Any vacancy on the Board caused by this procedure shall be filled at the next annual election. A Trustee elected to fill a vacancy in office other than that of President-Elect, shall automatically return to the Board as a Trustee, when a successor is elected and installed, unless the member's original term as Trustee has expired.

ARTICLE IX

Duties of Officers

President

Section 1. It shall be the duty of the President to preside at all meetings of the Club and of the Board of Trustees; to call all meetings of the Club, or of the Board of Trustees, provided by the Bylaws; to nominate all Standing Committees provided for by the Bylaws and to present the same to the Board of Trustees at their first meeting after the annual election, for confirmation; to sign, together with the Secretary, on behalf of the Club, all contracts, bonds and other written instruments approved by the Board of Trustees; to see that the Bylaws, House Rules, and other rules and regulations made by the Board of Trustees are enforced; and to exercise a general supervision over all the affairs of the Club; and shall have such other powers and perform such other duties as are in the Bylaws especially provided. The President shall, at the annual meeting, make a report of the accounts and general concerns of the Club during the previous year, and shall present an estimate of the receipts and disbursements for the ensuing year.

Section 2. The President may, with the approval of the Board of Trustees, remove any member of any committee.

President-Elect

Section 3. In the absence of the President, the President's duties shall devolve upon the President-Elect. The President-Elect will be an exofficio voting member of the Standing Committees provided for in Article XV.

Secretary

Section 4. The Secretary shall keep full and correct minutes of all meetings of the Club and of the Board of Trustees, and shall attend to all correspondence incident to the affairs of the Club. The Secretary shall be custodian of all Club records and property, and shall see that the names of all candidates shall be properly posted. The Secretary shall perform all other duties incident to the office, and any other duties that may be prescribed or required by the Board of Trustees of the Club.

Treasurer

Section 5. The Treasurer shall have charge of all moneys of the Club and shall keep fair and true account of all receipts and disbursements. At each annual meeting Treasurer shall present a statement showing the financial condition of the Club, and shall perform all other duties incident to the office, and any other duties that may be prescribed or required by the Board of Trustees of the Club.

Section 6. The following Vice Presidents shall be appointed annually from the officers and trustees by the Board of Trustees and installed into office on July 1 following the annual

election. The Vice President/Operations shall act as the Chairman of the House Committee. The Vice President/Membership Relations shall act as Chairman of the Membership Committee and oversee membership development/retention, marketing and member orientation. The Vice President/Finance shall have responsibility for all the Club's financial matters. The Vice President/Programs shall act as Chairman of the Program Council and will oversee the planning and scheduling of all Club events.

Fiscal Year

Section 7. The fiscal year of the Club shall end June 30 of each year.

ARTICLE X

Board of Trustees

Section 1. The Board of Trustees shall have the responsibility for the management of the Club and its affairs, and shall constitute its governing power in all matters affecting its finance, discipline and harmony, and it shall prescribe such rules for its regulation as may from time to time be found necessary or convenient for this due and proper management, and shall authorize all expenditures of its moneys. The Board of Trustees shall be authorized to employ from time to time and to terminate the employment of a Manager who shall have general responsibility for the operation of the Club under the supervision of the Board. In addition to the powers enumerated in this section, the Board of Trustees shall have such other powers as in the Bylaws may be conferred upon them in special cases.

Quorum

Section 2. Twelve members of the Board of Trustees shall constitute a quorum.

Resolutions to be Posted

Section 3. Whenever the Board of Trustees shall approve new or amended House Rules as described in Article XV Section 3 the Secretary shall post copies of the new or amended House Rules upon the bulletin board in the Club House within a week after such action has been taken, the copies of such resolutions to remain upon the bulletin board for at least thirty days.

Indemnification of Officers, Directors, Employees and Agents

Section 4. The limitation on personal liability of a Trustee to the corporation or its members for monetary damages, and the indemnification of the Trustees, officers, employees and agents of the corporation shall be as set forth in Article 5 and 6 of the Articles of Incorporation of the corporation.

ARTICLE XI

Removal from Office

The Club may remove any officer or Trustee thereof from office, on good cause shown, by a majority vote of the Resident members of the Club, at a special meeting called for that purpose.

ARTICLE XII

Meetings of the Club

Section 1. Annual Meeting. There shall be an Annual Meeting of the Club held at such time on such date in June each year as the Board shall determine. Robert's Rules of Order shall govern so far as they are consistent with these Bylaws.

Section 2. Special Meetings. The Board of Trustees may call special meetings of the Club at such times as they may deem necessary, and shall call a meeting at any time on application of twenty-five Resident members of the Club, stating the purpose thereof. Notice of each special meeting, stating the purpose thereof, shall be posted on the bulletin board of the Club for at least seven days preceding the meeting, and a copy shall be, by the Secretary, sent to each Resident member of the Club at least seven days prior to said meeting.

Section 3. Quorum & Proxy Voting. At any annual or special meeting of the Club, seventy-five Resident members shall constitute a quorum for the transaction of business. Voting by proxy will be provided.

ARTICLE XIII

Meetings of Trustees

Section 1. There shall be a regular meeting of the Board of Trustees during each calendar month to be held at the call of the President or, in the absence of the President, at the call of the President-Elect or any two members of the Board of Trustees. A special meeting of the Board of Trustees may be called by the President, or in the absence of the President, the President-Elect or by any two members of the Board of Trustees.

Section 2. Meetings by Telephone. Members of the Board of Trustees or any committee designated by the Board may participate in a meeting of such Board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

Section 3. Action by Board Without a Meeting. Any action which could be taken at a meeting of the Board of Trustees may be taken without a meeting if a written consent setting forth the action so taken is signed by each of the Trustees. Such written consents may be signed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same document. Any such written consent shall be inserted in the minute book as if it were the minutes of a Board meeting.

ARTICLE XIV

Resignation of Members

If any member shall resign, or otherwise cease to be a member of the Club, all interests of such member in and to the property and privileges of the Club shall cease and revert to the Club, and such cessation of membership shall operate as a release and assignment to the Club of all right, title and interest of such member in and to the property and privileges of the Club.

ARTICLE XV

Committees

Section 1. In addition to the Nominating Committee provided for in Article VII, there shall be five standing committees as follows: House Committee; Membership Committee; Finance Committee; Marketing Committee, and the Program Council.

Section 2. The **House Committee** shall consist of the Vice President/Operations, who shall act as chair, and nine members appointed by the President and approved by the Board of Trustees. The term of office of the appointed members of the committee shall be for three years. The House Committee shall, subject to the control of the Board of Trustees, direct and manage the affairs of the Club and receive and act upon all complaints and suggestions by members. The House Committee shall report monthly to the Board of Trustees. The House Committee shall make rules and regulations governing Club operations, activities, and facilities subject to the approval of the Board. Board resolutions approving House Rules shall be posted as provided in Article X, Section 3. The House Committee shall review its existing House Rules and the Club Bylaws at least annually and report thereon to the Board at its July meeting so up-to-date House Rules and Club Bylaws can be published in the current Roster.

Section 3. The **Membership Committee** and its chair shall be appointed by the President with the approval of the Board of Trustees and shall consist of such number of members as the President may determine. The committee shall pass upon all those proposed for membership to the Club and report its action on candidates to the Secretary. It shall also be the duty of the Membership Committee to contact individuals who, in its opinion, may be considered as desirable members of the Club and endeavor to have them sponsored for membership. The committee will be responsible for the orientation and mentoring of new members. The proceedings of this committee shall be confidential.

Section 4. The **Finance Committee** shall consist of the Vice President/Finance who shall act as Chair and the Treasurer, and such number of other members as the President may determine. The President shall appoint the members of this committee with the approval of the Board of Trustees. It shall be the duty of this committee to supervise the financial operations of the Club which includes insurance, employee benefits and preparation of a budget for the Club's operation. The budget shall be submitted to the Board of Trustees for approval.

Section 5. The **Marketing Committee** and its chair shall be appointed by the President with the approval of the Board of Trustees. The committee shall consider and make recommendations to the Board of Trustees regarding the communications of the Club to the

membership and to the community. The committee is responsible to review and make recommendations that facilitate membership programs and services.

Section 6. The **Program Council** shall consist of the Vice President/Programs who shall act as Chair. The President shall appoint the members of this committee with the approval of the Board of Trustees. The Council shall be responsible for all Club event programming, scheduling and financial performance. The council shall meet on a regular basis to review programming and make recommendations to the Board of Trustees.

Section 7. The **Advisory Committee** shall consist of all Resident Past Presidents of The Rainier Club. The chair of this committee shall be named by the President of the Club, with the approval of the Board of Trustees. The Advisory Committee shall meet only at the call of the President of the Club or the chair of the committee.

Section 8. The **Executive Committee** shall be composed of the President, President-Elect, Secretary, Treasurer, and the four appointed Vice Presidents. The Executive Committee shall have and exercise authority of the Trustees in the management of the Club, subject to such limitations as may be prescribed by the Board and by applicable Washington Law, except that the Executive Committee shall have no authority to: (a) amend, alter or repeal these Bylaws; (b) elect, appoint or remove any member of any other committee or any Trustee or officer of the Club; (c) amend the Articles of Incorporation; (d) adopt a plan of merger or consolidation with another corporation; (e) authorize the sale, lease, or exchange of all or substantially all of the property and assets of the Club not in the ordinary course of business; (f) authorize the voluntary dissolution of the Club or revoke proceedings therefor; (g) adopt a plan for the distribution of the assets of the Club; or (h) amend, alter or repeal any resolution of the Board which by its terms provides that it shall not be amended, altered or repealed by a committee. The designation and appointment of an Executive Committee and the delegation thereto of authority shall not operate to relieve the Board or any individual Trustee of any responsibility imposed upon it, him or her by law. The Executive Committee shall be responsible for the Club's long range planning, process and monitoring of the long range plan.

Section 9. The President and the Board of Trustees may appoint from time to time such other committees as they deem necessary and spouses of members shall be eligible to serve as members of all such committees.

ARTICLE XVI

Notice to New Members

Section 1. On the election of each new member, the President or Secretary shall forthwith notify such member of election, furnish such member with a list of the members, a copy of the Bylaws and House Rules, and request such new member to pay the Treasurer the appropriate initiation fee and first month's dues.

Section 2. No newly-elected member shall enjoy any of the advantages or privileges of the Club until such member has paid said initiation fee and first month's dues, and signed the Bylaws of the Club in the book kept at the Club House for that purpose. If such member neglects for the period of ten days from the date of notification of election to pay said sums and

sign said Bylaws, the Board of Trustees may cause such member's name to be erased from the list of members.

Section 3. Payment and signature to the Bylaws by a new member as above provided, shall be deemed evidence of such member's promise to obey all Bylaws and rules of the Club, and of submission to their restrictions and penalties.

ARTICLE XVII

Initiation Fees and Dues

Section 1. All initiation or other fees and dues of all classes of membership shall be fixed by the Board of Trustees in such amounts as it shall from time to time deem proper. The Board of Trustees shall also set the manner and times of paying such dues and fees as well as regulating refunds, credits and exemptions from such fees and dues.

Section 2. The dues of Resident members who have been Resident members in good standing for twenty-five years or more and have attained the age of seventy shall be 75 percent of the dues payable by regular Resident members.

Section 3. There will be no initiation fees for Associate members. Dues shall be 50 percent of such fees and dues for Resident members.

Section 4. A Resident member who has reached 60 years of age, has retired from active employment and has been a Rainier Club member for 15 consecutive years or more, may apply to the Board of Trustees to become a prepaid Resident member for life. The amount of the prepayment will be determined on the basis of the applicant's life expectancy, the current annual dues (after adjustment to reflect the provisions of Section 2 above), and the current prime rate as a present value percentage. If the applicant's life expectancy is greater than the years remaining for the Resident member to be eligible to become a Life member as provided in Article II, Section 5, then the shorter period will be used in calculating the amount of prepayment.

ARTICLE XVIII

Infraction of Bylaws or House Rules

Section 1. Any infraction of the Bylaws or House Rules shall be subject to the imposition of such sanctions as the President deems appropriate and, if the President or House Committee considers any infraction to be material, or if the member wishes to appeal the sanctions imposed by the President, the matter shall be reported to the Board of Trustees for the imposition of such sanctions, including suspension or expulsion, as the Board deems fit.

Any infraction of any of the Bylaws, or House Rules shall be reported to any officer, the House Committee, or the Board of Trustees.

ARTICLE XIX

Guest Privileges

Section 1. With Guest Cards. Any Resident member may introduce a guest to the Club, provided the guest resides more than 10 miles from the city limits, by procuring from the Secretary a guest card of admission, which shall be signed by the President and whereon shall appear the names of the guest and of the sponsoring member; and the Secretary shall keep or cause to be kept a record of all such guest cards, together with the date of issue. Such cards shall entitle the guest to all privileges of the Club for a period of fourteen days. At the time of the first introduction to the Club the name and place of residence of such guest and the name of the member introducing the guest shall be inscribed by such member in the Guest Book of the Club; provided, that no member shall have more than three cards issued at one time.

No guest so introduced shall be again introduced until such guest has been absent from the city for a period of three months, and in no event shall any guest be introduced more than twice in any year; provided, that any three Trustees may have discretionary power to grant guest cards for such period and at such times as they deem proper.

Any member sponsoring a guest as aforesaid shall be responsible for the payment of any indebtedness to the Club contracted by the guest and for any damages owed by the guest.

Section 2. Guest cards may also be issued to members of Clubs of other cities with which the Board of Trustees has established reciprocal relations.

Section 3. Without Guest Cards. Guests without guest cards may be introduced and entertained by members. Such guests must in each case be accompanied by their host. The host shall be responsible for the conduct of guests while at the Club.

ARTICLE XX

Amendments to Bylaws

Amendments to or rescissions of these Bylaws may be proposed by (1) an affirmative vote by a majority of the Board of Trustees, (2) a majority vote of the members attending any regular or special meeting or (3) by a petition signed by twenty-five or more Resident members.

The text of any such proposed amendment or rescission shall be furnished to the Secretary forthwith and shall be posted by the Secretary on the bulletin board of the Club at least two weeks prior to the mailing of a written ballot to each Resident member of the Club.

The date of mailing of such written ballot shall be established by the Board of Trustees and shall be at least ten days prior to the date established for receipt of the ballots. The mailing shall be accomplished by two envelopes in the manner provided for the election of officers in Article VII. Prior to the date established by the Board of Trustees for the receipt of ballots, the Board of Trustees shall appoint a committee of five to act as judges of election with the powers and duties of Judges of Election provided for in Article VII. Amendments or rescission to the Bylaws shall be approved upon a two-thirds majority vote of those ballots received at the Club House by 4:00 p.m. on such date as shall be established by the Board of Trustees not less than ten days from the mailing of the ballot.

AO-10 (rev)
Rev. 8/96

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics
Reform Act of 1989, Pub. L. No.
101-194, November 30, 1989
(5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) GOULD, RONALD M.	2. Court or Organization NOMINEE: US CT OF APP 9TH CIRC	3. Date of Report 11/11/97
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) ATTORNEY	5. Report Type (check type) X Nomination, Date 11/08/97 Initial Annual Final	6. Reporting Period 01/01/1996 10/31/1997
7. Chambers or Office Address 1201 THIRD AVE 40TH FLOOR SEATTLE, WA 98101	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions)

POSITION	NAME OF ORGANIZATION / ENTITY
NONE (No reportable positions.)	
ATTORNEY	PERKINS COIE II PC
TRUSTEE (BOARD MEMBER)	BELLEVUE COMMUNITY COLLEGE
BOARD MEMBER	CHIEF SEATTLE COUNCIL BOY SCOUTS OF AMERICA

II. AGREEMENTS (Reporting individual only; see pp. 14-17 of Instructions.)

DATE	PARTIES AND TERMS
NONE (No reportable agreements.)	
1996	VANGUARD/ PERKINS COIE 401(K) SAVINGS PLAN
1996	VANGUARD/ PERKINS COIE RETIREMENT PLAN
1996	RETURN OF CAPITAL AND WITHDRAWAL BENEFIT

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 18-25 of Instructions.)

DATE	PARTIES AND TERMS	GROSS INCOME (years, not spouse's)
NONE (No reportable non-investment income.)		
1995	PERKINS COIE II PC	\$ 272,571.67
1996	PERKINS COIE II PC	\$ 363,109.16
1997	PERKINS COIE II PC	\$ 212,555.00

FINANCIAL DISCLOSURE REPORT		Name of Person Reporting	Date of Report
		GOULD, RONALD M.	11 / 97
SECTION HEADING. (Indicate part of report.)			
SECTION 1. POSITIONS (cont'd.)			
Li.	Position	Name of Organization/Entity	
=====			
4	BOARD MEMBER	NATIONAL JEWISH DEMOCRATIC COUNCIL	
5	BOARD MEMBER	NINTH JUDICIAL CIRCUIT HISTORICAL SOCIETY	

Name of Person Reporting: GOULD, RONALD M. Date of Report: 11/11/97
 FINANCIAL DISCLOSURE REPORT

IV. REIMBURSEMENTS and GIFTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements and gifts received by spouse and dependent children, respectively. See pp. 36-29 of Instructions.)

	SOURCE	DESCRIPTION
	NONE (No such reportable reimbursements or gifts)	
1	EXEMPT	
2		
3		
4		
5		
6		
7		

V. OTHER GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate other gifts received by spouse and dependent children, respectively. See pp. 30-33 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
	NONE (No such reportable gifts)		
1	EXEMPT		
2			
3			
4			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 34-36 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
	NONE (No reportable liabilities)		
1	CHARLES SCHWAB	MARGIN LOAN	M
2			
3			
4			
5			
6			
7			

* VAL CODES: J = \$15,000 or less K = \$15,001-\$50,000 L = \$50,001 to \$100,000 M = \$100,001-\$250,000 N = \$250,001-\$500,000
 O = \$500,001-\$1,000,000 P1 = \$1,000,001-\$5,000,000 P2 = \$5,000,001-\$25,000,000 P3 = \$25,000,001-\$50,000,000 P4 = \$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting GOULD, RONALD M.	Date of Report 11/11/97
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VII. Page 1 INVESTMENTS and TRUSTS — income, value, transactions includes those of spouse and dependent children. See pp. 37-54 of Instructions.)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(U)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
					EXEMPT				
					If not exempt from disclosure				
(1) Amt. Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (I-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, merger, redemption)	(2) Date: Month-Day	(3) Value Code (J-F)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
<input type="checkbox"/> NONE (no reportable income, assets, or transactions)									
1 CHARLES SCHWAB BROKERAGE ACCOUNT (J)									
2 MCDONALD'S CORP. COMMON STOCK (J)	A	Dividend	L	T					
3 NATIONAL REALTY L P NEW (M) LTD P/S (J)	A	Dividend	J	T					
4 GARDEN BURGER, INC. COMMON STOCK (J)		None	M	T					
5 BOEING CO. COMMON STOCK (J)	A	Dividend	J	T					
6 CHARLES SCHWAB BROKERAGE ACCOUNT - IRA (J)									
7 MCDONALD'S CORP. COMMON STOCK (J)	A	Dividend	K	T					
8 CHARLES SCHWAB CUSTODIAL ACCOUNT FOR REBECCA C. GOULD (J)									
9 MCDONALD'S CORP. COMMON STOCK (J)	A	Dividend	L	T					
10 MICROSOFT CORP. COMMON STOCK (J)		None	L	T					
11 CASH (J)		None	J						
12 WELLS FARGO BANK, SEATTLE, WA (J)		None	K	T					
13 PERKINS COIE II CAPITAL ACCOUNT (J)	D	Interest	M	U					
14 PERKINS BUILDING PARTNERSHIP (J)		None	L	U					
15 VANGUARD/ PERKINS COIE II 401(K) SAVINGS PLAN (J)	G	Dividend	N	T					
16 VANGUARD/ PERKINS COIE II RETIREMENT PLAN (J)	G	Dividend	O	T					
1 Incl/Gain Codes: A=\$1,000 or less B=\$1,001-\$1,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 (Col. B1, D4) F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H1=\$1,000,001-\$5,000,000 H2=\$5,000,001 or more									
2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more									
3 Val Mtg Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

Name of Person Reporting	Date of Report
FINANCIAL DISCLOSURE REPORT GOULD, RONALD M.	11/11/97

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

NONE (No additional information or explanations.)

SECTION 7 - RONALD GOULD'S SON, DANIEL GOULD, TURNED 21 ON JULY 12, 1997, AT WHICH TIME DANIEL'S CHARLES SCHWAB CUSTODIAL ACCOUNT WAS TRANSFERRED TO DANIEL'S SEPARATE PROPERTY. THIS ACCOUNT IS NO LONGER CUSTODIALLY MANAGED BY MR. GOULD.

SECTION 7 - RONALD GOULD'S DAUGHTER, REBECCA GOULD, HAS RECEIVED AN INITIAL PAYMENT OF APPROXIMATELY \$92,000 FOR PHYSICAL INJURIES SUSTAINED IN AN AUTOMOBILE ACCIDENT. AS OF OCTOBER 31, 1997, THESE FUNDS WERE ON DEPOSIT IN AN INTEREST EARNING ACCOUNT ESTABLISHED BY HER ATTORNEY AND HAVE NOT BEEN TRANSFERRED INTO HER CUSTODIAL ACCOUNT. THIS TRANSFER IS ANTICIPATED TO BE DONE BY NOVEMBER 15, 1997.

Name of Person Reporting	Date of Report
FINANCIAL DISCLOSURE REPORT GOULD, RONALD M.	11/11/97

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Ronald M. Gould Date 11/11/97

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

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FINANCIAL STATEMENT
NET WORTH

AS OF OCTOBER 31, 1997

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		17	607	Notes payable to banks-- secured			
U. S. Government securities-- add schedule				Notes payable to banks-- unsecured			
Listed securities--add scheduled <i>See Stmt 1</i>		341	880	Notes payable to relatives			
Unlisted securities--add schedule				Notes payable to others			
Accounts and notes receivables:				Accounts and bills due			
Due from relatives and friends		2	500	Unpaid income tax			
Due from others <i>See Footnote 1</i>				Other unpaid tax and interest			
Doubtful				Real estate mortgages <i>see</i> payable--add schedule <i>Stmt 3</i>		634	181
Real estate owned--add schedule <i>See Stmt 2</i>		1	300 000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts--itemize:			
Autos and other personal property <i>See Stmt 2</i>		197	300	Charles Schwab Margin Loan		100	751
Cash value--life insurance				First Card Visa		2	500
Other assets--itemize:							
<i>See Statement 2</i>		1	343 068				

ASSETS				LIABILITIES			
				Total liabilities		737	432
				Net Worth	2	464	923
Total Assets	3	202	355	Total liabilities and net worth	3	202	355
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, co-maker or guarantor	None			Are any assets pledged? (Add schedule)	No		
On leases or contracts	See Footnote 2			Are you defendant in any suits or legal actions?	No		
Legal Claims	None			Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax	None						
Other special debt	None						

Footnote 1: Ronald Gould's daughter, Rebecca Gould, has received an initial payment of approximately \$92,000 for physical injuries sustained in an automobile accident. As of October 31, 1997, these funds were on deposit in an interest earning account established by her attorney and had not been transferred into her custodial account. In addition, Rebecca Gould's attorney, subsequent to October 31, 1997, has recently received further settlement for such injuries an additional payment of approximately \$276,000, two-thirds of which, or about \$180,000 will go to Rebecca. These additional funds are being deposited initially in her attorney's account and are not yet in her custodial account. The transfers of the above funds to Rebecca Gould's custodial account are anticipated to be done before the end of December, 1997.

Footnote 2: Contingent Liability on Perkins Coie Real Estate Lease: Mr. Gould, as a partner of Perkins Coie, has co-guaranteed with all partners an office lease

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for an office of the partnership. Under terms of this guarantee, Mr. Gould will be removed from the lease guarantee when and if he terminates his employment at Perkins Coie.

**RONALD GOULD
FINANCIAL STATEMENT ATTACHMENT
10-31-97**

LISTED SECURITIES**RONALD M. GOULD ACCOUNT**

32 SH BOEING	1,742	
2,000 SH MCDONALD'S CORP.	89,625	
10,000 SH GARDEN BURGER, INC.	112,500	
45 SH NATIONAL REALTY LP	<u>1,018</u>	
TOTAL	<u>204,885</u>	204,885

RONALD M. GOULD IRA ACCOUNT

654.0767 SH MCDONALD'S CORP.	29,311	
9 SH WANG LABS INC WARRANTS	59	
SCHWAB MONEY MARKET FUND	<u>45</u>	
TOTAL	<u>29,415</u>	29,415

CUSTODIAL ACCOUNT FOR REBECCA C. GOULD UWAUGMA

4 SH IMATION CORP.	86	
1,157.2536 SH MCDONALD'S CORP.	51,859	
400 SH MICROSOFT CORP.	52,000	
CASH	<u>1,854</u>	
TOTAL	<u>105,799</u>	105,799

REBECCA C. GOULD IRA ACCOUNT (RONALD M. GOULD, CUSTODIAN)

100 SH QUARTERDECK CORP.	228	
100 SH GARDEN BURGER, INC.	1125	
SCHWAB MONEY MARKET FUND	<u>428</u>	
TOTAL	<u>1781</u>	1781

TOTAL LISTED SECURITIES - ALL ACCOUNTS	<u><u>341,880</u></u>	
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**RONALD GOULD
FINANCIAL STATEMENT ATTACHMENT
10-31-97**

REAL ESTATE OWNED

PERSONAL RESIDENCE - MERCER ISLAND, WA	<u>1,300,000</u>
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AUTOS AND OTHER PERSONAL PROPERTY

'96 TOYOTA CAMRY	15,000
'97 INFINITI Q45	40,000
'97 CHRYSLER MINIVAN	40,000
'87 SEARAY BOAT	2,000
HOME FURNISHINGS/PERSONAL PROPERTY	50,300
JEWELRY & SILVER	<u>50,000</u>
TOTAL	<u>197,300</u>

OTHER ASSETS

VANGUARD/PERKINS COIE II 401(K) SAVINGS PLAN	375,451
VANGUARD/PERKINS COIE II RETIREMENT PLAN	788,983
PERKINS COIE II CAPITAL ACCOUNT	102,205
PERKINS BUILDING P/S	76,276
TWB INVESTMENT PARTNERSHIP	<u>153</u>
TOTAL	<u>1,343,068</u>

QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. **Full name.**

Ronald Amaury Guzman

2. **Address: List current place of residence and office address(es).**

Office: 219 S. Dearborn St., Chicago, Il 60604.

Home: LaGrange Park, Il 60526.

3. **Date and place of birth.**

Dob: 11/18/48. Place of birth: Rio Piedras, Puerto Rico.

4. **Marital Status: (including maiden name of wife, or husband's name). List spouses' occupation, employer's name and business address(es).**

I am married to Carol Jean Guzman (maiden name, Corrigan). Mrs. Guzman is employed as a part time adjunct instructor at Morton College, 3801 S. Central Ave., Cicero, Il. 60804.

5. **Education: List each college or law school you attended, including dates of attendance, degrees received, and dates degrees were granted.**

Lehigh University; 1966 - 1970. Awarded a B.A. in Economics in June of 1970.

New York University; 1970 - 1973. Awarded a J.D. in June of 1973.

DePaul University Law School, 1979 - 1980. I enrolled in DePaul's taxation law program as a part-time student attending classes in the evening while an

Assistant States Attorney. I left the program without completing my degree because of the great time pressures I encountered upon leaving the State's Attorney's Office and beginning the private practice of law. All courses were completed with passing grades before leaving the program.

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

Summer Intern, General Counsel, U.S. Commission on Civil Rights, 6/72 - 8/72
Washington, D.C.

Partner, Rodriguez & Guzman (1973 - 1974). 3225 N. Sheffield Ave., Chicago, Il; (partnership dissolved)

Member of the Board of Directors of ASPIRA of Illinois Inc., 2435 N. Western Ave., Chicago, Il 60647. This is a not for profit organization for the advancement of educational opportunities for Hispanics through cooperation with local school boards and universities, scholarship funds and tutorial programs. I am unable to verify the exact dates of my participation. My best estimate is that it would have been sometime between 1975 and 1985.

Assistant States Attorney for the Office Of The Cook County States Attorney (February 1975 to September 1980), 2650 S. California Ave., Chicago, Il.

Partner at Pileggi, Guzman, Ginex & Fecarotta (9/1/80 - 7/24/90), One North LaSalle Street, Chicago, Illinois; 4121 W. 26th St., Chicago, Il 60525 (Little Village Neighborhood); and 1127 S. Mannheim Road, Suite 308, Westchester, Illinois 60154.

Part time Staff Attorney at Association House of Chicago (non profit organization) (9/1/80 - 7/17/84), 2150 W. North Ave., Chicago, Il.

Magistrate Judge for United States Courts (N.D.Ill.) (7/24/90 - Present), 219 S. Dearborn St., Chicago, Il 60604.

I have been a member of the Board of Directors of the LaGrange Richport

YMCA, 31 E. Ogden Ave., LaGrange, Il 60525, since 1992.

7. **Military Service: Have you had any military service? If so, give dates, branch of service, rank or rate, serial number, present status, and type of discharge, if applicable.**

Yes. Active duty for training as an ROTC cadet while attending law school between 12/6/70 and 2/2/72. Service number: 291-44-8564. Honorably discharged on February 2, 1972.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

In 1966, I received an athletic scholarship to attend Lehigh University. Graduated with honors.

In 1989, I was appointed to the Chicago Bar Association's Commission to Study and Recommend Changes and Improvements in the Cook County Juvenile Court System.

In 1990, I was Appointed to the Cook County State's Attorney's Task Force on the Removal of Life Sustaining Treatment from the critically ill.

In 1990, I was honored by the Mexican American Lawyer's Association with their Lawyer of the Year Award.

In 1994, I was honored by the DePaul Law School Latino Law Students Association for service to the community.

On July 23, 1999, I was awarded the Hispanic Lawyer's Association of Illinois' Second Annual Vanguard Award for making the legal profession more accessible to the community.

9. **Bar Associations:** List all bar associations, legal or judicial-related committees 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.

I have been a member of the following bar associations: The Chicago Bar Association, The Illinois State Bar Association, The Latin American Lawyers Association, The National Hispanic Bar Association, the Hispanic Lawyers Association of Illinois and the Immigration Lawyer's Association. I have held no offices in these organizations.

I have been a member of the Automation Committee of the United States District Court for the Northern District of Illinois since October 15, 1995. This committee oversees the introduction and utilization of new technology in the court's procedures and by the court's personnel.

I was appointed *ex officio* member to the Civil Justice Reform Act Advisory Committee (28 USC §478) of the Northern District of Illinois on June 30, 1995.

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I do not belong to any organizations that are active in lobbying before public bodies.

I am currently a member of the board of directors of the LaGrange Richport YMCA, 31 E. Ogden Ave., LaGrange, IL 60525.

11. **Court Admissions:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Supreme Court of Illinois, 11/6/73.

United States District Court for the Northern District of Illinois (general bar) 2/19/74.

United States District Court for the Northern District of Illinois (trial bar)
12/21/82.

There have been no lapses in my membership to any of these courts.

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

I include notes of my presentation of July 15, 1998 at the Constitutional Rights Foundation of Chicago's program on The American Jury. The topic I was assigned to speak on was "Alternate Models - Professional Juries in Europe and No Juries in Mexico".

I include notes of my speech before the Labor and Employment Law Committee of the Chicago Bar Association on September 22, 1993.

I have given a short presentation to the Chicago Chapter of the Federal Bar Association every year from 1996 to 1998 on some aspect of civil discovery practice before magistrate judges in the Northern District of Illinois. I have been unable to locate any notes or other writings from these presentations.

13. **What is the present state of your health? List the date of your last physical examination.**

Good. My last physical exam was on July 2, 1999.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I am currently a Magistrate Judge for the United States District Court for the Northern District of Illinois. I was originally appointed July 24, 1990 and just

recently reappointed on July 24, 1998. Basic jurisdictional parameters of United States Magistrate Judges are found in Title 28 of the United States Code at Section 636. These matters include presiding over civil bench and jury trials (upon consent of the parties); ruling on pretrial discovery and non-dispositive matters; reports and recommendations upon referral from the district court on dispositive motions (motions to dismiss, for summary judgment, judgment on the pleadings, motions to suppress evidence etc.); hearing and determination or recommendation of preliminary injunction motions; criminal detention hearings; criminal preliminary hearings; bench or jury trials of misdemeanor cases (upon consent of the parties); issuance of arrest and search warrants etc.

15. **Citations:** If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) citations for significant opinions on federal or state constitutional issues, together with the citations to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, please provide copies of the opinions.

(1) Ten of the most significant opinions I have written as a United States Magistrate Judge for the Northern District of Illinois are as follows:

1. *Alberts v. Wickes*, 1994 WL 457126 (N.D.Ill., Aug 18, 1994)(NO. 93 C 4397), 1995 WL 117886 (N.D. Ill., Mar 15, 1995), 1995 WL 616685 (N.D. Ill., Oct 19, 1995), 1996 WL 490216 (N.D. Ill., Feb 5, 1996).
2. *Pudlo v. Adamski*, 1992 WL 27002 (N.D. Ill., Feb 12, 1992)(NO. 91 C 7474),
3. *Sweeco, Ltd. v. Koolatron*, (NO. 98 C 5101), Report and Recommendation not published, *adopted by* 1999 WL 261934 (N.D. Ill. Apr 19, 1999)(NO. 98 C 5101).
4. *Statland v. U.S.*, 1995 WL 31515, (N.D. Ill., Jan 26, 1995)(NO. 92 C 7858), *Affirmed by Statland v. U.S.*, 178 F.3d 465 (7th Cir. (Ill.) May 7, 1999) (NO. 95-3025).

5. *Paddock Publications, Inc. v. Chicago Tribune Co.*, (NO. 93 C 7493), Report and Recommendation not published, *adopted* by 1995 WL 632031, 1995-2 Trade Cases P 71,255 (N.D. Ill. Oct 25, 1995), (NO. 93 C 7493), *Affirmed* by 103 F. 3d 42, 65 USLW 2418, 1996-2 Trade Cases 71,647, 25 Media L. Rep. 1187 (7th Cir. (Ill.) Dec 16, 1996) (NO. 96-2058), *rehearing and suggestion for rehearing en banc denied*(U.S. Jan 21, 1997), *Certiorari Denied* by 520 U.S. 1265, 117 S. Ct. 2435, 138 L. Ed. 2d 196, 65 USLW 3810, 65 USLW 3814, (U.S. Jun 09, 1997) (NO. 96-1669).

6. *Jones v. Coleman Co., Inc.*, 1993 WL 358153 (N.D. Ill. Sep 14, 1993)(NO. 92 C 3053), *Judgment Affirmed in Part, Reversed in Part* by 39 F. 3d 749, 30 Fed. R. Serv.3d 920 (7th Cir.(Ill.) Nov 04, 1994).

7. *Mitchell v. Glover*, 1991 WL 169206 (N.D. Ill., Aug 23, 1991)(NO. 90 C 5163). *Decision affirmed* by 996 F. 2d 164 (7th Cir., Ill., June 8, 1993)(NO. 91-3284), *rehearing denied* (Aug. 09, 1993).

8. *Lowe v. Sheahan*, 1995 WL 603174 (N.D. Ill. Oct 10, 1995)(No. 94 C 7054).

9. *Turtle Wax, Inc. v. First Brands Corp.*, 781 F. Supp. 1314, 22 U.S.P.Q.2d 1013 (N.D. Ill., Dec 27, 1991) (NO. 90 C 5999).

10. *U.S.E.E.O.C. v. AIC Sec. Investigations, Ltd.*, 823 F. Supp. 571, 61 USLW 2770, 61 Empl. Prac. Dec. P 42,289, 2 A.D. Cases 890, 2 A.D.D. 251, 4 NDLR P 59 (N.D. Ill. Jun 07, 1993)(NO. 92 C. 7330) *Affirmed in Part, Reversed in Part* by 55 F.3d 1276, 63 USLW 2746, 131 A.L.R. Fed. 665, 66 Empl. Prac. Dec. P 43,555, 32 Fed. R. Serv.3d 61, 4 A.D. cases 693, 9 A.D.D. 813, 6 NDLR P 333 (7th Cir. (Ill.), May 22, 1995)(NO. 93-3839, 94-3089, 94-1018, 94-2895) .

(2) A short summary of and citations for all appellate opinions where my decisions were reversed or where my judgment was affirmed with significant criticism of my substantive or procedural rulings is as follows:

1. *U.S.E.E.O.C. v. AIC Sec. Investigations, Ltd.*, 55 F. 3d 1276, 63 USLW 2746, 131A.L.R. Fed. 665, 66 Empl. Prac. Dec. P 43,555, 32 Fed. R. Serv. 3d 61, 4 A.D. Cases 693, 9 A.D.D. 813, 6 NDLR P 333 (7th Cir. (Ill.), May 22,

1995). My decision to hold Ruth Vrdolyak liable in her individual capacity reversed and this case remanded for initial ruling on the proper allocation of punitive damages. All other claims of error were overruled.

2. *Thomas & Betts Corporation and Thomas & Betts Holdings, Inc. v. Panduit Corp.*, 65 F. 3d 654, 36 U.S.P. Q. 2d 1065 (7th Cir. (Ill.), May 15, 1995). Preliminary injunction reversed based upon erroneous finding that *Thomas & Betts* had established a reasonable likelihood of success on the merits.

3. *Callie Hubbard-Davis v. Callahan*, 124 F. 3d 204, 1997 WL 407742 (7th Cir. (Ill.), July 17, 1997). Reversed on the basis that the ALJ did not build an accurate and logical bridge between the evidence and the result. In its opinion the Court of Appeals acknowledged this was a close case.

4. *Johnson v. Zema Systems Corporation*, 170 F. 3d 734, 79 Fair Empl. Prac. Cas. 584 (7th Cir. (Ill.) Mar 16, 1999). Grant of summary judgment affirmed as to ADEA claim and retaliatory discharge claim but reversed as to racial discrimination.

5. *Lauer v. Apfel*, 169 F. 3d 489 (7th Cir. (Ill.) Mar 2, 1999). Vacated on procedural ground that agency should make determination as to the effect of the SSR and of the evidence of plaintiff's continued impairment after September 8, 1992.

(3) Citations for significant issues, together with the citations to appellate court rulings on such opinions are as follows:

1. *Calhoun v. Detella*, 1997 WL 75658 (N.D. Ill. Feb 18, 1997). Not appealed.
2. *Lowe v. Sheahan*, 1995 WL 603174 (N.D. Ill. Oct 10, 1995). Not appealed.
3. *Chrissafis v. Continental Airlines, Inc.*, 1997 WL 534874 (N.D. Ill. Aug 21, 1997). Not appealed.
4. *Smith v. Page*, 1998 WL 25197 (N.D. Ill. Jan 07, 1998). Not appealed.
5. *Tennen v. Shier*, 1995 WL 398991 (N.D. Ill. June 30, 1995). Not appealed.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elected public office.

None.

17. **Legal Career:**

a Describe chronologically your law practice and experience after graduation from law school including:

1. Whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;

I have never served as a clerk to a judge.

2. Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

3. The dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

- (a) POSITION: Partner at Rodriguez & Guzman (1973 - 1974)
ADDRESS: 3225 N. Sheffield Ave., Chicago, Il.
- (b) POSITION: Assistant States Attorney for the Office Of The Cook County States Attorney (February 1975 to September 1980)
ADDRESS: 2650 S. California Ave., Chicago, Il.
- (c) POSITION: Part time Staff Attorney for Association House of Chicago (9/1/80 - 7/17/84)
ADDRESS: 2150 W. North Ave., Chicago, Il.

(d) **POSITION:** Partner at Pileggi, Guzman, Ginex & Fecarotta (9/1/80 - 7/24/90)
ADDRESS: One North LaSalle Street, Chicago, Illinois; 4121 W. 26th St.,
Chicago, IL 60525; and 1127 S. Mannheim Road, Suite 308,
Westchester, Illinois 60154.

b 1. What has been the general character of your practice, dividing it into periods with dates if its character has changed over the years?

My practice has varied over the years. In my first position with Rodriguez & Guzman (1973 - 1974), I was a partner in a newly formed firm of two attorneys in the general practice of law in a neighborhood office. During this time I concentrated my practice in domestic relations and criminal law.

As an Assistant States Attorney for the Office Of The Cook County States Attorney (February 1975 to September 1980) I was an attorney in a large public office concerned generally with criminal and public interest matters. I was assigned during this five year period successively to Juvenile Court (1974-75), First Municipal District prosecutions (1975-76), Felony Review, Narcotics Preliminary Courts and the Felony Trial Division (1977-80). In my first assignment at the Juvenile Division I tried cases involving both delinquency petitions and child abuse and neglect petitions. The former were similar to criminal complaints with similar procedural requirements and due process considerations (such as Miranda warnings, suppression hearings, and sentencing hearings). The latter were governed essentially by the rules of civil procedure including discovery. Although most of these were short, one day, trials, occasionally a trial would take several days and, especially in abuse and neglect cases, involve presentation and cross-examination of expert medical/psychiatric testimony.

In my second assignment as an Assistant States Attorney, in the First Municipal District Courts, 1975-76, the cases were all misdemeanor criminal matters. In this assignment, I traveled from one misdemeanor courtroom to another throughout the city of Chicago. Sometimes the assignment to a particular courtroom would last only a few days and sometimes as long as several

months. This assignment gave me the opportunity to appear before many different judges and allowed me to contrast and compare the many different judicial styles and temperaments of these various judges. This experience has served me well during the last nine years.

My next major assignment as an Assistant States Attorney was in the felony trial division, 1977-80, where I prosecuted felony indictments in both bench and jury trials. These trials, averaged three to five days each, although several took weeks to try. A few took as long as one month to try to verdict. These trials routinely involved physical evidence, demonstrative evidence and expert testimony. While in the felony trial division I also participated in numerous evidentiary hearings in motions to suppress, pretrial motions in limine, and criminal discovery motions.

As a partner in Pileggi, Guzman, Ginex & Fecarrota (9/1/80 - 7/24/90) the character of my practice again changed. During this period, my practice was more concentrated on real estate transactions and immigration matters. Most cases settled before going to trial. I did however, try some personal injury cases, contract actions and various divorce proceedings as well as several trials (evidentiary hearings) defending clients in deportation proceedings before immigration judges. During this time I also tried as lead counsel several jury trials including the defense of a capital punishment case. I also represented a variety of clients in federal court, including cases concerning 42 USC §3604, fair housing discrimination complaints, 42 USC § 1983, deprivation of civil rights under color of law complaints, criminal defendants, tax lien cases, immigration seizure cases and ERISA contribution cases.

While at Association House (91/80 - 7/17/84) my practice was limited to divorce, adoption, paternity and related family law issues. Few of these cases went to trial. Most were settled.

2. Describe your typical former clients and mention the areas, if any, in which you have specialized.

In my first position as a partner in Rodriguez & Guzman (1973 - 1974), my clients were typically individuals from the neighborhood and the practice was not specialized but general. The majority of cases were domestic relations and criminal law.

While in the States Attorneys office, my clients were the people of the State of Illinois. I specialized in criminal law and juvenile law.

As a partner in Pileggi, Guzman, Ginex & Fecarrota (9/1/80 - 7/24/90) my clients were mostly individuals, many Spanish speaking, and a few small corporations. My practice was more concentrated on real estate transactions and immigration matters, although it also included criminal law and federal civil litigation.

While at Association House (9/1/80 - 7/17/84) my clients were members of the surrounding community (mostly Hispanic). The practice was limited to divorce, adoption, paternity and related family law issues.

c 1 Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

In my first position, as a partner at Rodriguez & Guzman (1973 - 1974), I appeared in court infrequently, no more than two or three times a month.

While assigned to the Juvenile Division, the First Municipal District Courts, 1975-76, and the Felony Trial Division, of the States Attorney's Office of Cook County (1974-80), I appeared in court every day.

Once in private practice (9/1/80 - 7/24/90) and while part time staff attorney for Association House (9/1/80 - 7/17/84) my appearances in court fell to an average of once a week.

2. **What percentage of these appearances was in:**
 - (A) **federal courts;**
Approximately 10%
 - (B) **state courts of record;**
Approximately 75%
 - (C) **other courts.**
Approximately 15%
3. **What percentage of your litigation was:**
 - (A) **civil;**

Approximately 30%
 - (B) **criminal.**

Approximately 70%
4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

It is impossible for me to give a precise number of the cases I have tried to verdict or judgment. During the several years I was an Assistant States Attorney in juvenile court and the various misdemeanor courts in Cook County I tried approximately 100 short bench trials. I also estimate that over the last 26 years I have tried 15 to 20 jury trials. Because neither the Criminal Division of the Circuit Court of Cook County nor the First Municipal District of the Circuit Court of Cook County keep a record of such cases which can be searched by the name of the prosecuting attorney, I am unable to ascertain the precise number. The records of the Juvenile Court of Cook County on the other hand are sealed for the protection of the minors and cannot be accessed without a court order on a case by case basis. In addition, such records as still exist from 1974 -75 are not likely to be in any sort of searchable order.

5. What percentage of these trials was:

(A) jury; @ 10%

(B) non-jury. @ 90%

18 **Litigation:** Describe ten of the most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and the 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 dates 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) **People of the State of Illinois V. Gail Marek and Lillian Weisner**, 415 N.E.2d 1230, Nos. 79-358, 79-367. (Appellate Court of Illinois, First District, Fourth Division. Dec. 31, 1980)

Defendant was convicted in the Circuit Court, Cook County, Judge Fred G. Suria, of murder and arson. The conviction was affirmed.

I prosecuted this case as an Assistant States Attorney. The case was important at the time because of the number of victims who died (three children and their mother) and because of the attempted arson fraud involved. The case was reported in the news media and was somewhat sensational in that the defendants were a young woman of alleged borderline intelligence and her mother who, at the time, was wheel chair bound. These facts coupled with the lack of eyewitness identification and relative scarcity of physical evidence made the proof of the *corpus delicti* difficult. The pretrial motions to suppress the confessions of the defendants were also lengthy and difficult involving both factual and legal

issues. The prosecution's case required meticulous preparation of the physical evidence, including photographs of the inside and outside of the damaged premises, a plat of the home and a charred and very fragile cover for a book of matches (upon which - when held at just the right angle - one could still read the slogan "Reelect George Dunn") as well as the expert testimony of the state's chief arson investigator. The case took several weeks to try, and the jury returned its verdict of guilty on all nine counts in less than four hours.

Although not lead counsel in this case I did present the direct testimony of one half of all of the prosecution witnesses, including the expert testimony of the state's arson investigator, an expert in education from the local school district and various police officers. I also cross examined the only defendant to take the stand. Finally, I delivered the prosecution's opening summation argument.

Lead counsel on this case was Lorna Propes, 224 S. Michigan Ave. 13th Floor, Chicago, IL 60604; (312) 341-1688.

The defense attorney in this case was Sam Adam, 53 W. Jackson Blvd. Suite 1330, Chicago. IL 60604; (312) 236-5543 .

2) People of the State of Illinois V. John Zembridge, 104 Ill.App.3d 654, 60 Ill.Dec. 239, 432 N.E.2d 1138, No. 80-1463. (Appellate Court of Illinois, First District, Fifth Division. Feb. 19, 1982)

The defendant was convicted in the Circuit Court, Cook County. Judge Anthony J. Scotillo presided over this trial of armed robbery, burglary with intent to commit armed robbery, and rape.

This was a jury trial I prosecuted as an Assistant States Attorney. The case is significant to me because it required a determined effort to prosecute. The victim spoke only Spanish and was living in Florida at the time the case came to trial. Her family members did not want her to return to Chicago to participate in the trial. Once back in Chicago, the preparation of the victim's testimony was excruciatingly difficult due to her hesitancy to discuss the details of her ordeal, her poor verbal skills

even in her native Spanish language (the victim was illiterate), her almost total inability to speak English, and the psychological trauma she had suffered. Ultimately her testimony was given through an interpreter. After the trial, however, the jurors praised the clarity with which the victim testified. From a trial lawyer's point of view this prosecution was also made difficult because a substantial amount of time passed between the time of the offense and the arrest of the accused. In addition, the defendant had several alibi witnesses who testified that he was in his home at a graduation celebration at the time of the home invasion and rape. Fortunately, the testimony of the alibi witnesses centered around a particular television program which was allegedly shown during the celebration at the defendant's home. By having records brought to court from the television studio, we were able to show that this particular show was aired at a different time slot on the day of the crime than was customary and, therefore, could not possibly have been viewed during the time of the perpetration of the offense. This testimony destroyed the credibility of the defendant's alibi witnesses. The case is also significant to me personally because of the details of the crime (when the victim refused to submit to the sexual assault, the defendants put a loaded gun to her infant's head) made it one of the most vicious I have ever come across.

I was lead counsel in this case. My co-counsel on this case was James McCarter, now Supervising Attorney of the States Attorneys Office in the 5th Municipal District, 76th Ave. Bridgeview, IL 60655; (708) 974-6220.

Defense counsel in this case was Robert G. Clarke. 10 S. LaSalle St., Suite 3710, Chicago, IL 60603; (312)332-3101.

3) People of the State of Illinois V. Francis Mitchell, 95 Ill. App.3d 779, 51 Ill. Dec.1, 420 N.E.2d 415, No. 80-776. (Appellate Court of Illinois, First District, Second Division. March 3, 1981, Rehearing Denied May 19,1981)

The Defendant Francis A. Mitchell was indicted for the murder of his former mother-in-law, Frances Krecji. After a bench trial in the Circuit Court of Cook County before Judge Anthony J. Scotillo, the defendant was convicted of murder and sentenced to a term of imprisonment of not

less than 35 years nor more than 75 years.

The defendant, Francis Mitchell, was a jealous ex-husband who attempted to kill his ex-wife and her parents. After their divorce, his wife moved to Florida to get away from him. Unfortunately she did not succeed. Enraged by what he believed was his former mother-in-law's meddling and at being deprived of his son's company, he meticulously set about planning the murder of all but his son. It was this meticulous preparation that ultimately contributed to his conviction. On June 8, 1973 he beat his former mother-in-law to death with a hammer in Berwyn, Illinois and then flew to Florida where, in the middle of the night, he broke into his ex-wife's home and attempted to kill her and her father with the same hammer (the hammer was never recovered). This second murder attempt failed when the blows the defendant struck to his former wife's head, as she lay in bed sleeping, were partially deflected by the rubber curlers she had gone to bed wearing. He was subsequently arrested in his home in Bartlett, Illinois.

This was an interesting case to try because it was entirely circumstantial, there were no witnesses whatsoever to the homicide in Berwyn, and involved the combined work of the Berwyn, Bartlett and Chicago police departments to investigate and prosecute. Because of the intervening prosecution in Florida and the need to prosecute an interlocutory appeal of the Illinois trial court's ruling granting a defense motion to quash a search warrant and suppress evidence recovered from the defendant's home, the trial did not begin until June 7, 1979, almost six years from the day of the occurrence. The testimony of a handwriting expert from the Chicago Police Department as to impressions (found by the use of oblique violet light) of the defendant's handwriting left on the underlying page in a paper pad in his home was crucial to the prosecution. The appellate court sustained the judgment of guilty and its review of the circumstantial evidence in the case is extremely interesting.

Lead counsel on the case was James McCarter, Supervising Attorney of the States Attorneys Office in the 5th Municipal District, 76th Ave. Bridgeview, Il 60655; (708)974-6220.

Opposing counsel was Daniel H. Wolff, Turner & Wolff, 1021 W. Adams St., Chicago, Il 60607; (312)829-2464.

4) United States v. Raymond Janek, 84 Cr 711 (U.S. Dist. Ct., N.D. Ill).

This was a three day jury trial before the Hon. Prentice Marshall (now of counsel with Cotsirilos, Stephenson, Tighe & Streicker Ltd. 33 N. Dearborn St. Suite 600, Chgo., Il 60602, (312) 263-0645.) I represented Mr. Janek in defense of a two count indictment charging him with violations of 18 USC §659 (theft of goods in interstate commerce) and conspiracy to commit the same. It was alleged that the defendant and several others, including an ex-Chicago police officer, entered the premises of a trucking firm late at night, subdued a guard and then drove off with an entire tractor trailer full of goods. Three of the accused conspirators pled guilty to the offense and were sentenced to long jail terms. It was not until almost five years after the commission of the offense that Mr. Janek was indicted. The main evidence against Mr. Janek was the testimony of two of his alleged co-conspirators, one of which was in jail and the other in the witness protection program. Their testimony, however, conflicted as to certain key points - including the role Mr. Janek was supposed to have played in the robbery. After deliberating overnight the jury returned verdicts of not guilty to the substantive offense (theft of goods in interstate commerce) but guilty of conspiring to commit theft of goods in interstate commerce. I was sole counsel for the defense in this case.

Opposing counsel: Assistant United States Attorneys Victoria J. Peters, U.S. Attorney's Office, 219 S. Dearborn St., Chgo., Il 60604, (312) 353-5319, and Lawrence Rosenthal, now Deputy Corporation Counsel for the City of Chicago, 610 City Hall, Chicago, Il 60602; (312)744-5337.

5) People v. Darnell Toney and Ricky Henderson, 84 CR 4014; 83 CR 1952. This case was a seven day jury trial in the Criminal Division of the Circuit Court of Cook County before the Hon. James Bailey, now at Schippers & Bailey, 20 N. Clark St., Suite 3600, Chicago, Il 60602; (312) 263-1200.

My client, Darnell Toney, and co-defendant, Ricky Henderson, were charged with felony murder. They were accused of entering a

neighborhood grocery store at 733 N. Cicero Ave. in Chicago in the evening hours of January 18, 1983 and perpetrating an armed robbery. During the commission of the robbery the store owner was shot to death with a small caliber handgun. The prosecution elected to seek the death penalty. The trial commenced on December 3, 1984 and lasted seven days, not counting the sentencing phase. The co-defendant was represented by the public defender. I was sole counsel for Darnell Toney. The trial of the case involved expert forensic fingerprint testimony concerning prints left at the scene, as well as conflicting expert hand writing analysis testimony with respect to a note left at the scene of the crime. The cross-examination of the prosecution's eyewitness in this case resulted in some surprises and revealed a prior miss identification by him. The jury was out approximately five hours before returning a verdict of guilty as to both defendants.

At the sentencing phase I introduced evidence of prior meritorious conduct by my client, as a child he saved a drowning victim, and of the lack of any prior significant criminal involvement. As a result of this evidence the court refused to impose the death penalty.

The attorney for co-defendant Ricky Henderson was assistant public defender Stuart A. Nudleman, now Hon. Stuart A. Nudelman, Presiding Judge of the Circuit Court of Cook County, Second Municipal District, 5600 Old Orchard Road, Skokie, IL 60077; (847) 470-7200.

Attorneys for the prosecution were Richard M. Stock, now Chief Deputy Attorney General of the State of Illinois, 100 W. Randolph St., Chicago, IL 60601; (312) 814-5092; and Paula M. Daleo, Assistant States Attorney, Chief of the Special Prosecutions Bureau, 2650 S. California Ave., Room 13D32, Chicago, IL 60608; (773) 890-2715.

6) **People v. John Witcher**, 84-3884 & 3885. This case was a two day bench trial in the Criminal Division of the Circuit Court of Cook County before the Hon. Gino Divito, formerly my supervisor in the States Attorney's office and Illinois Appellate Court Justice, now with Quinlan & Crisham Ltd. 161 N. Clark St., Suite 2300, Chgo. IL 60601; (312) 263-0900. My client, John Witcher, a vietnam veteran, was convicted, after a two day bench trial, of delivery of a controlled substance to an

undercover DEA agent. I was sole counsel on the case for Mr. Witcher. Our defense of entrapment was rejected by the trial court and the conviction was upheld on appeal in an unpublished opinion, 145 Ill.App.3d 1163 (1st Dist. 1986).

Opposing counsel: Assistant States Attorney Gregory Girote, now in private practice. I have located two addresses for Mr. Girote. The Attorney Registration and Disciplinary Commission has his latest address and phone number as 4001 95th St., Oak Lawn, IL 60453; (708) 424-0498. Sullivan's Legal Directory has his latest address as 3105 W. 111th St., Chicago, IL 60655; (773)445-5555. Both of these phone numbers answer as disconnected. I have been unable to locate any other information as to Mr. Girote's current whereabouts.

7) Hurd Shuman, et al v. Silvano Alvarez, 86 M1 134067 (First Municipal District, Circuit Court of Cook County). This case was a one day jury trial before the Hon. Wayne D. Rhine, Assoc. Judge Circuit Court of Cook County, First Municipal District, Courtroom 1573, Richard J. Daley Center, Chicago, IL 60602; (312) 603-4827.

My client, Silvano Alvarez, was an immigrant from Mexico who spoke very little English. He was approached while in his home by the plaintiff, the owner of a construction/aluminum siding business, who was going door to door offering his services. With the help of Mr. Alvarez' 14 year old son as translator, the plaintiff induced him into signing a contract to have his home covered with aluminum siding. According to the terms of the contract the plaintiff was to procure financing for Mr. Alvarez with a local bank so he could pay for the siding in installments. A few weeks later the job was commenced but never completely finished and never finished to Mr. Alvarez' satisfaction. In addition to doing a slipshod job of siding and never fully completing the work, the plaintiff never obtained the promised financing for Mr. Alvarez. Because of this, Mr. Alvarez was unable and unwilling to pay the balance due under the contract. Plaintiff sued. The trial took only one day, but was difficult to prepare due to Mr. Alvarez' lack of funds. Mr. Alvarez spoke insufficient English to testify and his testimony was given through an interpreter. His son testified as to the condition the house was left in after the poorly performed siding job. The jury returned a verdict in less than an hour for

the defendant, Mr. Alvarez, and against the plaintiffs on all counts.

This case is representative of a significant number of cases which I litigated while in the private practice of law for which I did not expect to get paid the fair value of my services. Mr. Alvarez was barely able to cover the costs of this litigation, much less my fee. I was sole counsel for the defense in this case.

Opposing counsel: Russel V. Sutton of Sutton & Gunn, 819 S. Wabash Ave., Chicago, Il 60605, (312) 421-0387. 421-0387. (According to the Attorney Registration and Disciplinary Commission (312-565-2600) Mr. Sutton is no longer in the practice of law having been disbarred on January 25, 1995.)

8) People of the State of Illinois V. Julius Anderson, 93 Ill.App.3d 646, 417 N.E.2d 663, 48 Ill.Dec. 931 (First District, Second Division, Circuit Feb. 10, 1981)

I prosecuted this case as an Assistant States Attorney. The defendant was convicted in the Circuit Court of Cook County, before Judge R. Eugene Pincham, of burglary, armed robbery, rape and deviate sexual assault, the conviction was affirmed. The appellate court accurately summarized the facts of this case this way: On May 11, 1977, at approximately 3:15 p. m., defendant surprised the victim when she was alone in her apartment on the north side of Chicago. At gunpoint defendant robbed the victim, then bound her hands behind her back with nylon stockings. After defendant discovered that the victim's roommate had a few hundred dollars in a bank account, defendant told her that they would wait until the roommate came home from work, then all three of them would drive to the bank where the roommate would withdraw her funds. While they were waiting, defendant, placing the loaded revolver to the victim's temple and threatening to "blow her brains out," sexually assaulted her. He subsequently put on one of the victim's sweaters, then went into her roommate's closet and removed a pair of blue jeans. Concerned that the victim's roommate might not be so easily subdued, defendant decided to leave before she returned from work. He placed the victim in the hall closet, blocking it with a desk, rummaged around in the apartment for a few minutes, then left. The victim escaped and ran to another apartment

for help.

This was a jury trial which took approximately five days and in which the defendant raised the defense of insanity. During the trial he presented testimony from five psychiatrists, two psychologists and two lay witnesses. In summary, they all agreed the defendant was suffering from schizophrenia. Under cross examination, my trial partner and I were able to bring out the fact that only one of these experts was willing to opine that the defendant was unable to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law at the time of the offense. In addition, we established that several of the defense experts, as well as the prosecution's sole expert, believed he was malingering.

I was lead counsel in this case. Co-counsel was Irving Miller, Miller & Trafelet PC 120 S. Riverside Plaza, Suite 1150, Chicago, IL 60606; (312) 207-1700.

Opposing counsel was Patrick M. Gleason, Assistant Public Defender, Director of Chicago Operations, 2650 S. California Ave., Chicago, IL 60608; (773) 890-3217.

9) People of the State of Illinois v. Ramona Willis, 86 CR 9473901, Circuit Court of Cook County, Criminal Division before the Hon. Michael B. Getty.

In this case I represented Ramona Willis on the charge of possession with intent to deliver a controlled substance. The case involved two separate motions to suppress with evidentiary hearings and a bench trial. The motions to suppress involved a motion to quash a search warrant as well as a motion to suppress statements. Both required an evidentiary hearing in which several police officers and witnesses to the execution of the search warrant testified. The trial was concluded on April 9, 1987. The defendant in this case was not the target of the investigation but happened to be present when a search warrant was executed which resulted in the recovery of cocaine. During the execution of the search warrant on the premises she was detained, removed from her automobile on the driveway of the premises and brought inside the house where she was questioned by police. Prior to being questioned, she was not issued her Miranda warnings. The arresting officers maintained that she was not under arrest

at the time of the interrogation. The suppression hearings were in large part successful and ultimately resulted in an acquittal.

I was sole attorney for the defendant. Opposing counsel was Assistant States Attorney Alexander Vroustouries, now Inspector General, City of Chicago, PO Box 46019, Chicago, Il 606046-0019; (773) 478-7799.

10) People of the State of Illinois v. Bill Fugate, Case no. unknown tried before Hon. Frances J. Mahon, Circuit Court of Cook County, Criminal Division. - I have been unable to ascertain the case number of this case. The time of trial was sometime in July, August or September of 1980 to the best of my recollection.

I was lead prosecutor in this case as an Assistant States Attorney. This was a five day jury trial. Billy Fugate was divorced, but still involved with his former spouse who was also seeing another man. Over a period of months he and his ex-wife's lover quarreled many times until finally, during one such argument Billy Fugate shot him three times, thereby killing him, and promptly fled the jurisdiction. Some months later Mr. Fugate turned himself in to the authorities. During the trial the defendant claimed self-defense arguing that the victim, who was a much bigger man, attacked him thereby putting him in fear for his life. The jury found him guilty of the lesser included offense of involuntary manslaughter.

My co-counsel in this case was Assistant States Attorney, William Pileggi, now Honorable William G. Pileggi, Associate Judge for the Circuit Court of Cook County. Chambers 1101 Richard J. Daley Center; Chicago, Il (312) 603-6493.

Opposing counsel were Keith A. Spielfogel, 123 W. Madison, Suite 1500, Chicago, Il 60602; (312) 236-6021 and Hon. Mary Jane Theis, Justice Illinois Appellate Court, First District, Fifth Division, 160 N. LaSalle St., Suite S-1705, Chicago, Il 60601; (312) 793-5422.

Ten attorneys who have appeared before me recently are:

Jean Powers Kamp, Supervisory Trial Attorney, U.S. EEOC, 500 W. Madison St., Suite 2800, Chicago, Il 60661. (312) 353-7582. *EEOC v.*

AIC Securities 92C7330.

Sherwin Abrams, Abrams & Chapman, 321 S. Plymouth Court, Suite 1200, Chicago., Il, 60604-3900. (312) 360-9207, 353-7582. *Lakeside Feeders v. Chicago Meat Processors*, 95C3655.

Stephen J. Landes of Holleb & Coff, 55 East Monroe St., Suite 4100, Chicago 60603. (312) 419-4568. *Janusz v. Fasco Industries*, 97c7976.

Robert Grossman Epsteen, 135 South LaSalle Street, Suite 3600, Chicago, IL 60603 (312) 263-6366. 97c7976 *Janusz v. Fasco Industries*.

Gary D. Santella, Masuda, Funai, Eifert & Mitchell, Ltd., One East Wacker Drive, Suite 3200, Chicago, IL 60601. (312) 245-7500. *MC Funding Corp. v. Electronic Securities, et al*, 97cv299.

Alan D. Lyons, Law Offices of Armand L. Andry, 715 Lake Street, Suite 500, Oak Park, IL 60302-1403. (312) 383-4474. *MC Funding Corp. v. Electronic Securities, et al*, 97cv299.

John P. DeRose, John P. DeRose & Associates, 200 S. Frontage Rd., Burrn Ridge, Il 60521. (608) 920-1111. *Essen v. Electronic Liquid Fillers, Inc.*, 95C5486.

Charles E. Ex, Asst. U.S. Atty., 219 S. Dearbron St., Suite 500, Chicago., Il. 60604. (312) 353-4305.

Paul R. Garcia, Asst. U.S. Atty., 219 S. Dearbron St., Suite 500, Chicago., Il. 60604. (312) 886-7649.

Daniel G. Martin, Supervising Atty Federal Defender Program, 55 E. Monroe St., Suite 2800, Chicago. Il. 60603 (312) 621-8328.

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

United States of America v. Cruz, et.al., Docket No. 87cv5927
(U.S. District Court Northern District of Illinois ,219 S. Dearborn St., Chicago, Il 60604). Honorable George W. Lindberg presiding, (312)435-5355).

Herminio Cruz was a convicted drug dealer. Prior to his conviction he begged a loan of a substantial amount of money for his legal expenses from his brother, Fundador Cruz, who lived in New York. As security for this loan, Herminio transferred ownership of the beneficial interest in an Illinois land trust to Fundador. Fundador Cruz speaks little English, is almost blind, has worked all of his life and never has been involved in the sale of narcotics or any other criminal activity. Unfortunately there was no written agreement between the brothers memorializing their transaction. All that Fundador Cruz had to show that he had turned over to his brother his entire life's savings as consideration for the transfer of title were a few pieces of paper. After Herminio's conviction the Internal Revenue Service determined a tax liability of some \$146,982.12 for unreported income and sued for a judgment on that amount and for a declaration that the conveyance of the beneficial interest in the land trust from Herminio to Fundador had been a fraudulent transaction without adequate consideration for the sole purpose of avoiding tax liability. I represented Fundador Cruz. This case did not go to trial, but rather was settled after the taking of the depositions of the principal parties. (Herminio's deposition was taken in Cook County Jail just before he died where he was being detained on new charges and on a violation of parole). As a result of the settlement the property was sold and from the proceeds Fundador was allowed to retain a substantial portion of his life savings. Although this case was settled before actually going to trial, I include it here because it has special significance to me. It is representative of a significant number of cases which I litigated while in the private practice of law for which I did not expect to get paid the fair value of my services. It was a complicated case with a semi literate

legally blind client who spoke only marginal English, against a sophisticated opponent that had virtually unlimited resources at its disposal. In spite of these disadvantages we were able to obtain a fair and just result for my client, an innocent man, who otherwise stood to lose all he had saved over a lifetime. This was also one of the last cases I litigated before being appointed a Federal Magistrate Judge. I was the sole attorney representing Fundador Cruz.

II FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

- 1 List 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, customers. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

None. I have made no such arrangements. For the immediate past nine years I have served as a full-time United States Magistrate Judge for the Northern District of Illinois.

- 2 Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts of interest during your initial service in the position to which you have been nominated.**

Because I have no deferred income arrangements from leaving the practice of law (nine years ago), there are no potential conflicts of interest in this regard. I have no other financial arrangements that are likely to present potential conflicts of interest except some investments in stocks and mutual funds which may present a conflict if one of the party litigants is a company I have invested in. Since the number of my investments is small, in order to avoid a conflict all I need do is be alert to the names of the parties in any new cases filed before me. If any such conflict should arise, I will recuse myself and transfer the case to the court's executive committee for reassignment. I will follow the guidelines of the Code of Judicial Conduct.

- 3 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.**

I have no such plans.

- 4 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, patents, 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 the Government Act of 1978, may be substituted here.)

I include herein a copy of my financial disclosure report filed under the Ethics In Government Act Of 1978.

- 5 Please complete the attached financial net worth statement in detail (Add schedules as called for).**

Enclosed find the completed net worth statement.

- 6 Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

Yes. In or around 1974 I acted as attorney for the campaign of Miguel Velasquez, an independent candidate for Alderman of the 31st Ward in the city of Chicago. The extent of my legal representation was to review the procedures and requirements for nominating petition signatures. The campaign was unsuccessful. I have no knowledge of the whereabouts of Mr. Velasquez today, nor do I believe he ever again ran for public office.

III GENERAL (PUBLIC)

- 1 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've done fulfill these responsibilities to, listing specific instances and the amount of time devoted to each.**

In my answers to questions 18 and 19 above I cite to specific examples of cases which I litigated for indigent clients facing hardship as a result of legal proceedings filed against them. These are but two of the many instances, sometimes by giving advice, sometimes by making phone calls, others by filling out forms and guiding indigent petitioners through the maze of immigration procedures, in which – as an attorney with an office in a poor Hispanic neighborhood – I helped others in need for little or no pay. It is not possible for me to be precise about the number of hours or even the number occasions spent doing such pro bono work. It was, in fact, a part and parcel of keeping an office in such a neighborhood.

In addition, I also volunteered on a regular basis, without pay, to help lawful permanent resident aliens fill out and complete the forms required to become naturalized citizens. I also consulted free of charge with legal aid attorneys representing clients in civil matters who also needed advice with respect to possible or pending criminal proceedings. During my tenure in the State's Attorneys Office I volunteered to speak about the functions of the State's Attorneys Office to Hispanic groups and organizations in poor neighborhoods.

I have served as a mock judge for high school students and for law school moot court programs. I have spoken at high school "career day" programs to encourage students, particularly minority students, to pursue professional careers. I have coached little league, American Youth Soccer Association, and community park district girls softball and girls and boys hockey teams. I am currently a member of the Board of Directors of the LaGrange Richport YMCA, 31 E. Ogden Ave., LaGrange, Il 60525. I have been a member of the board since approximately 1995.

- 2 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. Do you currently belong, or have you belonged, to any organization which discriminates – through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

No.

- 3 Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

Yes, there is a selection commission in my jurisdiction to recommend candidates for nomination to the federal courts and that commission did recommend a list of four candidates from the 40 or so who applied. I was one of the four recommended candidates. The process was as follows. All interested persons were invited by announcement to submit an application to the commission. Thereafter the commission chose a number of those candidates for interviews. The exact number chosen is unknown to me. The interview was conducted by the entire commission sitting as a whole. During the interview I was asked to make a brief presentation and then to answer questions concerning my experience and qualifications. Several days after the interview I was informed by the chairman of the commission that I was one of four recommended candidates. The final step consisted of an individual in person interview by Senator Durbin of each of the four candidates. Several days after this interview Senator Durbin advised me by phone of his decision.

Thereafter I submitted questionnaires to the Department of Justice and the American Bar Association regarding my qualifications to fill the position of United States District Court Judge. I was subsequently interviewed by representatives of the Department of Justice on June 11, 1999 and by a representative of the American Bar Association's Standing Committee on Federal Judiciary on July 16, 1999. I have also submitted an evaluation form SF86 to the F.B.I. and have been interviewed by a representative of the same.

- 4 **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No.

- 5 **Please discuss your view on the following criticism involving "judicial activism."**

The role of the federal judiciary within the federal government, and within society generally, as become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem – solution rather than grievance – resolution;**
- b. **A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. **A tendency by the judiciary to impose broad affirmative duties upon governments and society;**
- d. **A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. **A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

Views on Judicial Activism

A judge must always limit himself to resolving the grievance before him. So long as the issues being resolved are actually necessary to the

determination of the rights of the two parties before it, the court will be acting correctly and within the framework provided by the Constitution. It is the court's function to interpret and apply the law to a particular case, not to make law. The legal concepts of ripeness, standing and mootness serve to enforce this fundamental rule.

Judicial activism is an extreme and erroneous interpretation of the judiciary's constitutional role. Judicial activism occurs when a court fails to limit itself to resolving the necessary issues, but instead uses a case before it as an excuse to reach out and make broad rulings which are not *necessary* to the determination of the case. A judge that does so violates the legal requirements of proper standing and the constitutional requirements of Article III that limits the court to actual cases and controversies before it.

Courts, of course, are not equipped to take action where the resolution of the case does not require it. Courts have no ready process for determining the necessity for broad policy determinations and doing so violates the constitutional separation of powers. Such determinations are, under our Constitution, left to Congress and state legislatures across the country which enjoy not only broad investigative powers, but also are in a much better position to understand the broad needs of the country. It is not the court's function to make the law, but rather to apply the law. The Constitution reserves to the legislature, not the courts, the power to make the laws.

AO-10 (r)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1969, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Guzman, Ronald A.		2. Court or Organization N.D. Ill.	3. Date of Report 09/09/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Nominee For United States District Court Judge		5. Report Type (check type) <input checked="" type="checkbox"/> Nomination, Date 09/05/1999 Initial _____ Annual _____ Final _____	6. Reporting Period 01/01/1998 to 07/15/1999
7. Chambers or Office Address 219 S. Dearborn St. Chambers 148 Chicago, IL 60604		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Revealing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.			

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

POSITION	NAME OF ORGANIZATION / ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1	
2	
3	

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

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1		
2		
3		
4		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Guzman, Ronald A.	08/09/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1	Exempt		
2			
3			

VI. LIABILITIES
(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	None		
2			
3			
4			
5			
6			

* VAL. CODES: J=\$15,000 or less	K=\$15,001-\$50,000	L=\$50,001 to \$100,000	M=\$100,001-\$250,000	N=\$250,001-\$500,000
0=\$500,001-\$1,000,000	P1=\$1,000,001-\$5,000,000	P2=\$5,000,001-\$25,000,000	P3=\$25,000,001-\$50,000,000	P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Guzman, Ronald A.	Date of Report 08/09/1999
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VII Page 1 INVESTMENTS and TRUSTS— income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "00" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-F)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)										
1 Pinnacle Bank Accounts (J)	A	Interest	J	T	Exempt					
2 Franklin Federal Tax Free Inc. Fund	A	Dividend	J	T	Exempt					
3 IRA-CD Citizen's Bank	A	Interest	J	T	Exempt					
4 IRA-CD Citizen's Bank (S)	A	Interest	J	T	Exempt					
5 Alliance Short Term Multi Mkt (Mutual Fund)	A	Dividend	J	T	Exempt					
6 Alliance Sht Term Multi Mkt (Mutual Fund) (S)	A	Dividend	J	T	Exempt					
7 Dean Witter Div Grth Secs (S)	A	Dividend	J	T	Exempt					
8 Dean Witter Div Grth Secs (S)	A	Dividend	J	T	Exempt					
9 Dean Witter Gbl Div Grth	A	Dividend	J	T	Exempt					
10 Dean Witter Gbl Div Grth (S)	A	Dividend	J	T	Exempt					
11 Tellabs Inc. Delaware	A	None	J	T	Exempt					
12 Toys R Us (S)	A	None	J	T	Exempt					
13 Capital Income Builder (Mutual Stock Fund) (J)	A	Dividend	K	T	Exempt					
14 Capital Income Builder (Mutual Stock Fund) (S)	A	Distribut ion	K	T	Exempt					
15 CBS	A	None	J	T	Exempt					
16 Walgreen Co. (Jt)	A	Dividend	J	T	Exempt					
17 Dean Witter Global Utilities (JT)	B	Distribut ion	J	T	Exempt					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000						
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more						
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market							

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting Guzman, Ronald A.	Date of Report 08/09/1999
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(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <small>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "X" after each asset exempt from prior disclosure.</small>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure			
						(2) Date: Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
18 Birmingham Steel Distribution (S)	A	Dividend	J	T	Exempt				
19									
20									
21									
22									
23									
24									
25									
26									
27									
28									
29									
30									
31									
32									
33									
34									

1 Inco/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more	E=\$15,001-\$50,000
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000	K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000	L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000	M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000	N=\$250,001-\$500,000 P4=\$50,000,001 or more
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value	R=Cost (real estate only) V=Other	S=Assessment W=Estimated	T=Cash/Market	

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Guzman, Ronald A.	08/09/1999

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS.

(Indicate part of report.)

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Guzman, Ronald A.	08/09/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3c(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature

Ronald A. Guzman

Date

8/9/99

Note:

Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

SCHEDULES FOR NET WORTH STATEMENT

ASSETS		LIABILITIES	
<u>Cash on Hand</u>			
Money Mkt Acct.	\$4,084.89		
<u>Thrift Savings Plan</u>		<u>Accounts & Bills Due</u>	
Gvt Secs Fund	\$32,976.73	Master Card	\$476.94
Com. Stock Fund	\$104,378.27	Visa	\$1,523.00
TOTAL	\$137,355.00	American Express	\$200.00
		TOTAL	\$2,199.94
<u>Listed Securities</u>			
Franklin Fed Tx Free	\$9,395.31		
Captl Inc Bldr Fund	\$16,894.58		
Walgreen Co	\$10,535.00		
DW Gbl Unilities Fund	\$11,760.90		
CBS Corp	\$6,530.00		
Birmingham Steel	\$787.50		
Toys R Us	\$1,881.25		
Tellabs Inc	\$19,550.00		
DW Global Div Growth	\$16,750.36		
TOTAL	\$94,084.90		
<u>Real Estate Owned</u>		<u>Real Estate Mortgages Payable</u>	
742 Forest Road, LaGrange Pk Il. 60526	\$200,000.00	744 Forest Road, LaGrange P	\$64,745.43
<u>Autos & Other Personal Property</u>		<u>Chattel Mortgages - Liens</u>	
1986 Toyota	\$1,000.00	1999 Ford Winstar	\$20,806.00
1999 Ford Windstar	\$23,000.00		
TOTAL	\$24,000.00		
<u>Life Insurance (Cash Value)</u>			
Kemper Flexible Life	\$5,585.00		
Single Premium Policy	\$19,322.17		
TOTAL	\$24,907.17		
TOTAL ASSETS	\$484,431.96	TOTAL LIABILITIES	\$85,751.43
		NET WORTH	\$398,680.53
		TOTAL LIABILITIES AND NET WORTH	\$484,431.96

SENATE QUESTIONNAIRE

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used).
William Joseph Haynes, Jr. (Often referred to as "Joe Haynes")

2. Address: List current place of residence and office address(es).
Residence: Brentwood, TN
Office: 649 U.S. Courthouse, 801 Broadway, Nashville, TN. 37203

3. Date and place of birth.
September 5, 1949, Memphis, Tennessee

4. Marital Status (include maiden name of wife, or husband's name). List Spouse's occupation, employer's name and business address(es).
Married. Spouse is Carol Donaldson Haynes. She works as U.S. Equal Employment Opportunity Specialist, U. S. Army Corps of Engineers, Room A-433, Fourth Floor, U. S. Courthouse Annex, 801 Broadway, Nashville, TN 37203.

5. Education. List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.
College of St. Thomas
Bachelor of Arts
St. Paul, Minnesota, 1966-1970

University of Nevada at Las Vegas
Las Vegas, Nevada
Summer 1969 (This was to enable me to complete the course work necessary for my double major at St. Thomas and to reduce my course load for my senior year at St. Thomas.)

Vanderbilt University School of Law
Doctor of Jurisprudence
Nashville, TN, 1970-1973

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.
June, 1970-August, 1970 Church Summer Youth Camp, Las Vegas, NV

June, 1971-August, 1971 Twenty-One dealer, Circus Circus Casino, Las Vegas, NV

Spring, 1972, Research Assistant, Avon Williams, Atty., Nashville, TN

June, 1972-September, 1973, Law Clerk, Office of the Tennessee Attorney General

October, 1973-September, 1984, Attorney, Office of the Attorney General of Tennessee

December 7, 1984-present. U. S. Magistrate Judge, Middle District of Tennessee

1986-1990, Instructor, Southeastern Paralegal Institute, Nashville, TN

1987-1992, 1997-1998 (Spring semester only) Lecturer in Law, Vanderbilt School of Law, Nashville, TN

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Fellow, American Bar Foundation

Fellow, Tennessee Bar Foundation

Fellow, Nashville Bar Association

1990 Black History Month Award

Middle Tennessee Federal Executives Association

Nominee of Nashville Bar Association for the American Bar Association

Pro Bono Publico Award

Bennett Douglas Bell Award, Vanderbilt School of Law

9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

Current membership:

American Judicature Society
Member, Board of Directors, 1996-present

Fellow, American Bar Foundation

Fellow, Tennessee Bar Foundation

Fellow, Nashville Bar Association

Former memberships:

American Bar Association,
Vice-chair, State Enforcement Committee, Antitrust Section,
1989-1991

Tennessee Bar Association
Member, Judiciary Committee, 1996
Member, Commission on Women & Minorities in the
Profession, 1991-1992

Nashville Bar Association
First Vice President, 1983-1984
Member, Board of Directors, 1981-1983
Chair, Pro Bono Committee, 1982-1983

Napier-Looby Bar Association
Member, Board of Directors, 1983

Harry Phillips Inn of Court
Master Bencher, 1990-1992
Master Emeritus, 1993-1996
Master Bencher, 1996-1998

Bureau of National Affairs
Member, Advisory Board, Corporate Practice Series, 1989,
but it is possible that I was listed as a member for a year or

more thereafter.

10. Other membership. List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Contributing Life Member, NAACP

Member, Federal Magistrate Judges Association

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses, if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Tennessee Supreme Court, October 11, 1973-present

U. S. Court of Appeals for the Sixth Circuit, April 18, 1975-present

U. S. District Court, Middle District of Tennessee, January 17, 1974- present

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech and they are readily available to you, please supply them.

Author, "State Antitrust Laws" (1989), published by Bureau of National Affairs, (BNA). See Attachment 1 hereto for the ABA Antitrust Magazine review of this book.

Author, "Portfolio on State Antitrust Law", BNA Corporate Practice Series (1989).

Contributing Author, Phillip Zeidman, "Legal Aspects of Selling and Buying" (Second Ed. 1991), published by Shepard's McGraw Hill

Contributing Author, "Federal Civil Procedure Before Trial and During Trial-Sixth Circuit-American Inns of Court Series" (1997), published by Lawyers Cooperative Publishing Company (chapters on Venue and Opinion &

Expert Testimony)

Contributing Author, Advanced Antitrust Seminar, Practicing Law Institute, 1992-1995 (Distribution, Joint Ventures, Mergers & Acquisitions)

Listed below are papers that I gave at seminars and continuing legal education programs, and before other groups:

- A - Discussion of Prisoner Litigation under 42 U.S.C. Section 1983 in the United States District Court for the Middle District of Tennessee**
- B- Discussion of Select Issues in Habeas Corpus Actions Under 28 U.S.C. Section 2241 et seq. with Emphasis on Sixth Circuit Authorities**
- C- In Re: Inmate Grievance Review Procedure - Magistrate's Report and Recommendation on a Proposed Inmate Grievance Procedure under the Civil Rights of Institutional Persons Act (CRIPA), 42 U.S.C. Section 1997e**
- D- Notes on Experts**
- E- Nashville Bar Association's Colleagues Program - Notes on Significant Cases and Rules Involving Lawyers and Legal Ethics**
- F- Testimony of Expert Witnesses: A Workshop Sponsored by the Nashville Bar Association, October 29, 1998**
- G- The Role of the Magistrate Judge in the Middle District of Tennessee, Nashville Bar Association's Colleagues Program, November 5, 1997**
- H- Reflections on Case Management and Settlement Practices**
- I- Notes for the Tennessee Federal Judicial Conference - sponsored by the Tennessee Bar Association, May 2, 1996**
- J- General Notes on Practice in the United States District Court for the Middle District of Tennessee, 1996 New Lawyers Seminar**
- K- Legal Ethics - A Review of Films Presenting Questions of Legal Ethics, Nashville Bar Association's Colleagues Program 1994 Opening Session, April 18, 1994**

- L- Settlement Conferences and the Experimental Use of Rule 16, for Case Management and Early Settlement Strategies
- M- General Notes on Practice in the United States District Court for the Middle District of Tennessee, 1992 New Lawyers Seminar
- N- Summary Remarks on the Rule 11 Outline, Tennessee Attorney General's Annual Continuing Legal Education Conference, October 1, 1992
- O- Memorandum to Judge Nixon on Expanded Rule 16 Pretrial Conferences
- P- Notes on Settlement Conferences before William J. Haynes, Jr.
- Q- Notes on the Supreme Court and Sixth Circuit Decisions under Rule 11, Fed.R.Civ.P.
- R- Role of the Magistrate Judge in the District Court
- S- Prison Litigation Reform Act Seminar - Notes
- T- General Notes on Dispositive Motion Practice in the District Court, Harry Phillips Inn of Court, October 15, 1991
- U- "First Monday in October", A Review of Recent U. S. Supreme Court Decisions, Nashville Bar Convention, July 11 & 12, 1991
- V- General Notes on Practice in the District Court - Nashville Bar Association Life at the Bar, November 7, 1990
- W- General Notes on Practice in the District Court - Tennessee Defense Lawyers Association, September 1989
- X- General Notes on Practice in the District Court - Tennessee Bar Association Bridge the Gap Seminar, October 24, 1988
- Y- Notes for Trial Advocacy Class
- Z- Lecture Notes for Appellate Advocacy Class
- AA- History of Magistrate Judges in the Middle District

- BB- Stop Violence, the Godfathers Club Churchmen & Policemen Reaching Out to Rescue our Youth, National Conference, World Baptist Center, Nashville, Tennessee, October 22, 23 and 24, 1992**
- CC- Criminal Justice Task Force Speech, July 23, 1992**
- DD- Commentary: Remarks of Professor David Millon**
- EE- The Federal Executive Association - Black History Month Speech**
- FF- Lecture Notes - Vanderbilt Law School, Antitrust Class**
- GG- Statement of the Honorable William M. Leech, Jr., Attorney General and Reporter, State of Tennessee, and Chairman, Antitrust Committee of the National Association of Attorneys General, Before the Judiciary Committee of the United States Senate, May 16, 1984**
- HH- Re: State's Comment on Proposed Amendment to Rule 6(e), Testimony of William Leech, Attorney General, Before Judicial Advisory Committee on Criminal Rules**
- II- Statement of the Honorable William M. Leech, Jr., Attorney General and Reporter, State of Tennessee, and Chairman, Antitrust Committee, of the National Association of Attorneys General, Before the Small Business Committee of the United States Senate**
- JJ- Remarks of the Honorable William M. Leech, Jr., Attorney General and Reporter, Before the Senate Judiciary Committee on the Senate Bill 10 "The Racketeer Influenced and Corrupt Organization Act"**
- KK- Speech to the American Society for Public Administration, Nashville Chapter**
- LL- Discussion of Rule 16 for Tennessee State Judges Conference**
- MM- The Freedom Forum First Amendment Center at Vanderbilt University, Handwritten Notes for Participation as a Panel Member at a Conference on the Judiciary, August 29, 1997**
- NN- "Black Lawyers Have Made Impact", Tennessean April 4, 1998**
- OO- The Formation and Funding of Neighborhood Corporations for Housing and Community Development, a Strategy for the New**

Federalism

- PP- **Remarks Before the Tennessee Correctional Association, 1992 Fall Conference**
- QQ- **Highway Bidrigging; The Tennessee Experience**
- RR- **Speech to Friends of the Tennessee State University Library**
- SS- **Public Comment on Behalf of the State of Tennessee on the AT&T Consent Decree**
- TT- **Notes on the Supreme Court's decisions arising under 42 U.S.C. § 1983 during the October, 1988 term.**
- UU- **Consumerism: Tennessee Consumer Protection Laws**
- VV- **Statement of William J. Haynes, Jr., Deputy Attorney General before the Joint Select Committee Studying Not-for-profit corporations, Tennessee General Assembly**
- WW- **Statement of the Honorable William M. Leech, Jr., Attorney General and Reporter, State of Tennessee and Chairman, Antitrust Committee, of the National Association of Attorneys General before the House Subcommittee on Commerce, Transportation, and Tourism, February 22, 1984**

Attachment No. 2 contains copies of these papers.

13. Health: What is the state of your health? List the date of your last physical examination.

Good. Last physical was March 12, 1999

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have served as a U. S. Magistrate Judge for the Middle District of Tennessee since December, 1984. My duties are defined by 28 U.S.C. § Section 636, the Federal Rules of Civil and Criminal Procedure and local rules of court. I assist the District Judges in the disposition of civil and criminal cases. In civil cases, my work involves all pretrial proceedings.

Upon consent of the parties in a civil case, I conduct the trial. I have presided at a substantial number of jury trials in civil cases. In criminal cases, I preside at pretrial proceedings. With the consent of the defendant, I can try misdemeanor or petty offense cases. I have presided at criminal trials, including jury trials. Attachment No. 3 is a Report and Recommendation of the Committee on my reappointment as a Magistrate Judge.

15. Citations: If you are or have been a judge, provide: (1) Citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

(1) Most Significant Opinions

1. McCall v. Scott, 3:97-0838, M.D. Tenn. Report and Recommendation filed June 30, 1998 (Recommending dismissal of a shareholder derivative action against a major corporation). Objections were filed July 30, 1998.
2. Morse v. McWhorter, 3:97-0370, M.D. Tenn. Report and Recommendation filed June 30, 1998 (Recommending dismissal of a national class action filed under federal securities law and the Private Securities Litigation Reform Act against a major corporation). Objections were filed July 31, 1998.
3. Healthtrust, Inc. v. Usher, 3:96-0486, M.D. Tenn. Report and Recommendation filed August 20, 1998 (Analysis of class claims in a complex ERISA action involving termination of an employee stock option plan involving thousands of current and former employees). Objections were filed September 9, 1998.
4. Sharpe v. Robert S. Biscan & Co., 3:94-0567, M.D. Tenn. Order and Memorandum filed December 9, 1995 (Sexual harassment action tried upon consent of the parties where monetary damages, injunctive relief and attorneys fees were awarded. No appeal was taken.)
5. Third National Bank v. Wedge Group, Inc., 3:87-0860 M.D. Tenn. Report and Recommendation filed May 2, 1988 (Sixth Circuit affirmed conclusions of Report and Recommendation that a foreign parent corporation had subjected itself to personal jurisdiction in Tennessee by the acts of its agents), aff'd, 882 F.2d 1087 (6th Cir.

1989).

6. Mackey v. Judy Foods, Inc., 3:84-0108 M.D. Tenn. Report and Recommendation filed May 21, 1987 (District Court and Sixth Circuit adopted Report and Recommendation that franchisee's claim against franchiser be dismissed as time barred.), adopted, 654 F.Supp. 1465 (M.D. Tenn.) 1987, aff'd 867 F.2d 325 (6th Cir. 1987)
7. Linton v. Commissioner of Health and Environment, 3:87-0941 Report and Recommendation filed March 21, 1988 M.D. Tenn. (District Court adopted in significant part upon a Report and Recommendation that found violations of the Medicare Act and racial discrimination by nursing homes.) For subsequent history see Linton v. Commissioner of Health and Environment, 973 F.2d 1311 (6th Cir. 1992).
8. Tennessee Environmental Council v. Dana Corporation, 1:92-0074, M.D. Tenn. Report and Recommendation dated August 26, 1994 (This Report and Recommendation affirmed the right of citizens to sue under the Clean Water Act independent of a state agency determination.) Objections were filed, but the case later settled.
9. Kyne v. Redmon, 3:89-0181, M.D. Tenn. Report and Recommendation filed September 7, 1990. (This was a complex action with RICO, federal securities and independent state law claims.) The District Judge adopted in part and rejected in part the Report and Recommendation by order filed December 4, 1991. The District Court rejected the recommendation only as to one defendant.
10. Armstrong v. Davidson County Sheriff's Dept. 3:87-0262, M.D. Tenn. Report & Recommendation filed March 20, 1989. (This Report and Recommendation found violations of prisoners' constitutional rights in a county jail due to conditions of confinement.) Objections were filed by defendants, but were later withdrawn.

See Attachment No. 4 for copies of these decisions.

(2) Reversals of my Decisions

Sixth Circuit Opinions

1. Data Concepts, Inc. v. Digital Consulting, Inc., 153 F.3d 620 (6th Cir. 1998) (The Sixth Circuit reversed in part a district judge's decision

based upon Report and Recommendation that the internet address of the defendant was substantially similar to the plaintiff's registered trademark.)

2. Haynes v. Bell, 135 F.3d (6th Cir. 1998) (Table Decision), 1998 Westlaw 246386 (The Sixth Circuit affirmed the District Judge's rejection of Report and Recommendation that the petitioner was entitled to habeas corpus relief for an unduly suggestive show-up.)
3. Waste Management, Inc. of Tennessee v. Metropolitan Government of Nashville and Davidson County, 130 F.3d 731 (6th Cir. 1997) (Affirming in part and rejecting in part a district court ruling based on Report and Recommendation on the plaintiff's commerce clause claim against a Metro ordinance on waste disposal.)
4. Mitchell v. Rees, 114 F.3d 571 (6th Cir. 1997) (Sixth Circuit reversed decision of the district judge and the magistrate judge for holding a hearing on a habeas petition, but there was dissent.)
5. Galbraith v. Northern Telecom, Inc., 944 F.2d 275 (6th Cir. 1991) (Reversing in part Report and Recommendation that one of two Title VII plaintiffs was a victim of racial discrimination, but the dissent voted to uphold the recommendation.)
6. Milan v. Express Company, Inc. V. Western Surety Inc., 886 F.2d 783 (6th Cir. 1989) (Sixth Circuit reversed the District Judge's opinion adopting Report and Recommendation holding that the district court lacked jurisdiction to hear motor carriers' claims on surety bonds of brokers, but the dissent agreed that the district court lacked jurisdiction.)
7. Jarrett v. Epperly, 896 F.2d 1013 (6th Cir. 1990) (Ruling that the Magistrate Judge's Report and Recommendation that under Tennessee law real property could not be conveyed by oral statement, was moot. The dissent would have upheld the Magistrate Judge's decision.)
8. Newson v. Norris, 888 F.2d 371 (6th Cir. 1989) (Reversing in part and affirming in part Magistrate Judge's decision that Inmate legal assistants and members of prison disciplinary board should be trained in basic constitutional principles.)
9. Perry Saleem Lee v. Kevin Myers, et al, No. 3:95-0140 (M.D. Tenn.)

(Sixth Circuit reversed a district judge ruling adopting Report and Recommendation that the plaintiff-prisoner's claim of being subjected to offensive Christian singing and preaching was insubstantial.)

10. Dean v. Sikorsky Aircraft, 16 F.3d 1219, 1994 WL 6045 (6th Cir. 1994) (Sixth Circuit affirmed the district judge's decision where the district judge adopted in part and rejected in part Report and Recommendation. The rejection involved plaintiff's claims for failure to warn in a wrongful death action involving equipment alleged to have caused the death of Army personnel in a military helicopter accident.)
11. Jefferson v. Morgan, 962 F.2d 1185 (6th Cir. 1992) (In an appeal after a remand, the Sixth Circuit affirmed the district judge's decision that was based in part on Report and Recommendation, but suggested the Magistrate Judge's use of the law of the case doctrine was improper. The Magistrate Judge's use of this doctrine, however, was premised upon the fact that the petitioner moved to reinstate the court's earlier findings of fact and conclusion of law in an earlier phase of the proceedings.)
12. Hazel Sutton; Kenneth Holland; Edith Odom; and Kevin Qualls, v. Jimmy M. Evans; John R. Burke, Jr.; Jimmy P. Rice; and William T. Tucker, 918 F.2d 654 (6th Cir. 1990) (The district judge modified Report and Recommendation to award injunctive relief to state workers who alleged retaliatory transfers, but the Sixth Circuit reversed, concluding that in light of a recent Supreme Court decision, the Eleventh Amendment would bar the relief ordered.)
13. Marigold Foods, Inc. v. Purity Dairies, Inc., 996 F.2d 1453, 1992 WL 127017 (6th Cir. 1992) (Sixth Circuit reversed a decision of the district court based upon Report and Recommendation, finding that there were material factual disputes that warranted a trial.)
14. Aetna Life Insurance Company and South Central Bell Telephone Company, and BellSouth Corporation, 924 F.2d 1057, 1991 WL 11611 (6th Cir. 1991) (The district judge rejected Report and Recommendation in an ERISA action on the proper beneficiary of benefits, but on appeal, the Sixth Circuit agreed with the magistrate judge.)

My additional responses to this question required a review of District Court

Orders and Opinions and my intra-office files on cases assigned to me. Since my appointment as Magistrate Judge, I have had in excess of 6,400 civil cases assigned to me. The Clerk's office's computer record system contains cases only as far back as 1990. Thus, for the time period December 1984 to 1990, I had to review my intra-office files on my assigned cases. Listed below are the results of these searches of my files, as well as the Clerk's computer files on all cases assigned to me, by the year of the case.

<u>DOCKET NUMBER</u>	<u>STYLE OF CASE</u>
<u>1999</u>	
<u>1998</u>	
3:98-0514	<u>Jimmy Dee Cantrell v. Rutherford County Adult Detention Center, et al</u> (The district judge rejected Report and Recommendation to dismiss for failure to prosecute upon the plaintiff's recent submissions to the court that he wanted to proceed with this action.)
<u>1997</u>	
3:97-0182	<u>Walter C. York v. Donal Campbell, et al</u> (The district judge rejected in part and adopted in part Report and Recommendation. The reversal was to allow the plaintiff to withdraw his earlier motion to dismiss his complaint.)
3:97-0308	<u>Mervin P. Jackson v. Corrections Corporation of America, et al.</u> (The district judge rejected Report and Recommendation to dismiss for failure to prosecute, because the Magistrate Judge failed to note the plaintiff's letter concerning his inability to appear for a pretrial conference.)
3:97-1113	<u>Beth Lovell Kirchner v. Mitsui & Co. (U.S.A.) Inc. et al</u> (The district judge reversed in part and affirmed in part

the Magistrate Judge's discovery order. The reversal was based on the district judge's view that under Tennessee statutes, the plaintiff had waived her psychiatric-patient privilege and psychological social worker privilege.)

1996

3:96-0290

James Harold Appleton v United States of America
(The district judge adopted in part and rejected in part Report and Recommendation dismissing the plaintiff's claims. The district judge's reversal concerned the plaintiff's claim that the government had wrongfully withheld his property following his criminal prosecution.)

3:96-0314

Bobby Lineberry v. David Mills, 3:96-0314 (The district judge rejected Report and Recommendation to deny the plaintiff's motion for appointment of counsel.)

3:96-0825

Darlene K. Childress v. Shirley S. Carter, Commissioner of Social Security (The district judge rejected Report and Recommendation to remand a social security action concluding that the action should be retained on the docket.)

1994

1:94-0081

Ludie Lucille Campbell v. Shirley S. Carter, Commissioner of Social Security (The district judge rejected Report and Recommendation awarding social security benefits, because the magistrate judge did not give an explanation for his failure to consider all of the plaintiff's work record.)

1:94-0117

Fredrick Allen v. Donal Campbell, et al (The district court adopted in part and rejected in part Report and Recommendation to dismiss the plaintiff's claim against a particular defendant because the district judge found that defendant had in fact been served.)

- 3:94-0065 **Michael Ray Cox v. Billy Compton, Warden**
(The district judge adopted in part and rejected in part Report and Recommendation. The reversal occurred because the district judge found that there were material factual disputes that warranted an evidentiary hearing.)
- 3:94-0882 **Cynthia Milhous v. Metropolitan Government of Nashville and Davidson County, et al.** (The district judge vacated an order of the magistrate judge that attempted to return the case to the district judge for trial. The district judge remanded the case to the Magistrate Judge.)
- 1993
- 1:93-0073 **Joe Clark Mitchell v. John Rees, Warden** (The district judge rejected Report and Recommendation that the petitioner had not proved his claim of racial discrimination in the selection of a jury in his state criminal trial. The district judge's decision was reversed and remanded by the Sixth Circuit on other grounds. Upon remand, the Magistrate Judge found that the petitioner's claim was not procedurally barred and that the petitioner had proven racial discrimination in the selection of his jury. The district judge adopted the second Report and Recommendation.)
- 1:93-0185 **Denver Joe McMath, Sr. v. John Rees, Warden, et al**
(The district judge adopted in part and rejected in part Report and Recommendation. The district judge rejected a recommendation to dismiss for failure to comply with an order to file a response to a motion for summary judgment, but the district judge warned the plaintiff that future noncompliance would be grounds for dismissal.)
- 3:93-1012 **Andrew Mackey v. Michael Dutton** (The district judge rejected Report and Recommendation because an amended petition had subsequently been filed and the matter was remanded for further consideration.)
- 1992

- 1:92-0088 **John H. Curtis v. Brad Smythe** (The district judge rejected Report and Recommendation to deny plaintiff's motion for appointment of counsel.)
- 1:92-0090 **Phillip M. Britt v. Corrections Corporation of America, et al** (The district judge adopted in part and rejected in part Report and Recommendation. The rejection concerned the appointment of counsel.)
- 3:92-0633 **Arthur B. Asbury, Jr. v. Aetna Life Insurance & Annuity Co.** (The district judge rejected Report and Recommendation to deny the defendant's motion for summary judgment. The district judge found that the plaintiff failed to exhaust administrative remedies; plaintiff's securities claim was not sufficiently stated; plaintiff did not show an entitlement to participate in an employee benefit plan for his ERISA claim; plaintiff's age discrimination claim was time barred; and there was insufficient evidence for the plaintiff's Sherman act claim.)
- 1991**
- 2:91-0071 **William C. Phillips v. Louis W. Sullivan, Secretary Health and Human Services** (The district judge rejected Report and Recommendation to reserve ruling in a social security case pending further proceedings because the district judge concluded that under a Supreme Court decision, a remand was not warranted.)
- 3:91-0048 **James L. Walker v. William Keeling, et al** (The district judge rejected Report and Recommendation to dismiss an action. The court found that the action should be dismissed without prejudice to exhaust state remedies on the petitioner's sentence credits claim.)
- 3:91-0291 **Ricky Flamingo Brown v. Correctional Medical Services** (The district judge adopted in part and rejected in part Report and Recommendation. The district judge concluded that a defendant was a proper party for a section 1983 claim.)

- 3:91-0487 Lucy Killebrew v. Penny Bernhardt, Warden
(The district judge rejected Report and Recommendation to dismiss a habeas corpus petition because it contained exhausted and unexhausted claims. The district judge concluded that the petitioner could proceed in light of the statement in her objections that she would pursue only her exhausted claims and would withdraw her unexhausted claims.)
- 3:91-0553; 3:91-0663 Lawtis Donald Rhoden v. Jack Morgan, et al
(The district judge rejected Report and Recommendation to dismiss a habeas corpus petition. The district judge concluded that an evidentiary hearing was necessary on petitioner's claim of juror misconduct.)
- 3:91-0911 Calvin B. Jones v. Tennessee Department of Safety
(The district judge rejected Report and Recommendation to award equitable relief in a Title VII action. The district judge concluded that the proof was insufficient to support the award of equitable relief.)
- 3:91-1048 Thaddeaus H. Ware v. Federal Express Corp.
(The district judge rejected Report and Recommendation to dismiss for failure to prosecute. The district judge found that the clerk sent notice of the hearing to the wrong address and this explained plaintiff's failure to appear for a hearing.)
- 1990
- 1:90-0039 Francis Collier v. City of Lawrenceburg, TN.
(The district judge adopted in part and rejected in part Report and Recommendation to deny the defendant's motion for summary judgment in a section 1983 action. The district judge concluded that the proof did not sustain the plaintiff's claims.)
- 1:90-0068 Robert Dean Lewis v. Commissioner Jeff Reynolds, et al
(The district judge rejected Report and Recommendation to allow the prisoner to receive a diet consistent with his religious belief. The district judge concluded that there were legitimate governmental interests and that there

were adequate alternative diets available.)

- 1:90-0185 Larry D. Cotham v. Howard Carlton, Warden
(The district judge rejected Report and Recommendation that an evidentiary hearing was necessary to resolve the petitioner's claim.)
- 3:90-0052 Genesco, Inc. v. Ronald Bussetti and Jeannie Bussetti
(The district judge adopted Report and Recommendation except the recommendation that plaintiff had a disgorgement remedy under section 13 of the 1934 Securities Exchange Act.)
- 3:90-0288 Eddie Williams, Jr. v. Michael Dutton, et al
(The district judge rejected Report and Recommendation to grant a preliminary injunction requiring a hearing on a prisoner's placement in involuntary administrative segregation. In a subsequent Report and Recommendation, the district judge adopted in part and rejected in part the recommendation to grant summary judgment for the plaintiff. The district judge found that there was a genuine issue of material fact that precluded an award of summary judgment.)
- 3:90-0325 Jerry Lee Chilton v. Lou H. Atwood, et al (The court adopted in part and rejected in part Report and Recommendation. The district judge concluded that the plaintiff had not adequately stated a claim for denial of access to the courts.)
- 3:90-0462 Steven Ray Pickle v. Michael Dutton, Warden
(The district judge rejected Report and Recommendation in a habeas corpus action to provide the petitioner with a new sentencing hearing because the district judge concluded that the errors cited in sentencing did not state a constitutional violation.)
- 3:90-0945 Dennis Keith Shelby v. Delta Air Lines, Inc.
(The district judge adopted in part and rejected in part Report and Recommendation. The district judge

awarded summary judgment to the defendant on all claims.)

1989

- 3:89-0226 **Betty J. Chalfant v. Parthenon Travel Services, Inc.**
(The district judge adopted in part and rejected in part Report and Recommendation in an employment action. The district judge concluded that the plaintiff had not presented sufficient evidence to sustain her equal pay claim.)
- 3:89-0291 **Pamela Aucoin v. Commissioner Jeff Reynolds, et al**
(The district judge adopted in part and rejected in part Report and Recommendation. The district judge concluded the state prison regulations did not create a liberty interest to state a due process claim.)
- 3:89-0371 **Continental Insurance Co. v. DNE Corporation**
(The district judge rejected Report and Recommendation that a business interruption insurance policy covered the plaintiff's claim of damages from a tornado.)
- 3:89-0408 **Malinda Jones v. Louis W. Sullivan, Secretary, Department of Health & Human Services**
(The district judge rejected Report and Recommendation. The district judge concluded that the Secretary's interpretation of re-entitlement regulations was consistent with the Social Security Act.)
- 3:89-0491 **United States of America v. Medlin Wherry Realty, Inc.**
(The district judge rejected Report and Recommendation to award the defendant the return of a penalty imposed. The district judge found that the defendant's failure to honor the levy was without reasonable cause.)
- 3:89-0587 **Frances E. Compton v. Louis W. Sullivan, M.D., Secretary Department of Health & Human Services**
(The district judge rejected Report and Recommendation in a social security action. The

district judge concluded that the claimant was on notice of an adverse determination on her petition for reconsideration and the claimant's action was time barred.)

3:89-0995 **Melvin R. Harris v. Hospital Corporation of America**
(The district judge adopted in part and rejected in part Report and Recommendation concluding that as a matter of law the debenture provided adequate notice of conditions present for filing a lawsuit.)

1988

3:88-0039 **James W. Byrd v. Gene McClure, et al** (The district judge rejected Report and Recommendation to dismiss a Jane Doe defendant because by subsequent filing, the plaintiff identified the Jane Doe defendant.)

3:88-0138 **John Doe v. The Rutherford County Board of Education, et al** (The district judge rejected Report and Recommendation to award the plaintiff's attorney's fees. The district judge concluded that the evidence showed that the plaintiff's claim for attorney's fees had been waived during settlement discussions.)

3:88-0614
(consolidated with
1:90-0027; 1:90-0028;
1:90-0040; and
3:90-0249

William Nichols, et al v. Ned Ray McWherter, et al
(The district judge rejected Report and Recommendation that a state statute was unconstitutional due to its blanket labeling of all inmates convicted of sexual offenses as mentally ill without any procedural due process hearing and because the statute created an irrebuttable presumption of mental illness for all prisoners convicted of a sexual offense.)

3:88-0822 **Hospitality International, Inc.; Travelers Hospitality Association, Inc.; and Sundowner Reservations, Inc. v. Richard Morris, Cecil Thompson, and USA Inns, Inc.**
(The district judge adopted in part and rejected in part Report and Recommendation. The district judge denied the plaintiff's motion for summary judgment and the defendant's motion to dismiss.)

- 3:88-1022 **Bennie Cooksey v. Larry Lack** (The district judge adopted in part and rejected in part Report and Recommendation. The district judge concluded that state prison regulations did create a liberty interest for prisoners on drug testing.)
- 1987
- 3:87-0522 **Keith D. Hensley v. Officer Walters** (The district judge rejected Report and Recommendation that there were genuine issues of material facts to preclude summary judgment. The district judge granted the defendant's motion for summary judgment in an action involving a prisoner's claim of failure to protect him from being stabbed.)
- 3:87-0704
(consolidated with
3:88-0378) **Koch Refining Co. v. National Refining Co., et al**
Marathon Petroleum v. National Refining Co.
(The district judge adopted in part and rejected in part Report and Recommendation. The district judge concluded that the claims against some defendants should be dismissed, but agreed that the certain of plaintiff's claims were valid and that issues of damages remained.)
- 1986
- 3:86-0758 **Robert E. McLemore v. Aileene Love, et al**
(The district judge rejected the Report and Recommendation that a prisoner's involuntary placement at a mental health facility required a due process hearing.)
- 3:86-0995 **Margaret F. Jenkins v. Otis R. Bowen, Secretary of Health and Human Services** (The district judge rejected Report and Recommendation on a recoupment claim under the Social Security Act, where there appeared to be a split among the courts on whether the regulations under Title XVI of the Social Security Act conflicted with congressional policy under the Act.)

1985

- 3:85-0369; 3:85-0454;
3:85-0541 John Henry Wooden v. Steve Norris, et al
Kenneth Ling, et al v. Steve Norris; Garland Bart
Shushan on behalf of himself and all others situated v.
Steve Norris, et al (The district judge rejected Report and
Recommendation for the installation of a coinless
telephone system that the inmates contended was
necessary for effective access to court and to counsel.)
- 3:85-1292 Park Industries, Inc. v. Commercial Credit Financial
Services, Inc., et al (The district judge adopted in part
and rejected in part Report and Recommendation. The
district judge concluded that the defendant's motion for
summary judgment should be granted except for the
plaintiff's contract claim.)

(3) Significant Opinions on Federal or State Constitutional Issues

Federal

The prisoner Section 1983 and habeas manuals in Attachment 2 to these answers set forth my analysis of constitutional issues in those types of cases. These manuals also serve as the bases for my decisions in prisoner section 1983 and habeas cases. The other significant opinions are:

Riggins v. Rees, 74 F.2d 732 (6th Cir. 1996) (Sixth Circuit affirmed decision of the district judge based on a report and recommendation that the defendant had the right to a transcript of the mistrial of his state criminal case.)

Systems 1, Inc. Of Nashville v. Tennessee Personnel Recruiting Services Board, 3:87-0430 (M.D. Tenn. Memorandum filed July 18, 1989) (Upholding state enforcement against deceptive trade practices by a job recruitment firm despite assertions of a First Amendment violation.)

Waste Management, Inc. V. Metropolitan Government of Nashville Davidson County, 3:94-0411 (M.D. Tenn Report and Recommendation filed June 13, 1995) (Addressing a waste management firm's commerce clause challenge to a metro waste ordinance.) aff'd in part and rev'd in part, 944 F.2d 275 (6th Cir. 1991).

Timberlake v. Benton, 3:89-1003 (M.D. Tenn. Report and Recommendation dated September 30, 1991) (Finding a Fourth Amendment violation by the strip search of a minor female on a public highway. The district judge later entered a ruling in accord with this Report and Recommendation). See Timberlake by Timberlake v. Benton, 786 F.Supp. 676 (M.D. Tenn. 1992).

Armstrong v. Davidson County Sheriff's Dept., 3:87-0262 (M.D. Tenn. Report and Recommendation filed March 20, 1989) (This Report and Recommendation found violations of prisoner's constitutional rights in a county jail due to conditions of confinement. Objections were filed by defendants but were later withdrawn.)

16. **Public Office.** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

October, 1973 to September, 1984. Attorney, Office of the Attorney General of Tennessee including:

- 1. Assistant Attorney General, 1973-1977**
- 2. Senior Assistant Attorney General, 1977-1978**
- 3. Deputy Attorney General for Antitrust and Consumer Protection Division, 1978-1984**
- 4. Special Deputy Attorney General for Litigation, 1984**

In 1978, the Shelby County Criminal Court appointed me District Attorney Pro Tem on a state post-conviction petition filed by James Earl Ray. The District Attorney General recused himself. My appointment lasted throughout proceedings in the state trial court.

1982-1984. Member, Hearing Panel, Board of Professional Responsibility, appointed by the Tennessee Supreme Court.

December 7, 1984-present. U. S. Magistrate Judge, Middle District of Tennessee

17. **Legal Career**

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. Whether you served as Clerk to a Judge, and if so, the name of the Judge, the Court, and the dates of the period you were a clerk;

I did not serve as a law clerk for a judge.

2. Whether you practiced alone, and if so, the addresses and dates:

I was a solo practitioner from October to December 6, 1984 at 144 Second Avenue North, Nashville, TN 37201.

3. The dates, names and addresses of law firms or offices with which you have been connected and the nature of your connection with each.

As set forth in my answer to question 16, I served in the Tennessee Attorney General's office in various capacities. The address was originally Tennessee Supreme Court Building, Seventh and Charlotte, Nashville, TN 37219 and later was 450 James Robertson Parkway, Nashville, TN 37219.

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

The general character of my practice was to represent the State of Tennessee, its departments, agencies, officers and employees in the federal and state courts, and to provide legal counsel to the executive and legislative branches of state government. From 1973 to 1978, my duties varied, but my most heavily assigned areas included direct criminal appeals, federal habeas corpus cases, civil litigation against state employees and entities and representation of state administrative agencies in administrative proceedings.

Beginning in 1978, I specialized in antitrust and consumer protection enforcement on behalf of the state and its citizens in the state and federal courts. As Deputy Attorney for this division, I initially supervised two attorneys, an economist and two secretaries. The Division later expanded to five attorneys, a paralegal and three secretaries. I assigned investigations and made case selection recommendations to the Attorney General. Among the reported cases and investigations were a major merger challenge, a price-fixing case against a national clothing firm, and a statewide investigation of bidrigging on state highway projects. There were several other consent decrees involving apartment and retail grocery associations. I also represented the State in federal multidistrict

litigation. I also served as the assistant to the Tennessee Attorney General, who was chair of the Antitrust Committee of the National Association of Attorneys General (NAAG). In this latter capacity, I prepared testimony for the Attorney General before Committees of the United States Senate, House of Representatives and the Judiciary on NAAG's position on legislation and other matters before those Committees. I also served as a member of the NAAG antitrust committee to plan training and continuing legal education seminars.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Prior to my assignment to the antitrust division, my clients included the Governor, the Secretary of State, Commissioners of the Departments of Correction, Education, Personnel, Revenue, Public Health, Safety and Insurance. I also served as counsel to the Tennessee Higher Education Commission, the State Board of Regents, the Hospital Licensing Board, the Aeronautics Commission, the Human Development Commission, the Motor Vehicle Commission and the Public Service Commission.

When I was assigned to the Antitrust Division, under state law, my client was the State, as sovereign and as *parens patriae* for its citizens. Under federal law, the Hart-Scott-Rodino Act, the State Attorney General represented natural citizens in federal courts in civil actions under Section 1 of the Sherman Act. For consumer protection matters, I also represented the Division of Consumer Affairs in the Tennessee Department of Insurance.

Antitrust law became my area of specialization. I have authored three publications on state antitrust law and have served as a panelist at antitrust seminars sponsored by the Practising Law Institute, the New York Law Journal Press, the National Highway Institute, the Virginia State Purchasing Officials Association and the Vanderbilt Law School.

In my solo practice, my clients consisted of individual citizens in middle Tennessee, and I had criminal and civil cases in the state trial courts. Most of my clients were *pro bono*. Shortly after I entered private practice, the Magistrate position for this District was announced.

- c.1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

I was frequently in the federal and state courts when I was in the Tennessee Attorney General's office.

2. What percentage of these appearances was in:

- (a) federal courts;
(b) state courts of record;
(c) other courts.

In my early years of practice, I estimate 40% of my time was in federal court, 55% in state courts and 5% before state administrative agencies. Later, about 1977 or 1978, after I no longer had responsibility for state criminal appeals, the percentages changed to increase time in federal courts to 70% and 30% in state courts.

3. What percentage of your litigation was:

- (a) civil;
(b) criminal.

In my early years of practice before 1977, I estimate my civil cases at 60% and criminal cases at 40%. By 1977 or 1978, after I no longer had responsibility for state criminal appeals, I would estimate civil cases at 98% and criminal cases at 2%.

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I handled over 200 cases in the Tennessee appellate courts. I handled at least 100 prisoner and/or habeas corpus cases in the federal courts. Almost none of these were settled. I handled numerous hearings and trials in civil cases in the federal courts on many occasions, few of which were settled.

5. What percentage of these trials was:

- (a) Jury – 0% None of my jury cases went to trial.
- (b) Non-jury 100%

18. Litigation. Describe the ten most significant litigated matters which you personally handled. 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 parties.

1. Ray v. Rose, 392 F.Supp. 601 (W.D. Tenn. 1975), aff'd 535 F.2d 966 (6th Cir. 1976), cert. denied, 429 U.S. 1026 (1976).

This was the trial and appeal of James Earl Ray's petition to set aside his guilty plea to the murder of Dr. Martin Luther King, Jr. Ray's principal claims were that he was denied effective assistance of counsel due to his counsel's interest in his book contract with a publisher, and that his guilty plea was not knowingly and voluntarily entered. The District Court denied Ray's petition and the Sixth Circuit affirmed. The Supreme Court denied review.

My role in this case as counsel for the state began in 1974, after the Sixth Circuit remanded the case for an evidentiary hearing. My duties involved pretrial discovery, including document production and interviews with state witnesses. I was assigned responsibility at trial for several witnesses, including members of Ray's family, the defense team and a legal consultant and criminal constitutional law expert who

assisted Percy Forman in his representation of Ray. The trial lasted 8 days and generated 165 exhibits. I was second chair for the trial.

On appeal to the Sixth Circuit, I had sole responsibility for oral argument and prepared the response to Ray's petition for writ of certiorari to the United States Supreme Court.

My co-counsel at trial were:

Henry Haile, Atty.
P.O. Box 121523
Nashville, Tennessee 37212
615-269-6274

J. Richard Lodge, Atty.
Bass, Berry & Sims
First American Center
Nashville, Tennessee 37238
615-742-6200

Opposing counsel were:

Bernard Fensterwald, Atty (deceased)

James Lesar, Atty
Washington, D.C.
[Further address unknown]
202-393-1921

Robert Livingston, Atty.
P.O. 11293
Memphis, TN 38111
(901) 989-4533

The District Judge was Hon. Robert McRae. The Sixth Circuit panel was Chief Judge Harry Phillips, and Judge William Miller, and Judge Anthony Celebreeze.

2. Geier v. Blanton, 427 F. Supp 644 (M.D. Tenn. 1977), aff'd sub nom., Richardson v. Blanton, 597 F.2d 1078 (6th Cir. 1979), cert. denied, 444 U.S. 886 (1979).

This was a long-running case to desegregate Tennessee's state higher education system. I represented the defendants: the Governor, state higher education agencies and their officers, except the University of Tennessee defendants. My representation was prior to and at the third major evidentiary hearing in the case in 1976. I was responsible for pretrial discovery [interrogatories, document requests and depositions], advising state officials on the preparation of a long-range plan, and preparing state witnesses for trial. At this hearing, I was sole counsel for the defendants whom I represented. I cross-examined all witnesses for the opposing parties. The trial lasted a month.

The district court ordered the merger of Tennessee State University and the University of Tennessee at Nashville under the governance of the Tennessee Board of Regents and accepted the State's plan for desegregation of the other Tennessee Colleges and Universities. After the district court's order, the defendants I represented differed on the issue of merger, and on the direct appeal to the Sixth Circuit, I represented the Governor in support of the district court's order on the statewide plan, not the merger order. The Court of Appeals upheld the District Court on the statewide plan. The Court of Appeals also affirmed the merger order. See also Geier v. University of Tennessee, 597 F.2d 1056 (6th Cir. 1979), cert. denied, 444 U.S. 886 (1979).

- (a) I was lead counsel in this case from 1975 to 1979.
- (b) The District Court Judge was Honorable Frank Gray, Jr. (deceased). The Court of Appeals panel was Circuit Judges Lively, Engle and Peck.
- (c) Other counsel were:

Thomas Wardlaw Steele [deceased]
Counsel for University of Tennessee defendants

Beachamp Brogan
Counsel for University of Tennessee defendants
General Counsel

**University of Tennessee
719 Andy Holt Tower
Knoxville, TN
423-974-3245**

**Bruce Shine, Atty
Counsel for the State Board of Regents on appeal
433 E. Center St.
Kingsport, TN 37660
423-246-8433**

**Alfred Knight and William R. Willis
Counsel for the Tennessee Higher Education
Commission on appeal
215 Second Ave. N.
Nashville, TN 37201
615-259-9600**

**George E. Barrett, Atty.
Counsel for the original Plaintiffs
217 Second Ave. N.
Nashville, TN 37201
615-244-2202**

**Avon N. Williams [deceased] and Richard Dinkins, Atty.
Counsel for Plaintiff-intervenor Richardson et al
Williams & Dinkins
Realtors Bldg.
306 Gay St.
Nashville, TN 37201
615-244-3988**

**Hon. Drew Days
Counsel for Plaintiff-intervenor Richardson et al
Yale Law School
New Haven, Connecticut
203-432-4827**

**Nathaniel Douglas
Counsel for Plaintiff-intervenor United States of America
U. S. Department of Justice
Civil Rights Division**

Washington, D.C. 20530
202-514-2007

3. State ex rel Leech v. Dole, 567 F.Supp. 704 (M.D. Tenn. 1983), rev'd, 749 F.2d 331 (6th Cir. 1984), cert. denied, 472 U.S. 1018 (1985).

This action involved whether the U.S. Secretary of Transportation could withhold the state's share of the Federal Highway Trust Funds in demand for participation in Tennessee's settlement proceeds from a highway bid rigging investigation. The state's position was based upon a decision of the Seventh Circuit as well as the opinion of the then Assistant Attorney General of the Antitrust Section in the United States Department of Justice. The Attorney General and I met with the Assistant Attorney General on this issue. Counsel for the Federal Highway Administration took a different view and prior to filing suit, we met with members of that office. I was sole counsel at trial and on appeal.

The District Court ruled that the funds were state funds, but the Sixth Circuit reversed holding that the United States possessed a common law right of recoupment subject to state costs in generating the settlement funds. I was sole counsel for the state in the District Court and argued the case in the Sixth Circuit. I left the office before the Sixth Circuit's decision.

- (a) My participation was in 1983-1984.
- (b) The district judge was Hon. John T. Nixon. The Court of Appeals panel was Hon. Gilbert Merritt, Hon. Nathaniel Jones, and Hon. Samuel H. Bell, District Judge.
- (c) Opposing counsel were :

Douglas Letter, Atty.
U.S. Dept. of Justice
Appellate Department

Washington, D.C. 20530
202-514-2007

Jim Thomasson (then Assistant U. S. Attorney), General
Counsel
U.S. Dept. of Transportation, Federal Highway
Administration
Atlanta, Georgia
(404) 656-5267

4. Baxter v. Rose, 523 S.W.2d 608 (Tenn. 1975).

This decision reversed a line of state precedents and adopted the federal constitutional standard for effective assistance of counsel in a state criminal case. My representation began in the Tennessee Supreme Court where I wrote the state's principal brief and argued the case. My argument was that based upon my research, prior Tennessee decisions were based on federal precedents that had since been changed. I argued that the Tennessee Supreme Court should adopt then existing federal standard. Although there were difficulties in administering the federal rule, my argument was that it was in the State's interest to do so because federal courts would apply the federal standard on federal habeas corpus review. The Court adopted my argument.

(a) My participation was on appeal in 1975.

(b) The members of the Tennessee Supreme Court were Hons. William H.D. Fones, Ray Brock, Robert Cooper, William Harbison (deceased) and Joe Henry (deceased).

(c) Opposing counsel: Hughie Ragan, Jackson, Tennessee (901)427-9111

5. State ex rel Leech v. United Technologies Corp. 1981-1 Trade Cas. [CCH] ¶ 64,070 (7th Chan. Div. 1981) (Consent Decree)

This was a challenge by the Tennessee Attorney General to United Technologies' acquisition of the Carrier

Corporation. Carrier had two major manufacturing plants in Tennessee and the other major manufacturing firms in the heating and air conditioning industry had plants in Tennessee. The state's position was that the merger was anticompetitive and would entrench Carrier as the dominant firm in this market. There was a federal case brought by the Department of Justice in the Northern District of New York, but we were unable to persuade the Department of Justice to present proof on the merger's impact on the State of Tennessee. The state's position was based upon the Supreme Court's decision Pabst v. United States, 384 U.S. 546 (1966) that a state could be a distinct submarket in which to evaluate a merger or acquisition. There was also a United States Supreme Court decision that allowed a state court action in these circumstances. Thus, our state court action was deemed consistent with federal law.

The action was removed to federal court, challenged on Commerce Clause grounds and dismissed. Although the state presented proof that the merger's economic impact on the heating and air conditioning industry in Tennessee far outweighed the amount of the tender offer, the district court found the state action to be an undue burden on interstate commerce. The district court dismissed the action. The case was appealed, but was settled while the appeal was pending on essentially the same terms as the Justice Department's consent decree with United Technologies.

I was lead counsel for the state in its investigation, pre-complaint discussions, trial and appellate proceedings.

- (a) My representation was from 1979 to 1984 which was the period covered by the consent decree.
- (b) The state court judge was Hon. C. Allen High. The district judge was Hon. Thomas A. Wiseman.
- (c) Opposing counsel was:

Lawrence Pedowitz, Atty.
Wachtel, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019-6150
(212) 403-1000

6. State ex rel Shriver v. Leech, 612 S.W. 2d 454 (Tenn. 1981), cert. denied, 454 U.S. 836 (1981).

This decision upheld the constitutionality of Tennessee's civil investigative demand [CID] statute that authorized the Attorney General to issue administrative subpoenas in civil investigations of matters under his statutory authority. This case arose from the investigation of the wholesale liquor industry for price-fixing. Plaintiff's theory was based primarily on Fourth Amendment grounds. I was sole counsel for the state in the trial and appellate courts.

(a) My representation was from 1978 until 1981.

(b) The state trial judge was Hon. C. Allen High. The Court of Appeals panel was Hons. Henry Todd, Thomas Shriver and, because that Court's opinion was unpublished, I do not recall the third member of the panel. The Tennessee Supreme Court consisted of Hons. William H.D. Fones, William J. Harbison (deceased), Frank Drowota, Ray Brock and Robert Cooper.

(c) Opposing counsel was:

Keith Lundin [now U. S. Bankruptcy Judge]
Customs House
701 Broadway
Nashville, TN 38203
615-736-5586

7. State ex rel Leech v. Levi Strauss & Co., 1980-2 Trade Cas. [CCH] ¶ 63,558 (7th Tennessee Chancery Division, 1980)

This consent decree arose from enforcement of Tennessee's state antitrust law for price fixing on the sale of jeans in Tennessee. This was a minimum resale price maintenance case that arose out of the Federal Trade Commission's enforcement proceeding against Levi Strauss. I was lead counsel for the state in pretrial proceedings and negotiated the settlement of \$200,000.

- (a) My representation was from 1979 to 1981.
- (b) The state court judge was Hon. Robert Brandt, Chancellor.
- (c) My co-counsel was:

William Kelly, Atty.
Office of General Counsel
American Airlines
Dallas, TX
(Last known address)

Opposing counsel were:

Lawrence Popofsky, Atty.
Robert J. Vizas, Atty.
Heller, Ehrman, McAuliffe & White
San Francisco, CA
415-772-6000

Robert J. Walker, Atty
Bass, Berry & Sims
2600 First American Center
Nashville, TN 37238
615-742-6200

8. State of Tennessee ex rel. Leech v. Highland Memorial Cemetery, Inc., 489 F.Supp 65 (E.D. Tenn. 1980)

This was the state's first enforcement action under the Hart-Scott-Rodino Act to enjoin the concerted agreement of funeral homes in Knoxville on business hours that the State contended was illegal under section 1 of the Sherman Act. This action was based upon consumer complaints about their inability to bury their deceased relatives as well as published reports on the cemeteries' agreement on hours of operation. I was supervisory counsel for the state during pretrial and trial proceedings. The Court ruled for the state and granted a permanent injunction, but found that the economic proof did not warrant an award for damages.

(a) My supervisory work was from 1979 to 1980.

(b) The district judge was Hon. Robert Taylor [deceased]

(c) The state's lead counsel was

Perry Craft, Atty.
501 Union St.
Nashville, TN 37219
615-242-2050

Amelia Henchey, Atty.
(Address Unknown)

Opposing Counsel were:

Benton Jones, Atty.
(Address unknown)

Dexter Christianberry, Atty.
Suite 214, 801 Locust St.
Knoxville, TN 37901
423-632-2241

9. Collins v. Tidwell, 522 S.W.2d 674 (Tenn. 1975)

This decision changed the state's method of assessing inheritance taxes which was based historically outdated mortality tables in the Tennessee code. I was lead counsel at trial for the Commissioner of

Revenue, who lost at trial. On appeal, I acknowledged that the state's practice was legally and logically correct, but inequitable. The Supreme Court agreed and ordered a remand based upon evidence of more recent mortality tables.

- (a) My representation was from 1974 to 1975.
- (b) The state trial judge was Chancellor Len Broughton (deceased). The members of the Tennessee Supreme Court were Hons. Robert Cooper, Joe Henry (deceased), William J. Harbison (deceased), William H.D. Fones, and Ray Brock.
- (c) Co-counsel at trial was:

William B. Hubbard, Atty.
Suntrust Financial Center
424 Church St.
Nashville, TN 37219
615-251-5444

Opposing counsel was:

Dale Workman, Judge
400 Main Ave.
Knoxville, TN 37902
423-521-2397

10. Federal Express Corp. v. Woods, 569 S.W.2d 408 (Tenn. 1978)

In this action, the State assessed use taxes against Federal Express and Federal Express sued to recover those taxes plus interest paid, contending that as an interstate air carrier, its use of aircraft parts and other materials in Tennessee were exempt from the State's use tax statutes.

The Supreme Court upheld the State's imposition of the use tax upon Federal Express' intrastate activities and properties in Tennessee. I was sole counsel at trial and on appeal.

- (a) My representation was in 1977-1978.

- (b) **The state trial judge was Robert Hoffman (deceased). The members of the Tennessee Supreme Court were Robert Cooper, Joe Henry (deceased), William J. Harbison (deceased), William H.D. Fones, and Ray Brock.**

Opposing counsel was:

**Eric W. James, Atty.
50 N. Front St.
Memphis, Tn. 38103
901-527-3199**

19. 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 the nature of your participation in this question. Please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

The most significant matter that did not progress to trial was the state's highway bid rigging investigation in which I was lead counsel. This was a state-wide investigation for which there was a parallel federal criminal investigation. My work included coordinating state efforts with federal prosecutors, interviewing witnesses, collecting documents, and advising the Governor, Comptroller, Attorney General and Commissioner of the State Department of Transportation. Our investigation produced more that \$10 million in settlement agreements. I also provided information to Arkansas, Kentucky, Maryland, Mississippi, North Carolina, Texas and Virginia. I was also a speaker at several seminars including the National Highway Institute, the National Association of Attorneys General, and the Virginia Association of Public Purchasing Officials.

My other significant legal activities have been as a speaker and panelist at continuing legal education seminars in Tennessee and elsewhere. The seminars and the papers associated therewith are listed in Attachment No. 2 to my answers.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

None, except a potential rehiring as a lecturer in law at the Vanderbilt School of Law to teach a trial advocacy course that I have taught in the past. This prospect depends upon the availability or need for a lecturer. I am also entitled to a pension as a Magistrate Judge that I will forfeit if appointed to a District Judgeship.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangement that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

I do not foresee any financial arrangements that would create a conflict of interest as neither my wife nor I own any stock. I, as well as my wife, participate in the thrift program for United States employees, but these investments do not disqualify a judge according to my understanding of the ethical rulings. For other conflicts of interest, I advise the clerk of the court and my staff as to counsel or parties for whom I will not handle cases.

3. 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, except for the potential lecturer in law position at the Vanderbilt School of Law.

4. 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, patents, 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 1998 financial disclosure report. (Attachment No. 5)

5. **Please complete the attached financial net worth statement in detail (Add schedules as called for).**

See Attachment No. 6.

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

From 1974 until I was appointed a magistrate judge in December, 1984, I supported various candidates for public office. I held no campaign position and did not play a major role in any campaign. I attended meetings, events and supported:

— Former Tennessee Attorney General David Pack who sought (unsuccessfully) the Democratic nomination for Governor of Tennessee in 1974 (including writing one speech);

— U.S. Senator Jim Sasser in his 1982 re-election campaign (including serving as a host to then Senator Bill Bradley at a reception and dinner in July, 1981);

— Former colleague Henry Halle in his 1978 campaign as an Independent candidate for Congress (also including putting up posters and working a poll);

— Former colleague Richard Lodge in his campaign to be Chair of the Tennessee Democratic Party in 1983; and

— Then Congressman Albert Gore, Jr. in his 1984 campaign for the U.S. Senate

III. GENERAL (PUBLIC)

1. 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.

In my professional capacity from 1981 to 1984, I was a member of the board of directors of the Nashville Bar Association (NBA), and also served as Chair of its Pro Bono Committee. As Chair, I conducted research of pro bono programs in other major cities, interviewed legal services staff members, and chaired committee meetings to create a plan for the NBA. The planning was over a period of months, and I wrote the plan that was adopted by the NBA Board of Directors. I also assisted in staffing the program and in organizing and conducting seminars for the participating attorneys and recruiting attorneys. My recruitment efforts generated more than 200 attorneys for the program after the initial recruiting period. I was nominated by the NBA for the ABA Pro Bono Publico Award. See Attachment No. 5.

I have served as a basketball and/or baseball coach for the following organizations for the years listed. The seasons usually lasted two (2) months, with weekly practice sessions of an hour or so.

Northwest YMCA - Basketball 1977 or 1978;

**Christ the King Basketball
5th and 6th Grade boys, 1983-1984
7th and 8th Grade boys, 1983-1984
7th Grade girls, 1990-1991;**

**Green Hills YMCA Basketball
8 years and under league, 1998
8 years and under league, 1999;**

**Green Hills YMCA Baseball
8 years and under league, 1998.**

I participated in the establishment of the Godfather's Program at the Progressive Baptist Church in Nashville, Tennessee in 1991 and 1992. This program provided mentors for inner-city youth and I served as a mentor.

In the past, I have participated in Habitat for Humanity programs as a member of the Nashville Rotary Club and Nashville Bar Association, to assist in the preparing new homes for low income citizens.

As a member of the Rotary Club of Nashville from approximately 1983 to 1985, I was a member of the committee that worked at the Boy Scout Troop at the Tennessee Preparatory School. This school has students from families who are unable to care for them. In addition to weekly meetings, I attended a camping trip with the Scouts.

Through the combined federal campaign, I have contributed \$1,500.00 for each of the last six or seven years to organizations that help the poor and the needy.

Through the Christian Foundation for Children and the Aging, I sponsor a child.

In the summer of 1998, I was a basketball coach at the Mountain Top summer camp for inner city and rural youth that was sponsored by a religious organization. This camp lasted one week. I attended at my expense, and I also participated in other camp activities to convey the message of brotherhood.

2. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate of a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates - - through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have don't to try to change these policies?

I was a member of the Rotary Club of Nashville from 1981 to 1991. At the time of my admission, the international association's by-laws did not allow women to be members. Initially, I declined the offer of membership on those grounds, but was told that my admission, as the first African-American, would help in the effort to admit women later. During my membership, women were members of the chapter staff, and attended weekly luncheons and programs. Later, I advised members of the board that if women were not admitted as full members, I could no longer remain a member. After a Supreme Court decision, the Board admitted women, and I have sponsored women for admission who were admitted.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

No.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

A tendency by the judiciary toward problem-solution rather than grievance-resolution.

- 5.1 A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individual;
- 5.2 A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- 5.3 A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- 5.4 A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- 5.5 A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

From my perspective, federal courts are courts of limited jurisdiction and possess only such authority as conferred by the Constitution and federal statutes. In addition, courts have created prudential limitations on the exercise of their authority, such as the doctrines of ripeness, mootness, standing and abstention.

Through their rules of procedure and evidence the courts have placed additional limits on the manner in which they operate. In a bench trial, the court must make findings of fact based upon admissible evidence under the rules of evidence and only evidence that is in the record. The court must also state conclusions of law. The district judge is bound by the precedents of the Supreme Court and the relevant circuit court. For an award of any injunctive relief, the court's authority extends only so far as to address the constitutional or statutory violation. Supreme Court precedents have repeatedly stated that courts should ordinarily defer the operation of governmental institutions to the executive branch.

I adhere to the role of a judge as described by Justice Benjamin Cardozo.

"The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight errant, roaming at will in pursuit of his own ideal of beauty or of goodness. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to 'the primordial necessity of order in the social life', wide enough in all conscience is the field of discretion that remains."

Cardozo, "Nature of the Judicial Process" p. 141 (1921)

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AFFIDAVIT

I, William J. Haynes do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

5-30-99
(DATE)

William J. Haynes Jr.
(NAME)

Lucy H. Prude
(NOTARY)

My Commission Expires MAY 27, 2001

A Rich New Source of State Antitrust Case Law

State Antitrust Laws

William J. Haynes, Jr.
BNA Books (1988)
418 pages

by Thomas M. Wilson III

Joe Haynes has compiled a remarkable amount of case law in this new work. The author, who led Tennessee's antitrust enforcement unit from 1978-84 and is now a Magistrate in the U.S. District Court for the Middle District of Tennessee, has made a valuable contribution to an area of law of growing concern to antitrust practitioners. The nearly exhaustive research that forms *State Antitrust Laws* is exemplified by its citation to the case law of Vermont and Pennsylvania—neither of which has an antitrust statute of general application—for various antitrust principles.

The Haynes work is somewhat atypical of state antitrust treatises in that it does not approach its subject on a state-by-state basis. The early history of state antitrust law and its close relationship to the English common law are examined in depth. This historical analysis is followed by an examination of constitutional issues and, in turn, by discussions of proscribed conduct and antitrust defenses, with some comparison to federal law.

Those interested in the history of antitrust law will find the work's historical analysis to be informative and enlightening. For example, the history of the legal treatment of the practices of "fore-stalling," "engrossing," and "regrating" is traced from early English statutory proscription, through adoption of similar proscription by the common law of various American colonies, to ultimate English legalization. Haynes also offers a

chronicle of the development of the concepts of "conspiracy" and "combination in restraint of trade" from their English common law origins to their inclusion in virtually all state antitrust statutes. The author concludes by drawing an interesting parallel between the changes that took place in the English common law after a century of experience with antitrust and the changes that are now taking



place in U.S. federal antitrust law after nearly a century of experience with the Sherman Act.

The substantive areas covered by the book are given detailed treatment. For example, the exchange of market information is one of eleven separate categories that comprise the author's treatment of horizontal price-fixing. Similarly, the work analyzes seven different "tests" that have been employed by different states to ascertain the legality of vertical restraints. This type of in-depth analysis is generally unavailable in state antitrust law literature.

In terms of discrete substantive issue the book's most valuable contribution may be its treatment of ancillary agreements not to compete. Unlike other areas of antitrust law, covenants not to compete are litigated far more often in state courts than in federal courts. The reason for this phenomenon is that litigation involving a covenant not to compete usually begins with an action by the covenantor to enforce it, an action that often must be filed in state court because of an absence of federal jurisdiction. Accordingly, the case law regarding covenants not to compete is predominant if not exclusively, that of the state. Haynes' treatment of this substantive area is divided into two categories of covenants—those ancillary to employment relationships and those ancillary agreements regarding the sale of a business—and contains a wealth of citations to state cases for each category. For the practitioner involved in litigating (or formulating) a covenant not to compete in a state where the law is not well developed, this section should prove particularly helpful.

The overriding value of *State Antitrust Laws* lies, quite simply, in the large number of state cases cited. In this regard the work is monumental. For the counsel or litigator who must face the realities of compliance with and litigation under state antitrust laws, Joe Haynes' work is a unique and valuable research tool. •

Thomas M. Wilson III is a partner in the Baltimore firm of Tydings and Rosenberg and Chairman of the Antitrust Section's State Antitrust Enforcement Committee. He was chief of Maryland's Antitrust Division from 1974-78.

1355

FOR RESPONSES TO QUESTION NO. 12, SEE VOLUMES I AND II OF THE ATTACHMENTS A THROUGH WW. PURSUANT TO INSTRUCTIONS, ONLY FOUR COPIES OF THESE PAPERS WERE MADE.

TO: United States District Court for the Middle
District of Tennessee

FROM: Advisory Panel to Review the Reappointment of
Magistrate Judge William J. Haynes

RE: Report and Recommendation

DATE: November 16, 1992

Recommendation

It is the unanimous and enthusiastic recommendation of the Advisory Panel that Magistrate Judge William J. Haynes be reappointed.

Report

This Advisory Panel to review the reappointment of Magistrate Haynes was appointed by order of the United States District Court for the Middle District of Tennessee on September 23, 1992. A copy of the order is attached as "Appendix A."

To assist the Panel in obtaining a broad spectrum of input, the Court's Clerk distributed a public notice requesting comment on the proposed reappointment of Magistrate Haynes. It was published in the August 16, 1992, edition of the Sunday Nashville Tennessean, in the September edition of the Nashville Bar Journal, and in the September edition of L.A.W. Matters, the publication of the Lawyer's Association for Women. It was sent to the Napier Lobby Bar Association and the Nashville Chapter of the Federal Bar Association, which distributed copies to its membership. In addition, it was sent to the presidents of every organized county bar association in the Middle District. A copy of the public notice is attached as "Appendix B."

In response to this public notice, the Panel received twenty-eight letters commenting on the proposed reappointment of Magistrate Haynes. These letters represent a cross section of the legal community including prosecutors, criminal defense lawyers, plaintiffs lawyers, civil defense attorneys, and judicial officers.

To obtain the perspective of the judges of the District Court, the Panel wrote to each of the judges inviting comment on the proposed reappointment. We received three letters in response to this invitation.

United States District Court for the
Middle District of Tennessee
November 16, 1992
Page 2

Some members of the Panel had the benefit of extensive personal experience with Magistrate Haynes in a variety of contexts, in some instances reaching as far back as his law school years. Other panel members had less first-hand experience on which to rely. In order to provide a common base of personal experience, the Panel asked Magistrate Haynes to meet with the Panel. On October 8, 1992, Magistrate Haynes graciously submitted to an extensive and probing interview with the entire Panel.

Finally, each member of the Panel was asked to record in a memorandum his or her evaluation of Magistrate Haynes based on personal experience, the October 8 interview, conversations with others in the bench and bar, and the content of the letters received by the Panel.

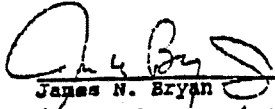
It is apparent to the Panel that Magistrate Haynes is widely respected for his intellect, legal knowledge, and judicial temperament. He consistently gets very high ratings for his open-minded and respectful demeanor and for basing his judgments on the evidence before him. His opinions are regarded as thorough, well-reasoned, and particularly noteworthy for their grounding in careful legal research. Magistrate Haynes is thought to be especially well suited to cases that involve large amounts of material that must be assimilated and complex legal issues that must be analyzed and organized.

The Panel was particularly impressed by Magistrate Haynes' dedication to the effective discharge of his responsibilities in the justice system. It is clear that he takes very seriously the real problems of the real people who are subject to his authority. It is clear, also, that he regularly assesses his own performance, constantly seeking ways to enhance his contribution to the system of justice and to enhance the functioning of the system itself. His innovative work with Judge Nixon on team case management holds considerable promise for decreasing the costs and other burdens suffered by litigants in the system. Magistrate Haynes has demonstrated that he stands ready to undertake more work for himself in order to improve the performance of the judicial system.

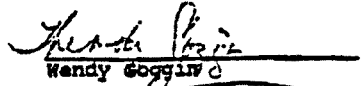
The Panel was unable to find any criticism or even suggestions for improvement of the manner in which Magistrate Haynes discharges his judicial responsibilities. In sum, it is the Panel's conclusion that Magistrate Haynes

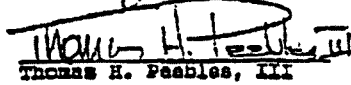
United States District Court for the
Middle District of Tennessee
November 16, 1992
Page 3

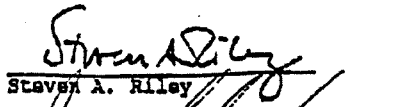
is an outstanding magistrate. All who are served by the
District Court for the Middle District of Tennessee would
benefit from his reappointment.

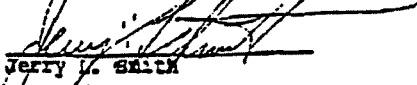

James N. Bryan


L. Webb/Campbell, II


Wendy Goggin

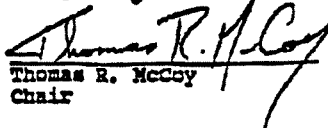

Thomas H. Feebles, III


Steven A. Riley


Jerry J. Smith


Mariah Nootan


Sally Wolitz


Thomas R. McCoy
Chair

TRM:nlp
Attachments

1359

**FOR RESPONSES TO QUESTION NO. 15, PURSUANT TO INSTRUCTIONS,
ONLY FOUR COPIES OF THE PAPERS FOR ATTACHMENT NO. 4 WERE
MADE.**

AO-108
Rev. 1/98

**FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1998**

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Haynes, William, J., Jr.		2. Court or Organization Middle District of Tennessee	3. Date of Report 5/28/99
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge		5. Report Type (check appropriate type) ___ Nomination, Date _____ ___ Initial <input checked="" type="checkbox"/> Annual ___ Final	6. Reporting Period 1/1/98 to 5/28/99
7. Chambers or Office Address United States Courthouse Room 649, 801 Broadway Nashville, TN 37203		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Co-Guardian with Sister	William J. Haynes, Sr., Father
2 Lecturer-in-Law	Vanderbilt School of Law
3 Director	American Judicature Society

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1 10/97	Vanderbilt Law School - To teach the Spring Trial
2	Advocacy Course for \$3,500
3	

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1		\$
2		\$
3		\$
4		\$
5		\$

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting William J. Haynes, Jr.	Date of Report 5/28/99
--	---------------------------

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE*
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	U.S. Group Loan Services	Son's College Loans	L
2	Fleet Bank	Daughter's College Loan	K
3	Student Loan Corp.	Daughter's College Loan	L
4	Fifth Third Bank	Mortgage on Condominium	L
5	American Express	Credit Card	J
6	American Express Education	Daughter's College Loan	J

*Value Codes: J-\$15,000 or less K-\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000
 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting William J. Haynes, Jr.	Date of Report 5/28/99
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VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A Description of Assets (including trust assets) <i>Indicate, where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership of spouse, "(DC)" for ownership by dependent child, and "(D)" after each asset name from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Change in value during reporting period	
	(1)	(2)	(1)	(2)	(1)	(2)
	Type Code 1 (A-H)	Type Code 2 (A-H)	Value Code 1 (G-F)	Value Code 2 (G-F)	Gain Code 1 (A-H)	Gain Code 2 (A-H)
<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)						
1 Condominium	B	Rent	L	Q		
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						

1 Income/Gain Codes: (See Col. B1, D4) A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000; F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H=\$1,000,001-\$5,000,000; I=\$5,000,001-\$25,000,000; J=More than \$25,000,000

2 Value Codes: (See Col. C1, D3) J=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000; O=\$500,001-\$1,000,000; P=\$1,000,001-\$5,000,000; Q=More than \$5,000,000

3 Value Method Codes: (See Col. C2) Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market; U=Book value; V=Other; W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	William J. Haynes, Jr.	5/28/99

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

Section VI. Liabilities.

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
Associates Capital Bank	Line of Credit (Spouse)	K

Attached is a copy of my Financial Disclosure Report for calendar year 1998.

IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

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. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature

William J. Haynes, Jr.

Date

5-28-99

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)

FILING INSTRUCTIONS:

Mail signed original and 3 additional copies to:

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

AO 188
Rev. 1/88

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1998

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) HAYNES, William J. Jr.		2. Court or Organization Middle District of Tennessee		3. Date of Report 5/15/99	
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Magistrate Judge Full-time		5. Report Type (check appropriate type) Nomination, Date _____ Initial <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Final _____		6. Reporting Period 1/1/98 to 12/31/98	
7. Chambers or Office Address		8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____			

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input type="checkbox"/> NONE (No reportable positions.)	
1 Co-guardian with Sister	William J. Haynes, Sr. Father
2 lecturer-in-law	Vanderbilt School of Law
3 Director	American Judicature Society

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	PARTIES AND TERMS
<input type="checkbox"/> NONE (No reportable agreements.)	
1 10/97	Vanderbilt Law School - to teach the Spring
2	Legal Advocacy Course for \$3,500
3	

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1		\$
2		\$
3		\$
4		\$
5		\$

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting <i>William J. Haynes Jr</i>	Date of Report <i>5/15/99</i>
---	----------------------------------

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input checked="" type="checkbox"/>	NONE (No such reportable reimbursements.)	
1		
2		
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input checked="" type="checkbox"/>	NONE (No such reportable gifts.)		
1			\$
2			\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1			
2	<i>U.S. Group Loan Services</i>	<i>Son's College Loans</i>	<i>L</i>
3	<i>Fleet Bank</i>	<i>Daughter's College loan</i>	<i>K</i>
4	<i>Student Loan Corp</i>	<i>Daughter's College loan</i>	<i>L</i>
5	<i>Fifth Third Bank</i>	<i>Mortgage on Condominium</i>	<i>L</i>
6	<i>American Express</i>	<i>Credit Card</i>	<i>J</i>
	<i>American Express Education</i>	<i>Daughter's College loan</i>	<i>J</i>

*Value Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000
 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting: William J. Haynes Jr. Date of Report: 5/15/99

VII. Page 1 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets (including trust assets) <i>Indicate, where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	If not exempt from disclosure			
	Amt Code1 (A-H)	Type (e.g., div., rent or int.)	Value Code2 (J-P)	Value Method Code3 (Q-W)	Type (e.g., buy, sell, merger, redemption)	(2) Date: Month-Day	(3) Value Code2 (J-P)	(4) Gain Code1 (A-H)	(5) Identity of buyer/seller (if private transaction)
<input type="checkbox"/> NONE (No reportable income, assets or transactions.)									
1 <u>RENTAL</u>		<u>Rent</u>							
2									
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18									

1 Income/Gain Codes: A=\$1,000 or less; B=\$1,001-\$2,500; C=\$2,501-\$5,000; D=\$5,001-\$15,000; E=\$15,001-\$50,000; F=\$50,001-\$100,000; G=\$100,001-\$1,000,000; H1=\$1,000,001-\$5,000,000; H2=More than \$5,000,000

2 Value Codes: I=\$15,000 or less; K=\$15,001-\$50,000; L=\$50,001-\$100,000; M=\$100,001-\$250,000; N=\$250,001-\$500,000; O=\$500,001-\$1,000,000; P1=\$1,000,001-\$5,000,000; P2=\$5,000,001-\$25,000,000; P3=\$25,000,001-\$50,000,000; P4=More than \$50,000,000

3 Value Method Codes: Q=Appraisal; R=Cost (real estate only); S=Assessment; T=Cash/Market; U=Book value; V=Other; W=Estimated

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	William J. Hayes, Jr.	5/15/99

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

Section ET	Description	Value Code
Liabilities Creditors		
Associates Capital Bank (Spouse)	Line of Credit	K

IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Act and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the course of such litigation.

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 of 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 comply with the provisions of 5 U.S.C. app. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature William J. Hayes, Jr. Date 5/15/99

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App 4, § 104.)

FILING INSTRUCTIONS:	
Mail signed original and 3 additional copies to:	Committee on Financial Disclosure Administrative Office of the United States Courts Suite 2-301 One Columbus Circle, N.E. Washington, D.C. 20544

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NET WORTH
GENERAL INFORMATION

Are any assets pledged? (Add schedule.)

No.

Are you defendant in any suits or legal actions?

No, not in any pending action that I am aware of.

In the past, I was a named defendant in Barnes v. Haynes, et al. , No. 94C-2092 Davidson County Circuit Court. This was a personal injury action arising from an automobile accident. My son was driving my automobile and I was named as a defendant, as I was the legal owner of the automobile, and apparently the plaintiff was seeking recovery under the Family Use Doctrine. The case was settled for approximately \$15,000.00 very early in the litigation.

I have also been sued by several pro se litigants.

Howse v. Postmaster General, 3:91CV0705, M.D. Tenn. I was one of several judges sued by a prisoner pro se and the action was ultimately transferred to the Southern District of Ohio and has been dismissed.

Blankenship v. Haynes, 3:95CV0973, M.D. Tenn. A former pro se litigant sued me and the action was dismissed as frivolous. A related mandamus petition was also dismissed because the case had been reassigned.

Seay v. Brown, 3:96CV0032, M.D. Tenn. Pro se action by a former litigant in my court and this action was dismissed.

Seay v. Haynes, 3:96CV0033, M.D. Tenn. Former litigant in my court and his action was dismissed.

Seay v. Doyle, 3:96CV0525, M.D. Tenn. Sued with numerous other federal officials but the action was dismissed as frivolous.

Mason v. United States, 3:96CV0474, M.D. Tenn. Sued by a pro se litigant with several other federal judges and the action was dismissed as legally

QUESTIONNAIRE FOR JUDICIAL NOMINEE

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)
Faith S. Hochberg
Maiden name: Faith Shapiro
2. Address: List current place of residence and office address(es).

(Home) Short Hills, NJ

(Office) U.S. Attorney's Office
 970 Broad Street, Suite 700
 Newark, New Jersey 07102
3. Date and place of birth.

 March 5, 1950. East Orange, New Jersey
4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

 Married since 1976 to Mark S. Hochberg, M.D., President, Healthcare Foundation of New Jersey, 75 Livingston Avenue, Roseland, New Jersey 07068
5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

 Harvard Law School, 1972-1975, J.D., 1975, magna cum laude
 Tufts University, 1968-1972, B.A., 1972, summa cum laude
 (junior year semester at London School of Economics),
 1970-1971.

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.
- May 2, 1994 - present: United States Attorney
District of New Jersey
970 Broad Street, Suite 700
Newark, New Jersey 07102
- April 26, 1993 - April 30, 1994:
Deputy Assistant Secretary of
the Treasury (Law Enforcement)
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Room 4316
Washington, D.C. 20220
- June, 1990 - April, 1993 :
Senior Deputy Chief Counsel
U.S. Department of the Treasury
Office of Thrift Supervision
10 Exchange Place
Jersey City, NJ
- 1990 - present : Founding Member and Board
Member, New Jersey Chapter of
International Women's Forum
- 1987-1990 : Partner
Cole, Schotz, Bernstein, Meisel
& Forman, P.C.
Court Plaza North
25 Main Street
Hackensack, NJ
- 1983-1987 : Assistant U.S. Attorney
United States Attorney's Office
District of New Jersey
970 Broad Street, Rm. 502
Newark, New Jersey 07102

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1983-1985 Trustee, Harvard Law Association
of New Jersey

1981-1983 : Associate
Lowenstein, Sandler, Brochin,
Kohl, Fisher & Boylon
65 Livingston Avenue
Roseland, New Jersey

1977-1981 : Associate
Ropes & Gray
1 International Place
Boston, Massachusetts

Jan. - June, 1977 : Temporary Associate
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, D.C.
(temporary assignment)

Sept - Dec, 1976 : Special Assistant to the
Chairman
Securities & Exchange
Commission
Washington, D.C.

1975-1976 : Law Clerk
Judge Spottswood W. Robinson, III
U.S. Court of Appeals
District of Columbia Circuit

1974 (Summer) : Summer Associate
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, D.C.

1973 (Summer) : Research Assistant
Professor Gerald Gunther
Visiting Professor
Harvard Law School
(now at Stanford Law School)

7. Military Service: Have you had any military service? If so,

give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Phi Beta Kappa
Omicron Delta Epsilon (honorary society in economics)
Houston Prize for Economics - Tufts University
Harvard Law Review, selected to be an editor, 1973-75
Honored as a Woman of Distinction, YWCA of Essex County
Honored by the New Jersey Bankruptcy Law Section of the New Jersey State Bar Association and Women in Federal Practice in New Jersey.
Honored as a Woman Who Makes A Difference by the International Women's Forum.
Honored by New Jersey State Police and College of Criminal Justice.

9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

Member, Lawyer's Advisory Committee to the United States District Court, 1994 - present.

Member, Attorney General's Advisory Committee, 1997 - present

Federal Bar Association, New Jersey
Vice-President, 1989-91

Member of Editorial Board, New Jersey Law Journal, 1989-90.

New Jersey State Bar Association, Committee on the Status of Women in the Bar, 1989-90

Representative of the United States Attorney's Office to the New Jersey State Bar Association

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I belong to no organizations that lobby before public bodies. Other organizations to which I belong include the International Women's Forum (founding member of New Jersey Chapter; member of the board, 1995); Harvard Law Association of New Jersey, (former trustee, 1983-1985); Harvard Law School Alumni Association; D.A.R.E (Drug Resistance Education).

11. Court Admissions List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

The Commonwealth of Massachusetts, 1975

United States District Court
District of Massachusetts, 1979

United States Court of Appeals
District of Columbia Circuit, 1979

State of New Jersey, 1981

United States District Court,
District of New Jersey, 1981

United States Court of Appeals
for the Third Circuit, 1983

State of New York, 1989

United States Court of Appeals
for the Second Circuit, 1988

United States District Courts
for the Southern & Eastern Districts of New York,
1988

All bar memberships are in good standing; none has ever been revoked, withdrawn or suspended.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

Please note that the three Practising Law Institute (PLI) publications listed below are program books provided to PLI conference participants. Although my name appears on the cover as a conference co-chairperson, I did not author any of the articles in the books. They were written by the various conference speakers. My role was to moderate the conference together with a prominent banking law attorney, Warren Dennis, Esq. (202) 416-6814).

Dennis, Warren L. and Faith S. Hochberg (Co-Chairs), Defending Bank and Thrift Directors and Counsel in the '90's, Practising Law Institute, New York, (1993).

Dennis, Warren L. and Faith S. Hochberg (Co-Chairs), Civil and Criminal Liability of Bank Directors, Lawyers and Accountants in the '90's, Practising Law Institute, New York, (1992).

Dennis, Warren L. and Faith S. Hochberg (Co-Chairs), Civil and Criminal Liability of Officers, Directors, and Professionals: Bank and Thrift Litigation in the '90's, Practising Law Institute, New York (1991).

Note, State Environmental Protection Legislation and the Commerce Clause, '87 HARVARD LAW REVIEW 1762 (1974)

Case Comment, Schein v. Chasen, Liability of Persons Transmitting or Trading on Inside Information Obtained From a Corporate Fiduciary, '86 HARVARD LAW REVIEW 675 (1974)

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Speeches are attached as follows:

Madison Rotary Club
January 7, 1999

New Jersey Association of Legal Administrators
February 9, 1999

Hudson County Chamber of Commerce
January 21, 1998

Bankruptcy Law Section (NJSBA)
and Women in Federal Practice in New Jersey
February 23, 1998

Black History Month Celebration
February 27, 1998

Madison Public Library Senior Citizen Program
July 16, 1998

Jersey City Armory Youth Center Opening Ceremony
September 1, 1998

Lecture at New York University Law School
October 22, 1998

African American Month Celebration
February 1997

National Crime Victims' Rights Week Awards Ceremony
April 15, 1997

Carmen Orechio Civic Association
September 10, 1997

New Jersey Senior Fraud Awareness Day
September 18, 1997

Princeton University Community Forum
Woodrow Wilson School of International Affairs
September 25, 1997

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Hispanic Heritage Celebration
October 30, 1997

New Jersey State Bar Association Meeting
November 12, 1997

Federal Executive Board's Annual Seminar
February 9, 1996

Mt. Hebron School, Montclair, NJ
March 23, 1996

National Crime Victims Rights' Week Award Breakfast
April 22, 1996

Municipal Court Administrators Conference
May 9, 1996

Community Oriented Policing Symposium
September 10, 1996

National Convention of Society of Journalists
September 19, 1996

Twelfth Annual Student Leadership Day
November 13, 1995

Millburn Police Memorial Dedication
November 3, 1995

Morris 2000 (a business organization)
October 6, 1995

Essex 200 Club (a law enforcement organization)
September 19, 1995

Swearing-in Ceremony for the Hon. Terence Flynn
September 6, 1995

Statement re: U.S. v. Green
June 8, 1995 and September 22, 1995

Beth Israel Hospital Women's Auxiliary
June 6, 1995

National Council of Jewish Women
March 31, 1995

Violence Against Women Symposium
Bloomfield College
March 18, 1995

Testimony before NJ Senate Judiciary Committee
March 13, 1995

Federal/State Law Enforcement Coordination
Crime Bill/Prevention
February 27, 1995

League of Women Voters, Millburn
February 6, 1995

Congresswoman Roukema's Crime Bill Seminar
December 1, 1994

Law Enforcement Coordinating Committee
November 1, 1994

13. Health: What is the present state of your health? List the date of your last physical examination.

Excellent. September 18, 1998

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3)

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, please provide copies of the opinions.

Not applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

United States Attorney, District of New Jersey
(May 2, 1994 - Present)

Deputy Assistant Secretary of the Treasury
(Law Enforcement) (April 26, 1993 - April 30, 1994)

Both were appointed positions.

17. Legal Career:

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;

I served as a law clerk to the Honorable Spottswood W. Robinson, III, of the United States Court of Appeals for the District of Columbia Circuit, from August, 1975 through August, 1976.

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

No.

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with

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which you have been connected, and the nature of your connection with each;

Sept - Dec, 1976 : Special Assistant to the
Chairman
Securities & Exchange
Commission
Washington, DC

In September, 1976 I became a Special Assistant in the Office of the Chairman of the Securities & Exchange Commission. When he left office three months later, I took a temporary position for six months as an attorney at the law firm of Covington & Burling in Washington, D.C.

Jan. - June, 1977 : Temporary Associate
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, D.C.
(temporary assignment)

I worked for a period of 6 months at the firm of Covington & Burling on antitrust research. (The assignment was temporary because my husband was resuming his medical residency at Massachusetts General Hospital within 6 months.)

1977-1981 : Associate
Ropes & Gray
1 International Place
Boston, Massachusetts

After moving to Boston in June, 1977, I worked at the law firm of Ropes & Gray. Initially I practiced corporate law; however, when I was assigned to work on a shareholder's derivative suit, I discovered that I loved litigation and transferred to the litigation department, where I remained for the rest of my years at Ropes & Gray.

1981-1983 : Associate
 Lowenstein, Sandler, Brochin,
 Kohl, Fisher & Boylon
 65 Livingston Avenue
 Roseland, New Jersey

When I moved back to New Jersey (where I had grown up in the small town of Nutley), I took a position with the law firm of Lowenstein, Sandler in Roseland, New Jersey. I continued to practice civil litigation, building on the experience I had received at Ropes & Gray.

1983-1987 : Assistant U.S. Attorney
 United States Attorney's Office
 District of New Jersey
 970 Broad Street, Rm. 502
 Newark, New Jersey 07102

In late 1983, a position in the Appeals Division of the United States Attorney's Office became available and I accepted a position as an Assistant U.S. Attorney. After nearly six years of civil litigation experience, I began my experience in the practice of criminal law. I litigated appeals before the United States Court of Appeals for the Third Circuit in Philadelphia, Pennsylvania, for slightly over a year. This experience included numerous complex oral arguments. I was then invited to help form a new unit to combat criminal securities fraud, with a particular emphasis on the penny stock fraud manipulators who had established a foothold in New Jersey and were defrauding unsuspecting citizens. This work brought me back into the trial court, where I prosecuted white collar criminal cases, with a focus on securities fraud. At the time that I tried my most substantial securities fraud case, the United States Attorney was Samuel Alito, Jr., now the Honorable Samuel Alito, United States Circuit Judge for the Third Circuit Court of Appeals. The District Court Judge before whom I tried my most protracted securities case is the Honorable Alfred J. Lechner, Jr., United States District Court Judge.

1987-1990 : Partner
 Cole, Schotz, Bernstein, Meisel
 & Forman, P.C.
 Court Plaza North
 25 Main Street
 Hackensack, NJ

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In 1987, I received an offer from Morrill J. Cole, Esq. to join the law firm of Cole, Schotz, Bernstein, Meisel & Forman in Hackensack, New Jersey. (I had previously known Morrill Cole, Esq., because we were co-counsel during a trial in 1983, before I joined the United States Attorney's Office.) At Cole, Schotz, I handled a wide variety of litigation, including major corporate litigation as well as some white collar criminal defense work. My practice was approximately seventy-five percent civil litigation and twenty-five percent criminal defense. As a partner of the firm, I also supervised the work of associates and paralegals.

June, 1990 - April, 1993 :

Senior Deputy Chief Counsel
Office of Thrift Supervision
U.S. Department of the Treasury
10 Exchange Place
Jersey City, NJ

In June, 1990, I returned to public service to assist in the development of a legal office to seek redress against those who had committed banking fraud. I was appointed Senior Deputy Chief Counsel for the Office of Thrift Supervision of the United States Treasury Department. My staff and I worked at the Northeast Regional Office in Jersey City, New Jersey. Our jurisdiction covered the nineteen eastern states of the United States. My staff handled complex banking litigation, which was referred to us from the Regional Directors. The office handled litigation in federal district court and administrative litigation.

April 26, 1993 - April 30, 1994:

Deputy Assistant Secretary of
the Treasury (Law Enforcement)
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Room 4316
Washington, D.C. 20220

In February, 1993, I was asked by Treasury Secretary Lloyd Bentsen to become Deputy Assistant Secretary of the Treasury for Law Enforcement, at the Treasury Department in Washington, D.C. The particular focus of my position during the year that I served

(April 26, 1993 - April 30, 1994) was to supervise a task force evaluating the anti-money laundering procedures of the United States Treasury Department. Our goal was to simplify the reporting burdens that the Bank Secrecy Act imposes on banking institutions. I represented the Treasury Department at the meetings of the Financial Action Task Force of the O.E.C.D. The F.A.T.F. is an international consortium of 26 nations coordinating measures to combat money laundering around the globe.

May 2, 1994 - present: United States Attorney
District of New Jersey
970 Broad Street, Rm. 502
Newark, New Jersey 07102

In May, 1994, I was sworn in as the United States Attorney for the District of New Jersey. In this position, I am the chief federal law enforcement official in the State of New Jersey, responsible for a staff of 120 Assistant U.S. Attorneys and a total staff exceeding 200. All federal criminal cases are handled by our Office. In addition, we handle all cases in which the United States is a party in a civil matter, whether as plaintiff or defendant. As the United States Attorney, I coordinate with the judges of the United States District Court and with the New Jersey Attorney General.

- b. 1. What has been the general character of your law practice dividing it into periods with dates if its character has changed over the years?
2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

With the exception of some very early experience in corporate law, the general character of my practice has been in litigation. Prior to 1983, when I joined the United States Attorney's Office, the litigation was entirely civil litigation. I worked on matters representing banks; insurance companies, (including the initial declaratory judgment actions brought to establish the method to determine coverage in all asbestos litigation); large corporations; small closely held family businesses; and individuals.

My work in the United States Attorney's Office provided me with very substantial experience in criminal law, particularly white collar and appellate criminal law.

When I became a partner in a law firm in 1987, I again handled significant civil litigation, as well as some criminal defense work. I was responsible for obtaining and maintaining clients and servicing their needs through my practice. While at the Cole, Schotz law firm, I also took training in mediation, and was a federal court-appointed mediator.

My work for the United States Treasury Department's Office of Thrift Supervision required me to gain experience in administration litigation. This job also required me to manage and supervise a staff of attorneys.

In my work as Deputy Assistant Secretary of the Treasury, my role was to develop policy to combat criminal money laundering.

As United States Attorney, I am the chief legal officer of the United States in New Jersey, but I also have responsibilities as a law enforcement official and public spokesperson. I coordinate activities with the New Jersey State Attorney General and with the Special Agents in Charge of all of the federal law enforcement bureaus in the state.

- c. 1. Did you appear in court frequently occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.
2. What percentage of these appearances was in:
 - (a) federal courts;
 - (b) state courts of record;
 - (c) other courts.

I have appeared in court frequently during my career. When I was an Assistant United States Attorney, 100% of my appearances were in federal court, including both the United States District Court for the District of New Jersey and the United States Court of Appeals for the Third Circuit in Philadelphia. Similarly, during the years that I was Senior Deputy Chief Counsel for the Office of Thrift Supervision, 100% of my appearances were also in the federal courts. In that capacity, I appeared in the United States District Courts of New Jersey and Miami, Florida, as well as the United States Courts of Appeals for the Third and Eleventh Circuits. I also supervised staff attorneys who appeared in federal courts in many other states. During my years in private practice, 1977-1983 and 1987-90, my appearances were in both federal and states courts.

Approximately 75% of my appearances were in federal court and 25% were in the state courts.

3. What percentage of your litigation was:
 - (a) civil;
 - (b) criminal.
4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.
5. What percentage of these trials was:
 - (a) jury;
 - (b) non-jury.

During my years in the United States Attorney's office, 100% of my litigation was criminal. During my years in private practice, approximately 75% of my litigation was civil and 25% was criminal. During my years at the Office of Thrift Supervision, all of our direct litigation was civil, although many cases that we litigated were also the subject of a parallel criminal investigation in a United States Attorney's Office.

I have tried eighteen cases to judgment or verdict: eight at the trial court level and ten at the appellate level. In addition, I have researched, reviewed the record, and briefed approximately fifteen additional cases to the United States Court of Appeals for the Third Circuit, which rendered judgment on the basis of the briefs. I was lead counsel in twelve cases and associate counsel in six cases. I was lead counsel in many other litigated cases where summary judgment or other means of early dismissal was obtained. Approximately 75% of the trials were jury trials and the remainder were non-jury. I also handled countless numbers of cases that were either settled or reached pleas before trial.

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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:

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- (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.

(The case summaries begin on the following page.)

1. Doe v. Poritz, 142 N.J.:1,662A.2d367(1995)
Artway v. Attorney General of New Jersey, et al. 81 F.3d 1259
(3d Cir. 1996)
E.B. v. Verneiro, 119 F.3d 1077 (3d Cir. 1997) (constitutional
challenges to Megan's Law).

Represented: United States as amicus curiae

Co-counsel: Deborah Poritz
Chief Justice
New Jersey Supreme Court (formerly
Attorney General)
State of New Jersey
Trenton, New Jersey
609-292-4976

Peter Verniero
Attorney General
State of New Jersey
Trenton, New Jersey
609-292-4976

Opposing Counsel: John W. Gibbons, Esq.
Larry Lustberg, Esq.
Crummy, Del Deo, Dolan, Griffinger &
Vecchione
973-596-4500

Courts: Supreme Court of New Jersey [Doe]
U.S. District Court, New Jersey [Artway]
Third Circuit Court of Appeals

Judge(s): The Hons. Wilentz, Pollack, O'Hearn,
Stein, Garibaldi, Coleman, Handler [Doe]

The Hons. Becker, Stapleton, Nygaard [E.B.]

Hon. Nicholas H. Politan, U.S.D.J. [Artway]

Date: 1995-1997

Summary: In the Doe, Artway and E.B. cases, I litigated on
behalf of the United States as amicus curiae, supporting the
position taken by the Attorney General of the State of New
Jersey. New Jersey's statute known as Megan's Law was

challenged on several constitutional grounds. The cases presented similar constitutional challenges, although Doe was brought in state court and Artway and E.B. were filed in federal court. The sex offender registration and community notification provisions of the law were attacked under the double jeopardy clause, the ex post facto clause, the constitutional right of privacy, the equal protection and due process clauses.

I appeared on behalf of the United States to argue in support of the constitutionality of Megan's Law in the United States District Court, the United States Court of Appeals for the Third Circuit and the New Jersey Supreme Court. Our position is that Megan's Law was enacted to protect communities from the threat posed by recidivist sex offenders, and is not excessive in relation to that regulatory goal. We further argued that the fact of conviction was in the public record and thus implicated no constitutional right of privacy, particularly when balanced against the public's right to the knowledge needed for self-protection. There is a strong federal interest in defending the constitutionality of Megan's Law, which was passed pursuant to recent authorizing legislation of the United States Congress. The federal law encourages states, through funding incentives, to adopt laws requiring convicted sex offenders to register with state law enforcement upon their release from jail. The federal act also authorizes states, in their discretion, to disclose relevant information concerning the conviction of released sex offenders if it is necessary to protect the public. We have taken the position that Megan's Law is a protective measure - not a punitive measure - and therefore does not run afoul of the clauses of the Constitution enumerated above.

In Doe v. Poritz, I represented the United States in oral argument before the Supreme Court of New Jersey on May 1, 1995. The Court rendered its decision on July 25, 1995, upholding the constitutionality of Megan's Law. The Court agreed with our position that the law was not punitive in nature and therefore did not violate the ex post facto or double jeopardy clauses. With respect to the constitutional right of privacy claimed by Doe, the Court found a very limited right of privacy, but found that it was outweighed by the strong public interest in protecting the safety of the public against the risk of recidivism by convicted sex offenders. The Court dealt with the due process challenge by

upholding the law with certain added protections to ensure that the county prosecutor's decision as to an offender's status (as a Tier 1, 2 or 3 risk of dangerousness) could be judicially reviewed.

In the Artway litigation, I represented the United States in federal court at both the trial and appellate levels. The United States District Court ruled in favor of New Jersey in upholding the registration provisions but enjoined the community notification provisions of the law as a form of ex post facto punishment. That ruling was upheld in part on appeal to the Third Circuit.

In the E.B. case, I argued the case in support of the constitutionality of Megan's Law in the Third Circuit, which issued a lengthy definitive opinion establishing the constitutionality of Megan's Law.

2. U.S. v. Christopher Green, (Crim No. 95-01435 D.N.J. 1995)
 (criminal case involving four murders and one attempted murder
 at the Montclair, New Jersey post office in March, 1995)

Represented: United States

Co-counsel: Stuart Rabner
 Executive Assistant U.S. Attorney
 973-645-6053

Carolyn Murray
 Assistant U.S. Attorney
 973-645-2746

Opposing Counsel: David Ruhnke
 Ruhnke & Barrett
 20 Northfield Avenue
 West Orange, New Jersey 07052
 973-325-7970

Chester Keller
 Federal Public Defender
 973-645-6347

Court: U.S. District Court, New Jersey

Judge: Hon. Joseph Rodriguez, U.S.D.J.

Date: 1995

Summary: On March 21, 1995, a lone robber carrying a loaded semi-automatic handgun concealed in a gym bag, entered a small, unsecured post office annex in Montclair, New Jersey. He ordered the postal clerks and three customers into a tiny back room of the post office. He took the entire day's proceeds from the cash drawer of the post office. Just before leaving the post office, he suddenly shot four men at point blank range in the head, killing them instantly. A fifth was critically injured.

Acting on a tip, the United States Postal Inspectors and the Montclair Police Department apprehended defendant Christopher Green the next day. Green had financial debts and was in the process of being evicted from his apartment in East Orange, where he needed to maintain residence in order to become a

police officer or a fire fighter in the town. After a thorough investigation, it became clear that the robbery was committed to pay Green's back rent. The killings were committed to silence witnesses to the robbery. Until that day, the defendant had not had a single brush with the law. He had no prior criminal record and was a model employee in the Department of Public Works in Montclair.

At his initial appearance, I requested and was granted pretrial detention, holding the defendant without bail. We then commenced an exhaustive grand jury investigation, in which approximately 40 individuals testified. Green was indicted on one count of robbery, two counts of premeditated murder in the first degree, and two counts charging the unlawful use of a firearm in a federal facility, resulting in death. These charges represent death penalty eligible offenses. We researched the new federal death penalty statute, evaluating every possible "aggravating factor" that could possibly apply. We drew upon caselaw in all of the states in which there is a death penalty, seeking analogous provisions because there is virtually no caselaw under the federal death penalty statute. When all of the research was completed and evaluated, we reluctantly concluded that, despite the brutality of the crime, we would be unable to prevail in obtaining the death penalty because the defendant had no prior criminal record and neither silencing witnesses, nor robbery, nor multiple homicides is specifically identified in the federal death penalty statute as an aggravating factor. Thus, the aggravating factors identified in the federal death penalty statute did not cover the brutal actions of Green.

Without any plea bargain, defendant Green pled guilty to each and every crime charged against him in June, 1995. He was sentenced to two consecutive prison terms of life without parole. We argued forcefully for imprisonment in the maximum security prison in Marion, Illinois, which will subject Green to the harshest of prison conditions.

3. U.S. v. Zolp, 659 F.Supp. 692 (D.N.J. 1987) (ruling on pretrial motions); case tried to a jury verdict.

Represented: United States

Co-counsel: Jonathan Feld
Howry & Simon
1299 Pennsylvania Avenue, NW
Washington, D.C.
202-783-0800

Opposing Counsel: Michael Pedicini
60 Washington Street
Morristown, NJ 07960
973-285-1555

John R. Wing
Weil, Gotshal & Manges
767 5th Avenue
New York, NY 10153
212-310-8000

Paul J. Hirsh
Whipple, Ross & Hirsh
9 Campus Drive
Parsippany, NJ
973-538-5500

Joseph E. Govlick
180 Glenridge Avenue
Montclair, NJ 07042
973-744-4844

Bradford Bury
Bury, Czarnicki & Manahan
1299 Rt. 22 E
Mountainside, NJ
908-654-3399

Court: U.S. District Court, New Jersey

Judge(s): Hon. Alfred J. Lechner, U.S.D.J.

Date: 1986-1987 (represents date from initiation of wiretap to final jury verdict.)

Summary: Fourteen individuals, including a securities lawyer, were indicted for conspiracy to manipulate the stock market. They were also charged with conspiracy to obstruct justice for attempting to avoid a Court Order freezing assets and deceiving the SEC.

Five of the defendants went to trial and nine pled guilty. During pretrial motions, the District Court denied defendants' severance and discovery motions, and denied defendants' motions to suppress evidence obtained via a wiretap.

The trial of five defendants on securities fraud and obstruction of justice proceeded in United States District Court before Judge Lechner and a jury during the spring and summer of 1987. The evidence in the case was derived principally from a five-month wiretap involving 25,000 business calls. All defendants were convicted on all charges, including securities fraud, wire fraud, and obstruction of justice. They received sentences ranging from 3 to 12 years.

4. David L. Paul v. Office of Thrift Supervision (OTS), U.S. Department of the Treasury, 763 F. Supp. 568 (S.D. Fla. 1990), affirmed, 948 F.2d 1297 (11th Cir. 1991).

Represented: Office of Thrift Supervision (defendant)

Co-counsel: Debra E. Siegel (currently an attorney at the Securities & Exchange Commission)
601 Walnut Street
Suite 1005 East
Philadelphia, PA 19106
215-597-3100

Richard C. Stearns (formerly Justice Civil Div.)
Office of Thrift Supervision
1700 G Street
Washington, DC
202-906-7966

Opposing Counsel: Abbe David Lowell, Esq.
Brand & Lowell
923 15th Street, N.W.
Washington, D.C.
202-662-9700

Aubrey Harwell, Esq.
Neal & Harwell
2000 First Union Tower
150 Forth Avenue, N.
Nashville, TN 37219
615-244-1713

Sanford L. Bohrer
Thomson, Muraro, Razook & Hart
1 SE Third Avenue
17th Floor
Miami, Florida 33131
305-350-7200

Court: U.S. District Court, Southern District of Florida; United States Court of Appeals for the 11th Circuit

Judge(s) Hon. Edward B. Davis, U.S.D.J.

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Date: 12/4/90 (D. Ct. opinion)
11/6/91 (11th Circuit, affirmed)

Parallel Proceeding: United States v. Paul, (criminal case)

Counsel: Assistant U.S. Attorney Alan Sullivan
(305-579-8186)

Summary: The Office of Thrift Supervision issued a Notice of Charges commencing a civil enforcement proceeding against David L. Paul, the former Chief Executive Officer of Centrust Savings Bank in October 1990. In order to maintain the status quo and prevent further dissipation of assets pending final resolution of the administrative proceedings, the agency also issued a Temporary Cease and Desist Order. The Order required Paul to post a bond; froze his assets until bond was posted; and provided funds for living and legal expenses, etc.. Paul brought an injunction action in United States District Court in Miami, Florida, raising numerous statutory and constitutional claims challenging the Order. The District Court denied Paul's application for an injunction and granted our petition to enforce the Temporary Cease and Desist Order. The Eleventh Circuit affirmed, rejecting Paul's claims under the federal statutes and Constitution.

In a parallel criminal case, David Paul was indicted in March 1992 by the United States for multiple counts of bank fraud and related criminal offenses. Paul was convicted on 98 counts and is serving an 11 year prison term. The criminal case was tried by A.U.S.A. Alan Sullivan (305-579-8186).

5. Manoir-Electroalloys Corp., et al. v. Amalloy Corp., et al. v. Financiere Strafor, et al, Civ. No. 88-4704 (D.N.J.)

Represented: Amalloy Corp. (defendant, counter-claimant and third party defendant)

Co-counsel: Rebecca Spar, Esq.
Cole, Schotz, Bernstein, Meisel & Forman
25 Main Street
P.O. Box 800
Hackensack, NJ 07602
201-489-3000

Opposing Counsel: The Honorable Edwin R. Alley (presently a N.J. State Superior Court Judge)
Superior Court
Union County Courthouse
2 Broad Street
Elizabeth, NJ 07207
908-527-4676
Doug Broder, Coudert Brothers (NY counsel)
212-626-4588

Court: United States District Court, District of New Jersey

Judge(s) The Honorable Maryanne Trump Barry

Date: 1989-90

Summary: International dispute between an American company that sold a Division to a French multinational corporation. When the division's yield fell below projected levels, the French company sued the U.S. company and its principals for fraud. The U.S. company (my client) instituted a third party action against the multinational conglomerate holding company and its principals for deferred payments due.

Judge Maryanne Trump Barry and Magistrate-Judge Stanley Chesler each ruled on significant litigated issues. The motion for summary judgment involved the issue of whether an acquiring company can suspend completion of payments for the acquired company when it alleges fraud and breach of contract. Judge Barry issued a 22 page unpublished opinion on issues raised by motions for summary judgment. Magistrate Judge

Chesler ruled on jurisdictional issues involving jurisdiction over French nationals and the effect of a French "blocking statute" on discovery in U.S. litigation. The litigation required the use of accounting expert witnesses.

After extensive litigation, the case was settled.

6. U.S. v. Oakley, Docket # 89-5348 (USAO 8303223)

Represented: United States

Opposing Counsel: Jack Arseneault, Esq.
973-635-3366
(court-appointed CJA counsel for Robert Oakley; Oakley sought new counsel after he lost pretrial motions.) The court then appointed John Vantuno, Esq., 201 669-1776. When Oakley later chose to proceed pro se, the Court designated Vantuno as pro se trial advisor.

Court: United States District Court, District of New Jersey

Judge(s): Hon. Clarkson Fisher, U.S.D.J. (deceased)

Date: 1985-1986

Summary: The defendant, Robert Oakley, (together with two co-defendants), master-minded a sophisticated postal and bank fraud scheme. Oakley used the co-defendants to carry out a scheme of mail theft, check forging and bank fraud, using false identification to open accounts in fictitious name and depositing stolen business checks with forged third-party endorsements. He then withdrew the funds before the forgeries were discovered by the businesses that wrote the checks.

Oakley was convicted by the jury of six counts of mail theft, interstate transportation of stolen property, and other offenses. Judge Fisher sentenced him to 20 years.

7. Shea v. Office of Thrift Supervision,
934 F.2d 41 (3rd Cir. 1991)
Docket No. 90-3605

Represented: Office of Thrift Supervision (Respondent)

Co-counsel: Steven A. Rosenberg, Esq.
Office of Thrift Supervision
10 Exchange Place
Jersey City, NJ 07302
201-413-7300

Opposing Counsel: James A. Plaisted, Esq.
Walder, Sondak, Berkeley & Brogan
5 Becker Farm Road
Roseland, NJ 07068
973-992-5300

Court: United States Court of Appeals for the
Third Circuit

Judge(s): The Hons. Becker, Nygaard, Green

Date: Argued 3/8/91
Decided 5/30/91 (written opinion)

Summary: Michael Shea, director of Colonial Savings Bank, appealed OTS's refusal to quash or modify its subpoenas duces tecum served in conjunction with a fraud investigation. The Third Circuit held that there was no appellate jurisdiction under the Federal Home Loan Bank Act or the Administrative Procedure Act to address the agency's action until the conclusion of the administrative litigation.

8. United States v. Storm and Ashfield, 735 F.2d 101 (1984),
cert. denied, 105 S.Ct. 189

Represented: United States/Appellee as to Storm and
Appellant as to Ashfield

Opposing Counsel: Lawrence S. Horn, Esq.
Sills, Cummis, Zuckerman, Radin,
Tischman Epstein & Gross
1 Riverfront Plaza
Newark, NJ 07102
973-643-7000

Court: United States Court of Appeals for the
Third Circuit

Judge(s) The Hons. Adams, Sloviter, and Teitelbaum

Date: Argued 2/27/84
Decided 6/1/84, in published opinion

Summary: A jury of the United States District Court for the District of New Jersey found both defendants guilty of evading personal income tax. The trial judge overturned Ashfield's verdict under Rule 29, ruling that reasonable jurors could not have found him guilty beyond a reasonable doubt.

The Government appealed the Rule 29 judgment that overruled the jury's verdict as to Ashfield and defended the District Court's ruling on Storm. The Third Circuit upheld Storm's conviction as consistent with the weight of the evidence, and reinstated the guilty verdict against Ashfield. The defendants also challenged the District Court's hearsay rulings and its refusal to grant a mistrial; the Third Circuit upheld the District Court's ruling on each of these issues.

9. United States v. James Holmes
No. 84-5154

Represented: United States/Appellee

Opposing Counsel: Peter W. Till, Esq.
Goldstein, Lamb & Till
744 Broad Street
Newark, NJ 07102
973-623-3000

Court: Third Circuit Court of Appeals

Judge(s): Hon. H. Leon Higginbotham, U.S.C.J.
and two other judges of the Third
Court.

Date: Argued 3/20/85
Affirmed 3/26/85

Summary: Defendant James Holmes was convicted of bank robbery, based in part on evidence of his confession to the crime. The primary issue on appeal was the voluntariness of the defendant's confession where defendant had severe fresh burns on his body. The Third Circuit affirmed the District Court's finding that the defendant's burns did not make him mentally impaired and that his confession, waiver of the presence of counsel at his FBI interview, and waiver of Miranda rights were voluntary.

The Court also upheld the District Court's exclusion from evidence of photographs of defendant's burns taken after defendant's confession. (The District Court had found no nexus between the burns and defendant's mental state and consequently no reason to admit the photos.)

10. In re: Probate of the Will of H. Jerome Sisselman, deceased

Represented: Two daughters of H. Jerome Sisselman
(defendants)

Co-counsel: Edward J. Fitzpatrick, Esq.
DeCotiis, Fitzpatrick & Gluck
401 Hackensack Avenue
Hackensack, NJ 07601
201-928-1100

Morrill J. Cole, Esq.
Cole, Schotz, Bernstein, Meisel & Forman
Hackensack, NJ
201-489-3000

Opposing Counsel: Robert S. Raymar, Esq.
Hellring Lindeman Goldstein & Siegel
One Gateway Center
Newark, NJ 07102
973-621-9020

Court: Superior Court of New Jersey
Bergen County: Law Division,
Probate Part

Judge(s): The Honorable Paul J. Huot

Date: Trial held early 1983. Opinion denying
relief and final Judgment in March 1983.
(Opinion not reported)

Summary: H. Jerome Sisselman was a wealthy New Jersey land owner, developer and businessman. He had four daughters and one son. While hospitalized before his death, H. Jerome Sisselman revised his will, which had previously disinherited the two daughters who were my clients. The revised will reinstated these daughters' children as beneficiaries. The son of the decedent sued to avoid a judgment of probate of the decedent's will on the basis of testamentary incapacity and undue influence.

The case went to trial before Superior Court Judge Paul J. Huot, who found that the decedent had testamentary capacity and had not been subjected to undue influence. In upholding

the judgment of probate of the will, the Court invoked the in terrorem clause against the son for having brought the will contest without proper standing and in bad faith. (Years later, in an effort to settle a multitude of other lawsuits between the parties and restore some modicum of family peace, all counsel agreed to a restoration of the pro rata bequest to the son.)

19. 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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

In my current position as United States Attorney, my role is to lead a staff of 120 Assistant U.S. Attorneys. I am responsible for representing the United States in all criminal and civil cases arising in New Jersey. Since 1997, I have been a member of the Attorney General's Advisory Committee ("AGAC"), which advises Attorney General Reno on issues affecting the United States Attorneys' Offices. I Chair the White Collar Crime Subcommittee of the AGAC and have focused attention on increasing our readiness to handle a wide variety of cyber-crime risks. I also serve on the Lawyers' Advisory Committee to the United States District Court in New Jersey, where we resolve issues of concern to the United States District Court Judges and the bar. In addition, I have the added responsibilities of coordinating law enforcement policy with a host of senior government officials, including the State Attorney General, 21 County Prosecutors, the Special Agents in Charge of the FBI, DEA, United States Customs Service, United States Postal Inspection Service, United States Labor Department, United States State Department, Bureau of Alcohol and Firearms, United States Secret Service, the Attorney General of the United States, as well as mayors, sheriffs, and communities organizations. It is my job to ensure that investigations are thorough, indictments are fair and that the cases proceed smoothly.

I have created and staffed Violent Crime Task Forces. We are using powerful federal statutes, such as the RICO statute, to attack gangs as an entire enterprise, to rid cities of entire drug gangs in one indictment. The former New Jersey Attorney General and I jointly initiated Project LISA, where every firearm recovered during a

criminal incident within New Jersey is reported to law enforcement, so that the guns used in crimes can be traced to their sources.

As Deputy Assistant Secretary of the Treasury, I spent a year in a policy-making role. Although I was not trying cases, this experience added substantially to my breadth of knowledge. I represented the United States Treasury Department in its international anti-money laundering efforts; I established a Bank Secrecy Act Advisory Group, which drew upon the collective experience of the top bankers, bank regulators, money transmitters, financial wire services, etc., to evaluate how the United States Treasury Department could reduce the burden on these businesses in complying with the anti-money laundering regulations.

A final example is my work in the early 1980's representing the New Jersey Psychological Association in its effort to expel a psychoanalyst who was engaging in improper and unprofessional conduct. When I undertook the matter, the Association had expelled the analyst from membership. He sued the Association to enjoin it from continuing its effort to proceed with the expulsion process. I appeared on behalf of the Association before the Superior Court of New Jersey Chancery Division. The Court granted the Association's application to dissolve the initial temporary restraining order. After extensive discovery, the Court granted our motion for summary judgment and dismissed the complaint with prejudice.

QUESTIONNAIRE FOR JUDICIAL NOMINEES
Committee on the Judiciary

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name: (include any former names used)

David Norman Hurd

2. Address: List current place of residence and office address(es).

Residence - Rome, New York

Office - U.S. Courthouse
10 Broad Street, Room 300
Utica, New York 13501

3. Date and place of birth:

May 9, 1937 - Village of Hancock, Delaware County
New York State - United States

4. Marital status: (Include maiden name of wife, or husband's name.) List spouse's occupation, employer's name and business address(es).

Married - Mary Constance Lehman Hurd - Teacher
Employed by New York State School for the Deaf
401 Turin Street
Rome, New York 13440

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Syracuse University College of Law, Syracuse, New York - 9/61 to 5/63 -
J.D. - cum laude Date of Degree June 2, 1968

Cornell University, Ithaca, New York - 9/56 to 6/59 - B.S.
Date of Degree June 15, 1959

Syracuse University, Syracuse, New York - 9/55 to 6/56 - Transferred to Cornell

6. Employment record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

Paid Employment:

1959-1960 - Time study engineer - Crouse Hinds Corporation, Syracuse, N.Y.
 1961 - Laborer - Onondaga County Highway Department, Syracuse, N.Y.
 1962 - Machine operator - Lipe-Rollway Corporation, Liverpool, N.Y.
 1963-1964 - Associate - Coughlin, Dermody, Ingalls & Guy, Binghamton, N.Y.
 1964-1966 - Associate - Ablove and Myers Utica, N.Y.
 1966-1967 (Part-time) -Assistant District Attorney - Oneida County District Attorney's Office, Utica, N.Y.
 1966-1967 (Part-time) - Associate - Ferris, Kehoe, Tenney & Murnane, Utica, New York
 1967-1970 - Associate - O'Shea, Griffin, Jones & McLaughlin, Rome, N.Y.
 1970-1991 - Partner - O'Shea, Griffin, McDonald, Hurd & Stevens, Rome, N.Y.
 1991 to Present - United State Magistrate Judge for the Northern District of New York, Utica, N.Y.

Volunteer Positions:

1974-1988 - Member, St. Paul's Parish Council, Rome, N.Y.
 1975-1979 - Board of Directors, Rome Hospital, Rome, N.Y.
 1976-1981 - Member, Ava Dorfman Senior Citizen's Advisory Council, Rome, New York
 1977-1994 - College Council - SUNY Institute of Technology at Utica/Rome, Marcy, N.Y. (Chairman 1979 to 1994)
 1981 - Member, Merit Selection Panel (Magistrate) for the Northern District of New York
 1987 - Member, Merit Selection Panel (Magistrate) for the Northern District of New York
 1988-1990 - Member, Board of Directors, Oneida County Bar Association
 1988-1991 - Member, House of Delegates, New York State Bar Association
 1989 - Chairman, Rome Superintendent of Schools Committee on Drug Abuse, Rome, N.Y.

7. Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

None

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Graduated cum laude from Syracuse University College of Law
Order of the Coif
Justinian Society
Fellow, American College of Trial Lawyers

9. Bar Associations: List all bar associations, legal or judicial-related committees 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.

Federal Magistrate Judges Association
New York State Bar Association - (House of Delegates - 1988 to 1991)
Oneida County Bar Association - (Board of Directors - 1988 to 1990)
Rome Bar Association
American College of Trial Lawyers
American Bar Association - (Member from 1970 to 1978)
Broome County Bar Association - (Member from 1963 to 1964)

10. Other memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

Organizations that are active in lobbying:

Federal Magistrate Judges Association
New York State Bar Association
American College of Trial Lawyers

Other organizations:

Roman Runners Club
Otter Lake Improvement Association
Jervis Public Library Association
American Automobile Association
USA Track & Field, Adirondack Association

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Supreme Court of the United States of America - 5/18/70
United States District Court for the Northern District of New York - 12/11/63
Appellate Division of the Supreme Court of the State of New York - Fourth
Judicial Department - 12/9/63

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

The following description of public presentations which I have made is representative of the many such presentations I made throughout my career as a trial attorney and judge.

- Short presentations followed by participation in panel discussions for bar association educational seminars on various subjects, including sexual harassment in the workplace, products liability, and social security disability (copy not available)
- Presentations at bar association seminars and meetings regarding subjects such as federal practice, trial tactics, and effective cross-examinations (copy not available)
- Master of Ceremonies at a variety of functions at the State University of New York Institute of Technology at Utica/Rome, such as the ground-breaking for the campus, the dedication of the first building completed, and the annual distinguished service awards (draft of commencement speech and press reports attached)
- Guest lecturer at Albany Law School, presenting a lesson regarding Title IX, particularly in relation to the Cook v. Colgate University case (copy not available)

- Judged for area law school and high school moot court competitions (copy not available)
- Keynote speaker at a Jubilee honoring Father Kelly for his 50 years of priesthood (copy not available)
- Presentation of the Eulogy for the late Hon. Daniel Scanlon, Jr. (copy not available)
- As chairman of the Superintendent of Schools Committee on Drug Abuse, wrote a report for the Rome City School District culminating a six-month investigation by the Committee (copy of report attached)
- Brief welcoming address, which includes a discourse on some portion of the bill of rights, at three Naturalization Ceremonies each year (copy of transcripts not available)
- Speech at my investiture as a United States Magistrate Judge (copy of transcript attached)

13. Health: What is the present state of your health? List the date of your last physical examination.

Excellent - May 1998

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

United States Magistrate Judge for the Northern District of New York -
1991 to Present - Appointed

A United States Magistrate Judge is a judicial officer of the district court and is appointed by majority vote of the active district judges of the court after recommendation by a Merit Selection Committee.

The office of United States Magistrate Judge was established by the Federal Magistrates Act of 1968.

The jurisdiction of magistrate judges is that of the district court itself, delegated to a magistrate judge by statute and by the district judges of the court. Generally a magistrate judge's duties fall into the following categories:

Initial proceedings in criminal cases
References of pretrial matters from District Judges
Trial of misdemeanors (not permitted to try felony cases)
Trial of civil cases.

A magistrate judge may also be assigned any "additional duties as are not inconsistent with the Constitution and laws of the United States." A magistrate judge may also be called upon to assist the district court in several administrative areas. The specific duties to be assigned to a magistrate judge are often set forth in the local rules of the district court.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed, or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

- (1) Citations for the ten most significant opinions are below:

Urtz v. Callahan, 965 F. Supp. 324 (N.D.N.Y. 1997), aff'd, 159 F.3d 1349 (2d Cir. 1998)

Cavallo v. Utica-Watertown Health Ins. Co., 3 F. Supp. 2d 223 (N.D.N.Y. 1998); Cavallo v. Utica-Watertown Health Ins. Co., 985 F. Supp. 72 (N.D.N.Y. 1997)

Wong v. Warden, 999 F. Supp. 287 (N.D.N.Y. 1998)

Hennessy v. Robinson, 985 F. Supp. 283 (N.D.N.Y. 1997)

Hammond v. Goodyear Tire & Rubber Co., 933 F. Supp. 197 (N.D.N.Y. 1996)

Hogan v. Franco, 896 F. Supp. 1313 (N.D.N.Y. 1995)

Lappe v. American Honda Motor Co., 857 F. Supp. 222 (N.D.N.Y. 1994), aff'd, 101 F.3d 682 (2d Cir. 1996)

Ford v. St. Elizabeth Hosp., No. 92-CV-511, 1993 WL 330036 (N.D.N.Y. Aug. 20, 1993)

Slade v. Whitco Corp., 811 F. Supp. 71 (N.D.N.Y.), aff'd, 999 F.2d 537 (2d Cir. 1993); Slade v. Whitco Corp., 810 F. Supp. 396 (N.D.N.Y. 1993)

Cook v. Colgate Univ., 802 F. Supp. 737 (N.D.N.Y. 1992), vacated as moot, 992 F.2d 17 (2d Cir. 1993)

* * *

- (2) Following is a short summary of and citations for appellate opinions where my decisions were reversed or criticized. Included in the following summaries are a few district judges' decisions declining to adopt a Report-Recommendation I made, which were available via an on-line database. There may be similar unpublished decisions which cannot be obtained. Additionally, there may be decisions by a district judge that reversed or modified my rulings on non-dispositive matters. Over the last eight years, out of approximately 1500-2000 decisions on non-dispositive matters and report-recommendations, there have been perhaps a dozen reversals or modifications by a district judge. It is impossible to obtain an exact count or the names of these cases despite every effort that has been made to obtain them.

* * * * *

DeCarlo v. Fry, 141 F.3d 56 (2d Cir. 1998), affg in part, vacating in part, & remanding DeCarlo v. Perales, 963 F. Supp. 175 (N.D.N.Y. 1997)

The Second Circuit determined that an earlier decision by Judge Cholakis regarding defendant DuRose in his official capacity was misunderstood, and that the ruling directing a verdict against DuRose made at trial based upon the law of the case was inappropriate. Therefore, the appellate court remanded the matter for consideration of the applicable legal standards and the evidence presented at trial. The court expressed no opinion as to the proper outcome.

The Second Circuit also considered four issues brought by plaintiffs on cross-appeal. First, the court found that the jury verdict in favor of defendant Turner could not be set aside because a reasonable jury could have reached such a conclusion based upon the evidence at trial. Second, The court found that while pre-expungement claims were properly dismissed by Judge Cholakis, the plaintiffs should have been given further opportunity to amend their complaint. Accordingly, the court directed that on remand permission be given for an amendment of the complaint. Third, the court found that on the record the disposition of the personal capacity claims against DuRose was unclear. Thus, the issue was remanded for clarification. Fourth, the court found no error in the grant of summary judgment for defendants Astle and Blank based upon qualified immunity.

* * * * *

Albany Savings Bank, FSB v. Halpin, 117 F.3d 669 (2d Cir. 1997), vacating & remanding 918 F. Supp. 553 (N.D.N.Y. 1996)

The appellate court found, after de novo review, error in the finding that a general release was unambiguous. The court determined that the phrase "limited, however, to any claim or cause of action" created ambiguities. Accordingly, parol evidence should have been considered.

Sealey v. Giltner, 116 F.3d 47 (2d Cir. 1997), aff'g in part, rev'g in part, & remanding Sealey v. Coughlin, 857 F. Supp. 214 (N.D.N.Y. 1994)

The first issue on appeal was plaintiff's failure to demonstrate the personal involvement of defendant Coughlin in any violation of his constitutional rights. The court affirmed dismissal of the complaint against Coughlin on this basis. Regarding the second issue on appeal, due to an intervening Second Circuit decision, the defendants conceded that defendant Selsky did not enjoy absolute immunity. Third, the court criticized the decision below to raise sua sponte the lack of a liberty interest based upon Sandin v. Connor, 515 U.S. 472 (1995). Additionally, the Second Circuit recognized that it indicated the desirability of fact-finding in a Sandin analysis only in a series of cases after the decision below. The court therefore directed that plaintiff be given an opportunity to develop additional facts on remand. Finally, the court remanded for a more extensive analysis regarding whether the defendants acted in bad faith in administratively confining plaintiff when the confinement was actually punitive. If it was found that the confinement was punitive, then more than the minimal process required for administrative confinement was due. (Note the decision on remand at 997 F. Supp. 316 (N.D.N.Y. 1998)).

New York State Teamsters Council Health & Hosp. Fund v. Estate of DePerno, 18 F.3d 179 (2d Cir. 1994), aff'g & remanding 816 F. Supp. 138 (N.D.N.Y. 1993)

The appellate court affirmed the finding that defendants violated ERISA. However, the court held that the finding that only nominal damages were appropriate because plaintiff failed to prove the extent of its harm was error in that the burden of proof should have shifted to defendants. The Second Circuit found, after discussing the holdings of the Third and Fourth Circuits, that the burden of proof on damages is properly on the defendants after plaintiffs prove the breach of fiduciary duty. The court remanded for further consideration of the question of damages, then reapplication of the test to determine appropriateness of an attorneys fee award. (Note decisions on remand at 856 F. Supp. 719 (N.D.N.Y. 1994); 856 F. Supp. 725 (N.D.N.Y. 1994)).

Currie v. Kowalewski, 14 F.3d 590 (2d Cir. 1993), vacating by summary order 810 F. Supp. 31 (N.D.N.Y. 1993)

The Second Circuit found that the lack of factual findings in the memorandum-decision and order required vacatur because the plaintiff, assuming her testimony to be true, established a prima facie case of constructive discharge. The court directed that, upon remand, findings of fact be made. Further, the court found that plaintiff's request for a jury trial was properly denied. (Note decision on remand: Currie v. Kowalewski, 842 F. Supp. 57 (N.D.N.Y.), aff'd, 40 F.3d 1236 (2d Cir. 1994)).

* * * * *

Cook v. Colgate Univ., 992 F.2d 17 (2d Cir. 1993), vacating and remanding 802 F. Supp. 737 (N.D.N.Y. 1992)

The defendant appealed from the judgment ordering it to elevate one of its women's ice hockey teams to varsity status and to provide equal funding and benefits to the ice hockey teams of both genders. The order was made after a finding that the inequality between the men's and women's ice hockey teams violated Title IX of the Education Amendments to the Civil Rights Act. The Second Circuit vacated the order and directed dismissal of the action as moot, because all of the plaintiffs would have graduated before the order would affect them.

* * * * *

Duamutef v. Leonardo, No. 91-CV-1100, 1994 WL 86700 (N.D.N.Y. Mar. 7, 1994)(McCurn, S.J.), adopting 1993 WL 428509 (N.D.N.Y. Oct. 22, 1993)

The District Court, in analyzing defendants' objections to the Report-Recommendation, expressed a preference for expressly setting forth the factors enumerated by the Second Circuit in assessing whether a constitutional right was clearly established. The factors were not expressly set forth in the Report-Recommendation.

* * * * *

Jimenez v. Miller, 950 F. Supp. 489 (N.D.N.Y. 1997)(Pooler, J.)(declining to adopt and incorporating within the Aug. 22, 1996 Report-Recommendation)

Jiminez brought a second petition for a writ of habeas corpus alleging that during criminal proceedings against him in state court his counsel was ineffective and his guilty plea was not knowing and voluntary. In his first petition, his only claim was that his guilty plea was not knowing and voluntary. At that time, when a successive petition was filed, the petitioner must show cause why the new ground for relief, in this case ineffective assistance of counsel, could not have been raised in the previous petition. Jiminez failed to show such cause; therefore, it was recommended that the petition be dismissed. In a decision filed six days after the Report-Recommendation was filed, the Second Circuit determined that certain procedural requirements of the Antiterrorism and Effective Death Penalty Act, which became effective on April 24, 1996, applied retroactively. See Liriano v. United States, 95 F.3d 119 (2d Cir. Aug. 28, 1996). Judge Pooler found that although Jiminez's petition was filed prior to the effective date of the Act, so that he did not seek leave to file a second petition from the appellate court as now required by the Act, it would conserve judicial resources to transfer the petition to the Second Circuit for consideration of the merits under the new standards, rather than dismiss it as recommended. Judge Pooler therefore declined to adopt the recommendation.

* * * * *

Longo v. Carberry, No. 96-CV-1417, 1997 WL 567929 (N.D.N.Y. Sept. 10, 1997)(Pooler, J.)(declining to adopt Report-Recommendation of Feb. 12, 1997)

Judge Pooler declined to adopt the Report-Recommendation due to changes in circumstances which occurred subsequent to the issuance of the Report-Recommendation. She remanded the matter for further proceedings.

* * * * *

LaBrake v. Chater, No. 94-CV-1545, 1997 WL 811473 (N.D.N.Y. Dec. 26, 1997)(Pooler, J.)(reversing and incorporating the Oct. 15, 1996, Report-Recommendation)

The matter was reversed and remanded to the Commissioner of Social Security due to new statutory provisions (Pub. Law. 104-193 Aug. 22, 1996) regarding childhood disability which applied to all cases pending at the time of the amendments.

* * * * *

Glenn v. Bartlette, No. 934-CV-1394, 1996 WL 648679 (N.D.N.Y. Oct. 31, 1996)(Cholakis, J.)(declining to adopt Report-Recommendation of June 19, 1995), affd., 98 F.3d 721 (2d Cir. 1996)

Where the Report-Recommendation concluded that the cumulative effect of the errors at trial warranted habeas relief, the petition was dismissed by the District Court based upon two claims being procedurally barred and the third being constitutionally permissible.

* * * * *

Roberts v. Truesdail, No. 95-CV-1024, 1998 WL 178809 (N.D.N.Y. Apr. 7, 1998)(Pooler, J.)(adopting with modification and incorporating Report-Recommendation by Hurd, J.)

The Report-Recommendation suggested that a material issue of fact existed regarding whether, despite his absence from work on the day in question, the defendant at issue had control and directed others, such that liability could attach. The district court found that it was not disputed that the defendant at issue was absent from work on the day of the alleged unconstitutional act and therefore lacked the requisite personal involvement for liability.

* * * * *

Thomas v. Biocine Sclavo, No. 94-CV-1568, 1998 WL 51861 (N.D.N.Y. Feb. 4, 1998) (Pooler, J.)(adopting in part and incorporating Report-Recommendation by Hurd, J.)

The Report-Recommendation was adopted as to entry of default. The matter was remanded for an additional recommendation regarding the nature of the pro se claims, whether the factual allegations of the complaint stated a claim, and whether joint or joint and several liability should be imposed upon the defaulting defendants.

* * * * *

Thomas v. Biocine Sclavo, No. 94-CV-1568, 1997 WL 280609 (N.D.N.Y. May 21, 1997)(Pooler, J.)(ruling on appeal of rulings by Hurd, J. on nondispositive motions)

The matter was remanded for "further explication" on the ruling denying reconsideration, and for a recommendation as to whether default should be entered as to foreign defendants. Other nondispositive rulings were upheld.

* * * * *

Chamberlain v. Mantello, 954 F. Supp. 499 (N.D.N.Y. 1997)(Kahn, J.),
adopting in part No. 95-CV-1050, 1996 WL 521062 (N.D.N.Y. Sept. 11, 1996)

In this petition for habeas corpus, the district court disagreed with the weight given to the testimony of three witnesses at the evidentiary hearing. The testimony did not provide additional evidence of the fundamental unfairness of the criminal trial and therefore was entitled to no weight in determining habeas relief. The district court granted the habeas petition, as was recommended.

- (3) Following are citations for significant opinions on federal or state constitutional issues including subsequent appellate history.

Wong v. Warden, 999 F. Supp. 287 (N.D.N.Y. 1998)

Hogan v. Franco, 896 F. Supp. 1313 (N.D.N.Y. 1995)

Ford v. St. Elizabeth Hosp., No. 92-CV-511, 1993 WL 330036 (N.D.N.Y. Aug. 20, 1993)

Cook v. Colgate Univ., 802 F. Supp. 737 (N.D.N.Y. 1992), vacated as moot, 992 F.2d 17 (2d Cir. 1993)

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

College Council - SUNY Institute of Technology at Utica/Rome - 1977 to 1994 - Served as Chairman from 1979 to 1994 - Appointed by the Governor of the State of New York

Board of Directors - Rome Hospital - 1975 to 1979 - Appointed by the Mayor of the City of Rome, N.Y.

Assistant Oneida County District Attorney - 1966 to 1967 - Appointed by Oneida County District Attorney

Notary Public - 1963-1991 - Appointed by the Oneida County Clerk

Unsuccessful candidate for New York State Supreme Court Justice - Fifth
Judicial District - 1979 and 1983

17. Legal Career:

a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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;

No

2. Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

3. The dates, names and addresses of law firms or offices, companies, or governmental agencies with which you have been connected, and the nature of your connection with each.

1991 to Present - U.S. Magistrate Judge for the Northern District of New York, U.S. Courthouse, 10 Broad Street, Utica, New York

1970 to 1991 - Partner in the law firm of O'Shea, Griffin, McDonald, Hurd & Stevens, 107 West Liberty Street, Rome, New York

1967 to 1970 - Associate in the law firm of O'Shea, Griffin, Jones & McLaughlin, 107 West Liberty Street, Rome, New York

1966-1967 (Part-time) - Associate in the law firm of Ferris, Kehoe, Tenney & Murnane, Mayro Building, Utica, New York

1966-1967 (Part-time) - Assistant Oneida County District Attorney, Oneida County Courthouse, Utica, New York

1964 to 1966 - Associate in the law firm of Abelove and Myers, Bleecker Street, Utica, New York

1963 to 1964 - Associate in the law firm of Coughlin, Dermody, Ingalls & Guy, Marine Midland Bank Building, Binghamton, New York

- b. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

My law practice encompassed both civil and criminal trial practice in both state and federal courts from 1964 to 1991. Generally I did insurance defense work, but I also represented plaintiffs with personal injury claims and other individuals and companies in general litigation matters. My practice included all areas of the law except surrogate, family court, and domestic relations. During that time I occasionally represented criminal defendants on appointment from the court. Also, as a part-time assistant district attorney in 1966 and 1967 I prosecuted, at trial, felony and misdemeanor charges and made presentations to the Oneida County Grand Jury. I have been a judicial officer in the federal judiciary from 1991 to the present.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Most of my former clients were insurance companies, and I specialized in defending personal injury claims. However, I also represented significant numbers of individuals in personal injuries and other claims, together with general corporate litigation. Most of the clients I represented in criminal cases were on assignment from state and federal judges.

- c. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

Frequently

2. What percentage of these appearances was in:

- a. Federal courts - 10%
- b. State courts of record - 80%
- c. Other courts - 10%

3. What percentage of your litigation was:

- a. Civil - 90%
- b. Criminal - 10%

4. State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Approximately 200 from 1964 to 1991 - I was always sole counsel - never chief counsel or associate counsel

5. What percentage of these trials was:

- a. Jury - 90%
b. Non-jury - 10%

18. Litigation: Describe the ten most significant litigated matters which you personally handled. 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) TITLE: Robert G. Alexander, Administrator of the Estate of Barbara R. Alexander, Deceased, and Robert G. Alexander, Jr., Deceased vs. Eleanor L. Hamilton; Guy J. Hamilton; Anthony N. Teplitz; Adel Teplitz; Volkswagen of America, Incorporated; and Volkswagenwerks, A.G. of Germany

COURT: U.S. District Court for the Northern District of New York - 69-CV-261

JUDGE: Hon. Edmund Port

ATTORNEYS:

George A. Fath, Esq.
Attorney for the Plaintiff
201 North Washington Street
Alexandria, Virginia
(address is last known; unable to locate phone)

Gerald Seale, Esq. (Deceased)
Attorney for the Defendants, Hamilton

SUMMARY:

I represented defendants Anthony N. Teplitz and Adel Teplitz who were the owners and operator of one of the motor vehicles involved in an accident on Interstate 81. The plaintiff was the father of two young adults who were killed in the three vehicle accident.

The two young adults were driving one vehicle, Mr. Teplitz was driving a second vehicle, and the codefendants Hamilton were the owner and operator of a third vehicle. An additional defendant was Volkswagen of America Incorporated.

The action against Volkswagen was stayed pending resolution of the action against the owners and operators of the vehicles. A five day trial was conducted in January 1972. At the close of all of the evidence, Judge Port dismissed all claims against my client, and thereafter the jury returned a total verdict of \$65,000 in favor of the plaintiff in the wrongful death against the codefendants Hamilton.

* * * * *

(2) TITLE: United States vs. Robert Bongiovi; Donald Frankos; James LaRuffa;
Raymond LaMorie; Patrick M. Parascand; and Cornelius Dugan

COURT: United States District Court for the Northern District of New York -
77-CR-56

JUDGE: Hon. Howard G. Munson

ATTORNEYS:

Paul V. French, Esq.
Attorney for the United States
73 Court Street, Box 1360
Saratoga Springs, New York 12866
Phone: 518 583-1552

Bonnie Strunk, Esq.
Attorney for Donald Frankos
246 Water Street
Syracuse, New York 13202
Phone: 315 422-0144

Michael C. Cogswell, Esq.
Attorney for James LaRuffa
615 Erie Blvd. West
Syracuse, NY 13204
Phone: 315 448-4800

Donald J. Martin, Esq.
Attorney for Raymond LaMorie
1 Lincoln Center
Syracuse, NY 13202
Phone: 315 478-2222

Edmund H. Jeschke, Esq.
Attorney for Patrick M. Parascand
(unable to locate address & phone)

James P. Shanahan, Esq.
Attorney for Cornelius Dugan
Box 466
Manlius, NY 13104
Phone: 212 637-3171

SUMMARY:

I was appointed to represent defendant Robert Bongiovi with regard to charges that he violated 18 U.S.C. §§ 286, 287 & 2 in that he was engaged in a conspiracy to defraud the United States, and in making false claims against a government agency. In particular, he was being charged with being part of a scheme to defraud the government with the filing of false income tax returns while he was in prison. It was alleged that he and the other defendants, who were state prison inmates, prepared false income tax returns which required a refund, and with the help of outside personnel, secured those refunds. It was alleged that this conspiracy involved hundreds of thousands of dollars. I was the lead defense counsel. A four week trial occurred during October and November 1977 which resulted in a verdict of "Not Guilty" in favor of all defendants.

(3) TITLE: United States vs. Edward Richard Patrick Baker

COURT: United States District Court for the Northern District of New York -
76-CR-61

JUDGE: Hon. Lloyd T. McMahon

ATTORNEYS:

Joseph A. Pavone, Esq.
Attorney for the United States
100 South Clinton Street
P. O. Box 7198
Syracuse, New York 13261-5165
Phone: 315 448-0672

SUMMARY:

I was appointed to represent the defendant on charges that he violated 26 U.S.C. § 5861(e) in the transfer of an unregistered firearm. A two day trial was conducted in October 1976, resulting in a verdict of "Guilty" against the defendant. In December 1976, the defendant was sentenced to three years and then placed on probation for the period of three years subject to the special condition that he continue psychiatric treatment as directed by the probation department.

(4) TITLE: Rome Urban Renewal Agency vs. various property owners

COURT: New York State Supreme Court - Oneida County - See Rome Urban Renewal Agency v. Nickley, 51 A.D.2d 680 (4th Dep't 1976); Rome Urban Renewal Agency v. Sanzone, 51 A.D.2d 678 (4th Dep't 1976).

JUDGE: Hon. Earl C. Bastow - (Appellate Division - retired)

ATTORNEYS:

Paul L. Pileckas, Esq.
Attorney for Urban Renewal Agency
217 North Washington Street
Rome, New York 13440
Phone: 315 339-3020

SUMMARY:

In the late 1970s and early 1980s, the City of Rome, New York, underwent a vast urban renewal project. Consequently, numerous properties in downtown Rome were subject to condemnation proceedings. I represented over 100 owners of such condemned properties. During a three year period, condemnation proceedings were conducted before Judge Bastow. In these cases, the Urban Renewal Office would, for example, have made an offer of \$20,000 to the property owner. The property owner rejected the

offer as unfairly low in what was essentially an administrative appeal. The matter then proceeded to a hearing before the Condemnation Commission for a determination of the true fair value of the condemned properties. As a result, the Condemnation Commission made awards to property owners in sums ranging from \$20,000 to \$450,000 over and above the Urban Renewal offers. In other words, the Commission found that the true value of the properties, including land and buildings, far exceeded the original offers. All of the awards were confirmed by the Oneida County Supreme Court. The matter involved over 150 days of hearings, most of which were devoted to the expert testimony of real estate appraisers using various methods to compute the fair market value of each parcel of land and buildings. The Appellate Division, Fourth Department affirmed the Supreme Court decisions in at least two of the cases. (See above.)

* * * * *

(5) TITLE: John White vs. J.W. Grabowiecki, Jr.

COURT: New York State Supreme Court - Oneida County - Index No. 82-1135

JUDGE: Hon. Richard J. Donovan

ATTORNEYS:

Louis T. Brindisi, Esq.
Attorney for the Plaintiff
2713 Genesee Street
Utica, New York 13501
Phone: 315 733-2396

SUMMARY:

I was retained to represent the defendant who was the owner and operator of a vehicle involved in an intersection accident in Utica, New York, on February 20, 1982. The plaintiff sued as a result of the personal injuries he sustained. The defendant had been drinking and was accused of drunken driving. The defendant admitted liability for the accident. The primary issue was whether the plaintiff was entitled to punitive damages. After a four day trial, in 1984, the jury returned a verdict in favor of the plaintiff for compensatory damages in the sum of \$15,000. The jury did not award any punitive damages.

* * * * *

(6) TITLE: Robert LaDucci vs. Aldi and Clinton Central School District

COURT: New York State Supreme Court - County of Oneida - Index No. 84-20

JUDGE: Hon. John Lawton

ATTORNEYS:

Vincent J. Rossi, Jr.
Attorney for the Plaintiff
P.O. Box 209
Utica, New York 13503-0209
Phone. 315 733-4671

Carl DelBuono, Esq.
Attorney for the Defendant Aldi
1508 Genesee Street
Utica, New York 13502
Phone: 315 724-5147

SUMMARY:

The plaintiff suffered a serious fracture of his leg (open reduction and interior fixation with plates put in place) when the defendant Aldi, who was operating an all-terrain vehicle, ran into him on a playing field. I represented the Clinton Central School District that owned the property where the accident occurred. Immediately prior to trial, the plaintiff settled with the codefendant Aldi for the sum of \$45,000. I offered an additional \$15,000 to settle on behalf of the School District which was rejected. After a five day trial in May 1987, a jury brought back a \$12,000 verdict against the School District. However, because the plaintiff had already received more than that sum from the codefendant, pursuant to the applicable provisions of the New York Civil Practice Law and Rules, there was no net recovery against the District.

(7) TITLE: William S. Gall and Claire B. Gall vs. Town of New Hartford, New Hartford Central School District and Edgebrook Construction Company

COURT: State of New York Supreme Court - County of Oneida -
Index No. 87-0508

JUDGE: Hon. John W. Grow

ATTORNEYS:

Richard A. Frye, Esq.
Attorney for the Plaintiff
2219 Genesee Street
Utica, New York 13501
Phone: 315 733-7549

James R. Griffith, Esq.
Attorney for the Defendant Town of New Hartford
225 North Washington Street
Rome, New York 13440
Phone: 315 336-6500

John R. Petrone, Esq.
Attorney for the Defendant New Hartford Central School District
1624 Genesee Street
Utica, New York 13502
Phone: 315 735-7566

SUMMARY:

The plaintiff sustained serious personal injuries when he fell through an opening in the floor at the New Hartford Recreation Center during a high school hockey game. I represented the construction company that made extensive renovations to the property during the summer prior to the accident. The property was owned by the Town of New Hartford, and the event was sponsored by the defendant New Hartford Central School District. A seven-day trial was held in March 1988 which resulted in a verdict of \$160,000 in favor of the plaintiff. However, the plaintiff was found to be 60% contributorily negligent; the Town of New Hartford 20%; and New Hartford Central School District 20%. The jury found no liability as against the construction company.

(8) TITLE: Edgar and Nancy Hunter vs. E.J. Noble Hospital; Dr. Mandolin;
and Physician's Assistant Hanno

COURT: New York State Supreme Court - County of Jefferson - Index No. 85-872

JUDGE: Hon. George J. Inglehart

ATTORNEYS:

Donald E. Keinz, Esq.
Attorney for Plaintiff
209 Elizabeth Street
Utica, New York 13501
Phone: 315 735-6185

Paul A. Brown, Esq.
Attorney for Dr. Mandolin
5790 Widewaters Parkway
Dewitt, New York 13214
Phone: 315 449-2616

Robert J. Lutz, Esq.
Attorney for Physician's Assistant Hanno
107 West Liberty Street
Rome, New York 13440
Phone: 315 336-4500

SUMMARY:

I was retained to represent the E.J. Noble Hospital in this medical malpractice wrongful death action. The plaintiffs' infant daughter died three weeks after birth at the hospital. It was alleged that her death was the result of medical malpractice on the part of the hospital, the doctor and the physician's assistant. The defendants countered that the death was an unavoidable SIDS death. After a six day trial in Watertown, New York, in 1988, the jury returned a verdict of "No Cause For Action" in favor of all defendants.

(9) TITLE: Robert D. DeCristo vs. Barbara J. Centore and Russell L. Rauscher
vs. Daniel L. Street

COURT: United States District Court for the Northern District of New York -
87-CV-1025

JUDGE: Hon. Howard G. Munson
Hon. Lloyd T. McMahon

ATTORNEYS:

James P. Roman, Esq.
Attorney for the Plaintiff
601 Lakeport Road
Chittenango, New York 13037
Phone: 315 687-6562

1427

William F. Larkin, Esq., Assistant U.S. Attorney
Attorney for the Defendant Rauscher and the United States
P. O. Box 7198
100 South Clinton Street
Syracuse, New York 13261-5165
Phone: 315 448-0672

Merritt S. Vaughan, Esq. (Deceased)
Attorney for the Third-party Defendant Street

SUMMARY:

This was a personal injury case involving a motorcycle and three motor vehicles. I represented the owner and operator of one of the vehicles. One of the other vehicles was operated by defendant Rauscher who was acting within the scope of his employment as a U.S. Postal Service mail carrier at the time of the accident. The plaintiff was operating the motorcycle. The decision granting plaintiff's motion to substitute the United States for Rauscher is available on-line at 1987 WL 19493. A three day trial was conducted in Auburn, New York during October 1988. Judge McMahon dismissed the third-party action. The jury returned a verdict in favor of the plaintiff against the codefendant Rauscher; and a verdict in favor of my client, Barbara J. Centore, of "No Cause For Action." However, Judge McMahon refused to accept the jury's advisory verdict against Rauscher and increased the award to \$7,500.

* * * * *

(10) TITLE: Renald P. LaDuke vs. Board of Education of the Watertown City School District; Warren E. Fargo, Individually, and as Superintendent of Schools; and Charles B. Woodell, Individually, and as Watertown High School Coordinator of Athletics

COURT: U.S. District Court for the Northern District of New York - 85-CV-17

JUDGE: Hon. Howard G. Munson

ATTORNEYS:

Gregory S. Mills, Esq.
Attorney for the Plaintiff
1691 Route 9
Clifton Park, NY 12065
Phone: 518 373-9900

James A. O'Shea, Esq. and
Attorneys for Defendant Board of Ed.
250 S. Clinton Street, Suite 600
Syracuse, New York 13202-1252
Phone: 315 474-2911

Patrick F. MacRae, Esq.
204 E. Jefferson St., Suite 406
Syracuse, New York 13202
Phone: 315 682-7091

David S. Howe, Esq.
Attorney for the Defendant Fargo
1500 Mony Tower
Box 4976
Syracuse, New York 13221
Phone: 315 471-3151

SUMMARY:

I represented defendant Woodell, the Athletic Director at the Watertown City School. The plaintiff filed the action against Woodell, the defendant Fargo who was the Superintendent of Schools, and the Board of Education of the Watertown City School District under state law and 42 U.S.C. §§ 1983 and 1988 alleging termination of his employment in violation of collective bargaining agreement requirements and procedural due process. The plaintiff was the former football coach at the Watertown High School and alleged that he was fired in violation of his constitutional rights. A seven day trial was held in August 1990. The jury returned a verdict in the sum of \$2,300 against the defendant Board of Education, and "No Cause For Action" in favor of my client, Charles Woodell.

* * * * *

19. 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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

I was a member of the House of Delegates of the New York State Bar Association from 1988 to 1991. The House of Delegates met and discussed matters of public interest and of concern to practicing attorneys. For example, some general matters before the House of Delegates were judicial salaries, reform of the law, and reform of the court system. The House of Delegates also reviewed proposed legislation and set forth the position of the Bar Association on the proposed legislation. The House of Delegates is the legislative and governing body of the Bar Association.

Member of the Board of Directors of the Oneida County Bar Association; participated as a lecturer for a number of programs with the New State Bar Association; acted as a trial judge for moot court competition at Albany Law School, Syracuse Law School, and Cornell Law School; and acted as finalist trial judge for high school moot court competition with the Oneida County Bar Association.

In both 1981 and 1987, I was appointed by Chief Judge Howard G. Munson to the Merit Selection Panel (Magistrate) for the Northern District of New York. Applications were reviewed, and interviews with fifteen candidates were conducted in Syracuse and Albany, New York. The panel then rated the applicants and recommended five candidates to the District Judges. The final selections were Magistrate Judge Ralph W. Smith, Jr. and Magistrate Judge Gustave J. DiBianco.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (Public)

1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

The sources and amounts of my savings for retirement are listed below. I do not have an anticipated date at which I will receive income payments from these sources.

IRA accounts at Rome Savings Bank (2) - \$25,300.00
U.S. Government FERS Retirement Account - \$7,500.00
U.S. Government TSP Account - \$78,000.00
ABA Defined Contribution Pension Plan 630202 - \$1,400,000.00

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

I will follow the procedure set forth in 28 U.S.C. § 455 to resolve any potential conflict of interest. I am not aware of any category of litigation or financial arrangements that are likely to present potential conflicts of interest during my initial service.

3. 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.

I plan to continue volunteering my time, as it is available, as a moot court judge for local high school and law school competitions. I also plan to accommodate bar association requests for me to participate in educational seminars, as time permits. I have no other plans or commitments for outside employment.

4. 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, patents, honoraria, and other items exceeding \$500.00 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.)

Financial Disclosure Report is attached

5. Please complete the attached financial net worth statement in detail. (Add schedules as called for.)

Financial Statement is attached

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

Yes. I was a candidate for New York State Supreme Court Justice for the Fifth Judicial District in 1979 and in 1983.

David Norman Hurd

QUESTIONNAIRE FOR JUDICIAL NOMINEES
Committee on the Judiciary

Part II. Financial Data and Conflict of Interest

Financial Disclosure Report for Question 4

FEB-16-1999 14:03

LEWISBERG FRAS. JUDGE HURD

P.02/05

AD 1/8
REV. 1/88

FINANCIAL DISCLOSURE REPORT
FOR CALENDAR YEAR 1997 - 1/31/99

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, 101-112)

1. Person Reporting (Last name, first, middle initial) Hurd, David N.	2. Court or Organization U.S. District Court Northern District of New York	3. Date of Report: Feb. 12, 1999
4. Title (Article III Judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge - Nominee	5. Report Type (check appropriate type) <input checked="" type="checkbox"/> Nomination, Due 1/12/99 Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final	6. Reporting Period 1/1/97 to 1/31/99
7. Chambers or Office Address 10 Broad Street - Room 300 Utica, New York 13501	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.

I. POSITIONS. (Reporting individual only; see pp. 9-13 of Instructions.)

POSITION	NAME OF ORGANIZATION/ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	COPY
1	
2	
3	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of Instructions.)

DATE	SPECIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME. (Reporting individual and spouse; see pp. 17-24 of Instructions.)

DATE	SOURCE AND TYPE	GROSS INCOME (5000, not annual)
<input type="checkbox"/> NONE (No reportable non-investment income.)		
	New York State School for the Deaf, Rome, NY (Teacher)	\$ - -
1		\$
1		\$
1		\$
1		\$
1		\$

FEB-10-1999 14:00 CONFIDENTIAL JUDGE HURD P. 03/03

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: **Hurd, David N.** Date of Report: **Feb. 12, 1999**

VII. Page 1 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

1	Description of Assets (including trust assets) <i>Indicate, where applicable, owner of the asset by using the parenthetical "(I)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gain/loss at end of reporting period		D Transactions during reporting period				
		(1)	(2)	(1)	(2)	If not exempt from disclosure				
		Type (G, Div, Int, or Ill.)	Type (G, Div, Int, or Ill.)	Value Code1 (J-F)	Value Method Code2 (Q-W)	(3) Date Month-Day	(4) Value Code3 (G-F)	(4) Value Code1 (A-B)	(5) Identity of Buyer/Seller (if private transaction)	
	<input type="checkbox"/> NONE (No reportable income, assets, or transactions.)									
1	American Bar Association Retirement Plan (Keough) New York City, NY		Div & Int							Exempt
2	Rome Savings Bank Rome, New York		Int	K	T					Exempt
3	Rome Savings Bank Rome, New York		Int	J	T					Exempt
6										
7										
8										
9										
10										
11										
12										
13										
14										
15										
16										
17										
18										

1 Income/Gain Codes: A=\$1,000 or less (See Col. B1, D4) B=\$1,001-\$2,500 C=\$2,501-\$5,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000
 F=\$50,001-\$100,000 G=\$100,001-\$1,000,000 H=\$1,000,001-\$5,000,000 I=\$5,000,001-\$10,000,000 J=More than \$10,000,000

2 Value Codes: J=\$15,000 or less (See Col. C1, D3) K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P=\$1,000,001-\$5,000,000 Q=\$5,000,001-\$25,000,000 R=More than \$25,000,000

3 Value Method Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market
 U=Book value V=Other W=Estimated

FEB-10-1993 14-000 LEHMBERG FRG. JUDGE HURD P. 04/00

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Hurd, David N. Date of Report: Feb. 12, 1993

IV. REIMBURSEMENTS - transportation, lodging, food, entertainment.
(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
<input type="checkbox"/>	NONE (No such reportable reimbursements.)	
1	Exempt	
2		
3		
4		
5		
6		
7		

V. GIFTS. *(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)*

	SOURCE	DESCRIPTION	VALUE
<input type="checkbox"/>	NONE (No such reportable gifts.)		
1	Exempt		\$
2			\$
3			\$
4			\$

VI. LIABILITIES. *(Includes those of spouse and dependent children; indicate, where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(D)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)*

	CREDITOR	DESCRIPTION	VALUE CODE
<input type="checkbox"/>	NONE (No reportable liabilities.)		
1	Marine Midland Select Credit Syracuse, NY	Revolving Charge Account	K
2	MBNA America, Wilmington, Delaware	Revolving Charge Account	K
3			
4			
5			
6			

*Value Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000
 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FEB-16-1999 14:00 FINANCIAL DISCLOSURE REPORT	OFFICERS FILE, JUDGE HURD Name of Person Reporting Hurd, David N.	P.05/05 Date of Report Feb. 12, 1999
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VIII. ADDITIONAL INFORMATION OR EXPLANATIONS (Indicate part of Report.)

IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. § 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activity and to the best of my knowledge after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

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 is 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. 4, § 501 et. seq., 5 U.S.C. § 7353 and Judicial Conference regulations.

Signature *David N. Hurd* Date February 12, 1999

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. App. 4, § 104.)

FILING INSTRUCTIONS:

Mail signed original and 3 additional copies to:

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

TOTAL P.05

David Norman Hurd

QUESTIONNAIRE FOR JUDICIAL NOMINEES
Committee on the Judiciary

Part II. Financial Data and Conflict of Interest

Financial Statement and Schedule are attached for Question 5

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	1	800 00	Notes payable to banks—secured	7	300 00
U.S. Government securities—add schedule		0	Notes payable to banks—unsecured	40	000 00
Listed securities—add schedule		0	Notes payable to relatives		0
Unlisted securities—add schedule		0	Notes payable to others		0
Accounts and notes receivable		0	Accounts and bills due		0
Due from relatives and friends			Unpaid income tax		0
Due from others			Other unpaid tax and interest		0
Doubtful			Real estate mortgages payable—add schedule	35	000 00
Real estate owned—add schedule	175	000 00	Chattel mortgages and other liens payable		0
Real estate mortgages receivable		0	Other debts—itemize		0
Autos and other personal property	74	000 00			
Cash value—life insurance	18	262 00			
Other assets—itemize					
Retirement Accounts	1,525	800 00			
-add schedule					
			Total Liabilities	82	300 00
			Net Worth	1,712	562 00
Total Assets	1,794	862 00	Total Liabilities and net worth	1,794	862 00
CONTINGENT LIABILITIES			GENERAL INFORMATION		
As endorser, cosigner or guarantor		0	Are any assets pledged? (Add schedule.)		Yes
On leases or contracts		0	Are you defendant in any suits or legal actions?		No
Legal Claims		0	Have you ever taken bankruptcy?		No
Provision for Federal Income Tax		0			
Other special debt		0			

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SCHEDULE
for
FINANCIAL STATEMENT

NET WORTH

<u>ASSETS</u>	
Cash	\$ 1,000.00
Real Estate	
1. Rome, NY (Home)	100,000.00
2. Otter Lake, NY (Cottage)	75,000.00
Savings Account - M & T Corporation	800.00
IRA Account - Rome Savings Bank	18,000.00
IRA Account - Rome Savings Bank (Spouse)	4,000.00
IRA Account - Rome Savings Bank	7,300.00
IRA Account - Rome Savings Bank (Spouse)	11,000.00
U.S. Government FERS Retirement Account	7,500.00
U.S. Government TSP Account	78,000.00
ABA Defined Contribution Pension Plan 630202	1,400,000.00
1995 Mazda Milieum	18,000.00
1995 Chevrolet Blazer	15,000.00
1979 Mazda RX-7	4,000.00
1987 Century 18' boat and trailer	7,000.00
Cash Value Life Insurance - State Farm	16,494.00
Cash Value Life Insurance - State Farm	1,768.00
Personal property	<u>30,000.00</u>
Total Assets	\$1,794,862.00

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LIABILITIES

Mortgages	
1. Home - Rome, NY M&T Corporation	\$33,000.00
2. Cottage - Otter Lake, NY M&T Corporation	2,000.00
Notes to G.P.O. Federal Credit Union - secured	7,300.00
MBNA Credit Account	6,000.00
Marine Midland Credit Account	21,000.00
Marine Midland Credit Account	<u>13,000.00</u>
Total Liabilities	\$82,300.00
Net Worth	\$1,712,562.00

(General Information - 1995 Mazda Milieum and 1995 Chevrolet Blazer
are pledged assets to G.P.O. Federal Credit Union loan)

III. GENERAL (PUBLIC)

1. 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 I became a United States Magistrate Judge in 1991, financial and other contributions to various charities in the community and church have been my chief method of serving the disadvantaged. This is because my workload has left me with little outside time after fulfilling my commitment to family. Also, I am conscious of avoiding any appearance of conflict in the event any volunteer charitable organizations are ever parties to litigation in the Northern District of New York.

Prior to becoming a judge, as a practicing trial lawyer, I was able to devote time to the disadvantaged. In particular, I accepted pro bono assignments from judges in both federal and state courts to represent indigent criminal defendants. One assigned case concluded with a four-week trial in federal court which resulted in a "Not Guilty" verdict. In addition, I was always available for pro bono civil assignments which were usually through the Legal Aid Society. Legal services were also rendered to numerous private clients on a pro bono basis. I never refused to accept a client because of their inability to pay a fee.

In the community, I was a volunteer at youth sports programs, Special Olympics, and United Way. I served on the St. Paul's Parish Council for fourteen years during which time I participated in charitable fund raising, clothing drives, and Christmas Gifts for Children. In 1989, I was Chairman of the Rome Superintendent of Schools Committee on Drug Abuse, which was formed following allegations of drug use by Rome Free Academy football players. After a six month investigation, the Committee issued a report. The report was favorably received, and the Committee's recommendations were implemented by the Rome City School District. I also served on the Board of Directors for the Rome Hospital and the Ava Dorfman Senior Citizen's Center Advisory Council (Rome, New York).

I have also participated as a judge in a number of Moot Court competitions for Cornell, Syracuse, and Albany Law Schools, and have been the finalist judge in the high school moot court competition program of the Oneida County Bar Association for a number of years.

2. 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. Do you currently belong, or have you belonged, to any organization which discriminates - - through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

No

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

Yes

In 1992, I submitted a Confidential Questionnaire to the Committee on the Judiciary for Senator Daniel Patrick Moynihan. Thereafter, I was interviewed by the Committee in New York City. In 1995, I submitted an update to the Questionnaire. Thereafter, I was interviewed by Senator Moynihan in Washington, D.C. In 1998, I submitted a second update to my questionnaire answers. I submitted questionnaires to the Federal Bureau of Investigation and the American Bar Association. I was interviewed by the Department of Justice, the Federal Bureau of Investigation, and the American Bar Association.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" has been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

* * * * *

As a trial judge, a federal district judge has a limited role in the administration of justice. His or her job is to apply the law and not to make the law. Laws are made by legislatures with the concurrence of the chief executive. The Constitution and laws are interpreted by appellate courts. Trial judges merely follow the law as set out by the other branches and higher courts.

Each case must be decided on its own individual merits without regard to other consequences. A case should not be used as a vehicle to impose some undefined broad social policy. The parties to a lawsuit are entitled to full and complete relief - no more, no less. Remedies must be as fair and as limited as needed to achieve justice. The duty of a trial judge is to bring a case to a final conclusion as soon as it is practicable. Closure is an essential element of justice, even for the losing litigant.

I have always believed that the heart of any judicial system is the jury - not the judge. A jury of one's peers will make the right decision in almost every case. A jury represents the community, and a trial judge should not upset a jury verdict, absent clear error by the jury or the judge. For example - if a judge wrongly instructs the jury, or if the jury returns a money verdict in excess of that justified by the evidence, the trial judge must correct the error. Absent such error, the jury must be trusted to resolve the matter as justice requires.

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (include any former names used.)

Ellen Segal Huvelle
Ellen Judith Segal (maiden name)

2. Address: List current place of residence and office address(es).

Office Address:
500 Indiana Avenue, N.W. Room 2520
Washington, D.C. 20001

Home Address:
Washington, D.C. 20016

3. Date and place of birth.

6/3/48 -- Boston, Massachusetts

4. Marital Status (include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Jeffrey George Huvelle
Attorney-
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and dates degrees were granted.

Wellesley College
9/66-1/70
Political Science B.A. – 6/70

Yale University School of Architecture
9/70-6/72
Masters in City Planning – 6/72

Boston College
9/72-6/75
J.D. – 6/75 Magna Cum Laude

6. **Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.**

Program Planner for Day Care Services – 1970
Office of Community Development
City of Cambridge
Cambridge, Massachusetts

Evaluation Analyst – 1971-1972
New Haven Model Cities Program
New Haven, Connecticut

Law Clerk – Summer 1973
Suffolk County District Attorney's Office
Boston, Massachusetts

Program for Industrialization of the Housing Sector – Researcher – Summer 1973
Massachusetts Institute of Technology
Cambridge, Massachusetts

Committee for Public Counsel Services – Public Defender – Summer 1974
New Bedford, Massachusetts

Law Clerk to Chief Judge Edward Hennessey – 1975-1976
Massachusetts Supreme Judicial Court
Boston, Massachusetts

Williams & Connolly – Associate 1977-1983; Partner 1984-1990
725 Twelfth Street, N.W.
Washington, D.C. 20005

Associate Judge – 1990 to present
D.C. Superior Court
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Lecturer in Trial Advocacy – 1997 to present
University of Virginia Law School
Charlottesville, Virginia 22903

In addition to the above employment, I am a limited partner in Greenwood at Cleveland Park L.L.C. (a restaurant) and in two real estate limited partnerships – Krupp Realty Fund Ltd. III and Corporate Realty Income Fund I.

7. **Military Service: Have you had any military service? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.**

No.

8. **Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.**

Law School: Magna Cum Laude; graduated no. 3 in class of 210; Order of the Coif; Articles Editor of the Boston College Industrial and Commercial Law Review.

College: Durant Scholar and Dean's List for three years at Wellesley College.

I was featured as one of the Best of the Bench by *Washingtonian* magazine in September 1996.

9. **Bar Associations: List all bar associations, legal or judicial-related committees 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.**

I belong to or have belonged to the following bar associations, professional organizations and judicial committees:

American Bar Association

American Bar Association Litigation Section

District of Columbia Bar Association

Ex. Officio Member of the D.C. Bar Section on Courts, Lawyers and Administration of Justice – 1995 to present

The Bar Association of the District of Columbia

Women's Bar Association

Massachusetts Bar Association

National Association of Women Judges

Fellow of the American Bar Foundation

Association of Trial Lawyers of America

Edward Bennett Williams Inn of Court – Executive Committee – 1997 to present

Advisory Committee on the Superior Court Rules of Civil Procedure
 Implementation Committee for the Civil Division of the Superior Court
 Committee on Criminal Jury Instructions
 Domestic Violence Coordinating Council

I have also been invited to join the Leadership Committee for the D.C. Chapter of the American Judicature Society.

10. **Other Memberships:** List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I do not belong to any organization that lobbies with the exception of the American Bar Association. I belong to the Smithsonian, the Wellesley College Club of D.C. and the Cleveland Park Historical Society. I also belong to several sports clubs, including Tenley Sport and Health, the Arlington Y, Beauvoir Swimming Pool and the National Cathedral Tennis Club. In addition, I donate money to a number of different organizations, and by virtue of these donations, I may be listed as a member of the organization.

11. **Court Admission:** List all courts in which you have been admitted to practice, with dates of admission and lapses if any such membership lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Massachusetts	12/17/75
District of Columbia	11/11/76
United States District Court – Massachusetts	6/8/76
United States District Court – D.C.	3/7/77
United States Court of Appeals for the District of Columbia	2/21/78
United States Supreme Court	10/20/80
United States Courts of Appeals for the Sixth Circuit	7/6/87
for the Second Circuit	1/23/90

12. **Published Writings:** List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

In 1973 I published two law review articles, copies of which are attached hereto as Exhibit A. One appeared in the 1973 *Boston College Industrial & Commercial Law Review* and related to the Supreme Court case *NLRB v. Boeing Co.* The other appeared in the 1973 *Annual Survey of Massachusetts Law* and related to the case of *Inmates of Suffolk County Jail v. Eisenstadt*. I also assisted in the revision and drafting of criminal jury instructions. These instructions appear in the Criminal Jury Instructions for the District of Columbia (4th ed.) and the sections that I worked on are attached hereto as Exhibit A. I have not made any such speeches, although I was a participant on a panel discussion entitled "Federalism in the Twenty-First Century." I have no notes relating to the panel, but it was televised by CSPAN.

13. **Health:** What is the present state of your health? List the date of your last physical examination.

Excellent – February 26, 1999.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed to the D.C. Superior Court in August 1990 by President George Bush for a fifteen-year term. The Superior Court is a court of general jurisdiction, and I have served in the Civil, Criminal and Family Divisions. I have handled all types of civil cases, felonies, misdemeanors, neglect cases, divorces, mental health cases and domestic violence matters.

15. **Citations:** If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) 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, please provide copies of the opinions.

(1) I have attached as Exhibit B ten significant opinions I have authored. These opinions are as follows:

1. *Clement v. Levi*
91-CA-11555, reported in 121 Wash. L. Rptr. 2089 (10/13/93)
2. *Cole, et al. v. Washington Hospital Center, et al.*
94-CA-9633, reported in 124 Wash. L. Rptr. 1973 (10/8/96)
3. *Coleman, et al. v. District of Columbia, et al.*
97-CA-203, reported in 126 Wash. L. Rptr. 701 (4/15/98)
4. *State Line Sparkler of W.V., Ltd. v. District of Columbia, et al.*
96-CA-4650, reported in 126 Wash. L. Rptr. 1445 (7/31/98)
5. *Hall v. Abigail Adams National Bancorp, Inc.*
92-CA-5847, reported in 121 Wash. L. Rptr. 2101 (10/14/93)
6. *Group Insurance Administration, Inc. v. D.C. Office of the Controller, et al.*
92-CA-12406, reported in 122 Wash. L. Rptr. 1737 (8/31/94)
7. *Patterson v. Arco Mgmt. of Washington, D.C., Inc.*
98-CA-3638
8. *American Insts. for Research in the Behavioral Sciences v. Student Loan Marketing Association*
98-CA-2587, reported in 127 Wash. L. Rptr. 217 (2/8/99)
9. *United States v. Whitehurst*
M-1581-91
10. *Bryant v. The George Washington University*
94-CA-5522

- (2) *Beegle v. Restaurant, Inc.*, 679 A.2d 480 (D.C. App. 1996) – the Court of Appeals reversed the granting of summary judgment on the issue of whether workers' compensation was the employee's exclusive remedy.

Dada v. Children's Nat. Medical Center, 715 A.2d 904 (D.C. App. 1998) – the Court of Appeals remanded this matter for further proceedings to determine if the plaintiff should be allowed to reopen discovery.

Taylor v. Capital City Mortg. Corp., 647 A.2d 1188 (D.C. App. 1994) – the Court of Appeals remanded this case for further elaboration regarding a denial of attorney's fees.

- (3) The only significant opinion that I authored which involved federal or state constitutional issues was *State Line Sparkler of W.V., Ltd. v. District of Columbia, et al.*, 96 CA-4650, reported in 126 Wash. L. Rptr. 1445 (7/31/98). See Exhibit B(4). This case did not result in an appellate opinion.

16. **Public Office:** State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

None.

17. **Legal Career:**

- a. Describe chronologically your law practice and experience after graduation from law school including:

1. 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;

Law Clerk to Chief Justice Edward Hennessey
Massachusetts Supreme Judicial Court
9/75-8/96

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

No.

3. **the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;**

I started as an associate in October 1976 at the law firm of Williams & Connolly, 725 Twelfth Street, N.W., Washington, D.C. 20005. I became a partner there in 1984 and then left in August 1990 when I was appointed by President Bush to be an Associate Judge of the D.C. Superior Court.

b. 1. **What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?**

While at Williams & Connolly, I litigated both criminal and civil cases on behalf of corporations, individuals, and educational institutions before state and federal courts, arbitration panels and a variety of administrative agencies.

2. **Describe your typical former clients, and mention the areas, if any, in which you have specialized.**

My criminal practice at Williams & Connolly included the defense of individuals and corporations in courts in the District of Columbia, Massachusetts, New York and Tennessee. These cases involved charges of tax fraud, RICO, bank fraud, conspiracy, importation of drugs, extortion, false statements to federal agencies and violations of various export-import control acts and the Foreign Corrupt Practices Act. In addition, I handled several *pro bono* and court-appointed criminal cases on behalf of defendants charged with murder, rape, theft and robbery. I also had extensive experience representing individuals and corporations in complicated and protracted investigations conducted by the Department of Justice, United States Attorney's Offices and various investigatory authorities.

My civil litigation experience included representation of plaintiffs and defendants in courts in the District of Columbia, California, Maryland, Florida, Massachusetts, New York, West Virginia and Rhode Island. These cases involved claims of breach of contract, employment discrimination, medical malpractice, defamation, products liability, copyright infringement, and claims arising under the civil rights laws, the antitrust laws and Title VII.

I also handled civil and criminal appeals before U.S. Courts of Appeals and the District of Columbia Court of Appeals; arbitration proceedings, including commercial disputes, medical malpractice, breach of contract and employment disputes; and administrative proceedings before the SEC.

the DOD, the U.S. Customs Service, the EEOC and the D.C. Human Rights Commission.

- c. 1. **Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.**

The frequency of my court appearances while at Williams & Connolly varied depending on the particular cases on which I was working. I worked on several cases that involved lengthy trials (6 weeks or more), evidentiary hearings and frequent arguments on motions. At other times I appeared perhaps 2-5 times per month on a variety of motions and hearings.

2. **What percentages of these appearances was in:**

- (a) **federal courts;**

Approximately 50%.

- (b) **state courts of record;**

Approximately 45%.

- (c) **other courts.**

Approximately 5%.

3. **What percentage of your litigation was:**

- (a) **civil;**

40-50%.

- (b) **criminal.**

50-60%.

4. **State the number of cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.**

While in private practice, I participated in four criminal jury trials, three civil jury trials, four arbitrations and a multitude of evidentiary hearings. All seven of these cases went to verdict before a jury. I was lead counsel in two of these matters, shared responsibility as lead counsel with another member of my firm in two cases, and in the remaining matters I served as associate counsel with responsibility for witnesses, legal arguments and legal pleadings. Two of the criminal cases that went to verdict lasted several months.

5. **What percentage of these trials was:**

(a) **jury;**

100%.

(b) **non-jury.**

0%.

18. **Litigation: Describe the ten most significant litigated matters which you personally handled: 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. Don King, et al.*, 84 Cr. 960 (S.D.N.Y.) – I represented Don King, the boxing promoter, in a twenty-three count indictment charging tax offenses brought by the United States Attorney's Office for the Southern District of New York. The case was tried before Judge Thomas P. Griesa in October-November 1985, and the jury acquitted Mr. King on all counts. The partner on the case was Vincent Fuller of Williams & Connolly, 725 Twelfth Street, N.W., Washington, D.C. 20005 (202-434-5000). I had a significant role in arguing motions, cross examining the

government's witnesses and presenting legal arguments before the court. Our defense consisted primarily of a reliance on accountant defense as presented through the government's own witnesses. The prosecutor on the case was Roanne Mann, now a Magistrate in the Eastern District of New York, United States Courthouse, 25 Cadman Plaza East, Brooklyn, New York 11201 (718-260-2350). Counsel for the co-defendant was Andrew Lawler, 220 East 42nd Street, Suite 3001, New York, New York 10017 (212-687-8850).

2. *United States v. Beverly Ibn-Tamas*, 407 A.2d 626 (D.C. App. 1979), 455 A.2d 893 (D.C. App. 1983) – The defendant was charged with second degree murder. Initially, William E. McDaniels of Williams & Connolly, 725 Twelfth Street, N.W., Washington, D.C. 20005 (202-434-5000), and I represented the defendant at an evidentiary hearing before Judge Bruce S. Mencher of D.C. Superior Court on a motion for a new trial based on allegations of ineffectiveness of prior counsel and improper jury conduct. After a new trial was ordered, a trial by jury occurred in D.C. Superior Court in July 1977 before Judge William E. Stewart, at which defendant was found guilty and sentenced to one to five years. At trial, the government was represented by Assistant United States Attorney Hamilton P. Fox, III, who now practices at Sutherland, Asbill & Brennan, 1275 Pennsylvania Avenue, N.W., Washington, D.C. 20004 (202-383-0666).

On appeal, the Court of Appeals remanded, finding that the court below had improperly excluded expert testimony by a psychologist on the battered wife syndrome where defendant had raised a defense of self defense. Following remand and an unfavorable ruling by the trial court, a second appeal was taken, and in 1983 the trial court's ruling was affirmed.

Throughout this six-year litigation, I served as associate counsel. This matter was handled on a *pro bono* basis.

The *Ibn-Tamas* case was one of the first in the country to establish the admissibility of expert testimony regarding the battered wife syndrome.

3. *Brenner v. World Boxing Council and Jose Sulaiman*, 675 F.2d 445 (2d Cir.), *cert. denied*, 459 U.S. 835 (1982) – The plaintiff, a boxing promoter, filed suit against our clients, the World Boxing Council and its president, Jose Sulaiman, claiming conspiracy to violate the Sherman Act and an unlawful group boycott. A jury trial before Judge Charles M. Metzger was held in the Southern District of New York from April 7-27, 1981. The trial court directed a verdict on the conspiracy charge and the jury found for the defendants on the group boycott claim. On appeal, the Second Circuit unanimously affirmed the defense verdict. Opposing counsel was Pamela Ostrager, 930 Fifth Avenue, New York, New York 10021 (212-628-4418).

I was involved in this case as associate counsel from 1980 through the trial in 1981 with responsibility for legal arguments, discovery motions and presentation of witnesses. In addition, I argued the appeal before the Second Circuit in November 1981. The partner from Williams & Connolly on the case was Richard M. Cooper, 725 Twelfth Street, N.W., Washington, D.C. 20005 (202-434-5000).

The case raised important legal issues regarding whether discipline imposed by a sports organization constitutes an unreasonable restraint of trade and whether an adverse inference can be drawn from the invocation of the Fifth Amendment by a non-party witness.

4. *United States v. Ford, et al.*, Case No. 87-20193 (W.D. Tenn.) – William E. McDaniels and I represented Congressman Harold Ford in a nineteen-count indictment charging bank fraud and conspiracy. The case was originally brought in 1987 in the Eastern District of Tennessee. We succeeded in obtaining, pursuant to Fed. R. Crim. P. 21, a change of venue to the Western District of Tennessee, and in obtaining an interlocutory ruling setting aside a gag order entered by the trial court as constitutionally invalid in violation of the First Amendment. See *United States v. Ford*, 380 F.2d 596 (6th Cir. 1987). There were extensive pretrial evidentiary hearings after which the case was tried for several months before Judge Odell Horton in Memphis in the spring of 1990. The jury hung. The case was retried after I left Williams & Connolly, and an acquittal on all counts was obtained. The case presented a variety of significant legal issues in the field of criminal law and First Amendment law.

The prosecutor, Daniel Clancy, is now in private practice with the Anderson Law Firm, 130-C Stonebridge Boulevard, Jackson, Tennessee 38305 (901-664-0833). The co-defendants were represented by Albert Harvey and Kemper Durand, Thomason, Hendrix, Harvey, Johnson & Mitchell, One Commerce Square, 40 South Main, Memphis, Tennessee 38103 (901-525-8721) and Herbert Moncier, 550 Main Street, Knoxville, Tennessee (423-546-7746). Mr. McDaniels' address is 725 Twelfth Street, N.W., Washington, D.C. 20005 (202-434-5000).

5. *Davis v. Altmann*, 492 A.2d 884 (D.C. App. 1985) – Our client, the executor of an estate, filed suit claiming that the deceased had been defrauded and had been the victim of undue influence by two nursing assistants. On February 2-10, 1983, the case was tried to a jury in D.C. Superior Court before Judge John J. Malloy and the jury awarded full damages. The case was appealed and the verdict was affirmed. Opposing counsel at trial was Burton Penn, 1819 H Street, N.W., Suite 550, Washington, D.C. 20006 (202-237-1377). I shared responsibility for the trial with Peter Kahn of Williams & Connolly (202-434-5000) and I argued the appeal before the D.C. Court of Appeals.

The case clarified the law in the District of Columbia regarding burdens of proof with respect to *inter vivos* gifts and the evidentiary effect of rebuttal presumptions.

6. *Ruth v. State of Rhode Island, et al.*, No. 89-2526 (R.I. Sup. Ct.) and *Rohelia v. State of Rhode Island*, 87-4211 (D.R.I.) – I was lead counsel on behalf of General Electric. One of GE's subsidiaries had operated facilities for detained juveniles and GE and the State of Rhode Island were sued by numerous youths for civil rights violations and various torts. The cases began in 1989, but I left to join the bench before the cases were settled. I represented the corporation in an extensive oral argument before Judge Needham of the Rhode Island Superior Court regarding the rights of the press to

gain access to pretrial discovery matters. Patricia Hurst, now a superior court judge in Rhode Island (401-822-1310), was opposing counsel.

7. *Brennan v. Jeremy Jacobs*, C.A. No. 87-142 (Mass. Sup. Ct.) – William E. McDaniels of Williams & Connolly (202-434-5000) and I represented the plaintiff in a complicated contract action relating to the Boston Garden and the Boston Bruins. The case was extensively litigated in 1987-1988, but ultimately it was settled. I, along with Mr. McDaniels, conducted and defended many depositions and argued a lengthy summary judgment motion before Judge John C. Cratsley of the Massachusetts Superior Court. Opposing counsel was Kenneth Felter, Goodwin, Procter & Hoar, Exchange Place, Boston, Massachusetts 02109 (617-570-1000).

8. *Lee v. Providence Hospital, et al.*, C.A. No. 5787-83 (D.C. Sup. Ct.) – I was lead counsel on behalf of Georgetown University in this medical malpractice case that was filed in 1983 in D.C. Superior Court. It involved a claim of wrongful death of a prematurely born infant. Although the case settled before trial, the motions practice and oral arguments before Judge Gladys Kessler involved what were, at the time, novel questions relating to causation and the right to recover for a loss of a chance of survival. Plaintiff's attorney was Leonard Buscemi, 3444 North Fairfax Drive, Arlington, Virginia (703-528-8477) and the co-defendants were represented by James D. Welch, RD. #2, Box 82, Shelbyville, Delaware 19975 (302-436-3676) and Melvin Wright, who is now a judge in D.C. Superior Court (202-879-8336).

9. *Tower v. MFS*, 84-CA-4127N (D. Mass.) – I served as lead counsel on behalf of the plaintiff in this copyright case which involved issues of first impression relating to the copyrightability of software. The case was in discovery in 1985-86 but then settled. The case was pending before Judge David Nelson of the federal court in Boston, Massachusetts and opposing counsel was James Marcellino, McDermott, Will & Emery, 75 State Street, Suite 1700, Boston, Massachusetts 02109 (617-535-4045).

10. *McKnight v. Howard University*, C.A. No. 1495-83 (D.C. Sup. Ct.) – Robert P. Watkins of Williams & Connolly and I represented Howard University in a breach of contract and civil rights action brought by the Editor-in-Chief of the student newspaper in 1983. I argued an extensive motion to dismiss and in opposition to a motion for preliminary injunction before Judge Sylvia Bacon in D.C. Superior Court. We prevailed at the preliminary injunction stage, and after further discovery, the matter settled. Opposing counsel was John M. Clifford, 1620 L Street, N.W., Suite 625, Washington, D.C. 20036 (202-289-8990). Mr. Watkins' address is 725 Twelfth Street, N.W., Washington, D.C. 20005 (202-434-5000).

As a judge, I have also tried hundreds of criminal and civil jury trials involving felonies, misdemeanors and all types of civil cases (*e.g.*, tort suits, breach of contract claims and medical and legal malpractice) and non-jury matters involving motions for preliminary injunctions, domestic relations trials, misdemeanors, small claims actions, suppression

motions and landlord tenant cases. Lawyers who have appeared before me in significant matters include:

Adam Rosman
Eileen Sheehan
Gary Collins
Chun Wright
Assistant United States Attorneys
United States Attorney's Office
Judiciary Center
555 4th Street, N.W.
Washington, D.C.
202-514-7566

Patrick A. Malone
Stein, Mitchell & Mezines
1100 Connecticut Avenue, N.W.
Suite 1100
Washington, D.C. 20036
202-737-7777

William P. Lightfoot
Koonz, McKenney, Johnson, DePaolis & Lightfoot
2020 K Street, N.W.
Suite 500
Washington, D.C. 20006
202-659-5500

Loren Kieve
Debevoise & Plimpton
555 13th Street, N.W.
Suite 1100E
Washington, D.C. 20004
202-383-8000

Harold E. Jordan
Kathleen A. Carey
Jordan, Keys, Jessamy & Botts
1400 15th Street, N.W.
Suite 700
Washington, D.C. 20036
202-483-8300

D'Ana Johnson
Allen, Johnson, Alexander & Karp
1707 L Street, N.W.
Suite 1050
Washington, D.C. 20036
202-828-4141

Thomas Murphy
Reed, Smith, Shaw & McClay
East Tower
Suite 1100
1301 K Street, N.W.
Washington, D.C. 20005
202-414-9200

19. **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 the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived).

As an attorney, I handled a wide variety of civil and criminal matters. I had extensive experience conducting discovery in civil cases, including the taking and defending of depositions, and arguing motions in court. I also represented individuals and corporations during the course of lengthy grand jury investigations throughout the country and participated in legal arguments and evidentiary hearings in criminal cases relating to a variety of pretrial motions.

In addition, since becoming a judge, I have served as a member of the Advisory Committee on the Superior Court Rules of Civil Procedure, the Implementation Committee for the Civil Division, and the Committee on Criminal Jury Instructions. As a member of the Committee on Criminal Jury Instructions, I assisted the Young Lawyers Section of the Bar Association of the District of Columbia in drafting the new criminal jury instructions which appear in the recently published Criminal Jury Instructions of the District of Columbia (4th ed.). I also chaired a subcommittee of the Advisory Committee on the Superior Court Rules of Civil Procedure to study and make recommendations regarding adoption of the 1993 Amendments to the Federal Rules of Civil Procedure, and I served on a subcommittee to evaluate possible amendments to Rule 68 of Rules of Civil Procedure. I was on the Planning Committee for the District of Columbia Judicial Conference held in June 1995. Finally, I was a member of the Domestic Violence Coordinating Council, which oversees and coordinates city-wide activities and services relating to domestic violence.

I have also participated in numerous conferences and judicial training programs. On a yearly basis I participate in two in-house judicial training programs and attend the District of Columbia Judicial Conference. In 1998 I attended the D.C. Circuit Judicial

Conference. In 1997 I participated in a three-day conference on Courts and Genetics sponsored by the Department of Energy. I have also attended the ABA National Conference on Children and Parental Substance Abuse, a training program entitled "Understanding Sexual Violence," the Criminal Practice Institute sponsored by the Public Defenders Service/Young Lawyers Section of the Bar Association of D.C., a course on advanced evidence at the National Judicial College in Reno, Nevada in 1995, and alternative dispute training seminars. In February 1993 I was a panelist on a program entitled "Federalism in the Twenty-First Century," sponsored by the Federal Judicial Center for all federal circuit court judges. The panel discussion was moderated by Professor Arthur Miller and the participants included Supreme Court Justice Ruth Ginsburg; Judges Elizabeth Lacey, Stanley Sporkin, Harvie Wilkinson III; and former judge Kenneth Starr. On February 25, 1999, I was also a panelist on a program entitled "Perspectives from the Bench: Women in the Courtroom," which was sponsored by the Women's Bar Association.

II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)

- 1. List 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. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.**

I have a vested interest in the Williams & Connolly Profit Sharing and Saving Plan. These are retirement plans which I contributed to while at the firm and I cannot withdraw money, prior to age 59, without incurring a penalty to the IRS. I am also a limited partner in Greenwood at Cleveland Park LLC (a restaurant) and two real estate limited partnerships – Krupp Realty Fund Ltd. III and Corporate Reality Income Fund I. I cannot predict how much income I will realize from these investments.

- 2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.**

As I have in the past, I will recuse myself from all cases involving Williams & Connolly and Covington & Burling. In addition, I will recuse myself, as required by the Code of Conduct for United States Judges, in any case where I or a family member holds a financial interest in the subject matter in controversy, in a party to the proceeding or any other interest that could be affected substantially by the outcome of the proceeding. In addition, it may be necessary to divest myself or my family members of investments that might require frequent disqualification on matters arising in the federal court.

- 3. 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.**

I may continue to teach Trial Advocacy at the University of Virginia Law School for one semester each year. The class I teach is held on Friday evenings and Saturday mornings, seven weekends during the spring semester.

- 4. 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, patents, 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 financial disclosure report.

5. **Please complete the attached financial net worth statement in detail (Add schedules as called for).**

See financial net worth statement.

6. **Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.**

I helped my brother, Terry P. Segal, in his unsuccessful bid for Massachusetts State Senate in 1970.

III. GENERAL (PUBLIC)

1. **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.**

As a judge, I have headed, in collaboration with clinics at Georgetown and Catholic Law Schools, a domestic violence education program for juniors in all D.C. public high schools in 1996, 1997 and 1998. The curriculum is designed to increase the awareness of students regarding domestic violence. In conjunction with this program, I have taught classes at Anacostia High School for the last three years. On a yearly basis, I judge many moot courts at local law schools; I have served as a Visiting Faculty member of Harvard Law School's Trial Advocacy Workshop in 1993, 1994, 1996 and 1997; and I regularly judge D.C. high school students in mock trials conducted as part of the D.C. Street Law Project. I have participated in bar-sponsored panels and training sessions for judges and local practitioners in civil, criminal and domestic relations issues.

As a private practitioner I represented various criminal defendants on a *pro bono* basis, including representing a defendant for six years who was charged with murder and several other indigent defendants who were charged with theft, rape and robbery. I also served as *pro bono* counsel to the Council for Religion in Independent Schools.

Over the years, I have volunteered at Martha's Table, Gospel Rescue Ministries and at Georgetown University Hospital during snow emergencies. I have sponsored a foster child in Guatemala through Childreach since 1996. Prior to becoming a judge, I was also active in raising money for Sidwell Friends School. I have done volunteer work at various functions at my children's schools. Finally, I have served as a mentor during the summers for Wellesley College students who were working as interns in D.C.

2. **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. Do you currently belong, or have you belonged, to any organization which discriminates – through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?**

I do not belong to any such organizations.

3. **Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).**

I submitted an application to Congresswoman Norton's D.C. Federal Judicial Nominating Commission. The Commission is composed of 17 lawyers and members of the community. After reviewing my application, the Commission interviewed me and then recommended me, along with three other candidates, to Congresswoman Eleanor Holmes Norton. She interviewed the four candidates and recommended me for nomination by the President to be a federal judge. Thereafter, I was also interviewed by representatives of the Department of Justice. I was then interviewed and investigated by the FBI and the American Bar Association.

4. **Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.**

No.

5. **Please discuss your views on the following criticism involving "judicial activism."**

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. **A tendency by the judiciary toward problem-solution rather than grievance-resolution;**
- b. **A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;**
- c. **A tendency by the judiciary to impose broad, affirmative duties upon governments and society;**

- d. **A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and**
- e. **A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.**

A federal judge should avoid the types of judicial activism described in this question. The role of a judge is properly limited to interpreting and applying the United States Constitution, legislative enactments and governing judicial precedent. A judge should also respect the Constitution's mandated separation of powers and not usurp the powers which are within the province of our duly elected representatives. In particular, a district court judge must be vigilant to interpret statutes as intended by the Congress and to apply governing precedent established by the Supreme Court regarding issues involving standing, ripeness and the interpretation of the Constitution and statutes. Only upon a clear finding of constitutional or statutory violation may a court undertake to impose duties upon parties to redress these violations.

In this regard, I find the views expressed by Judge Learned Hand to be a useful admonition:

"[T]he judge must always remember that he should go no further than he is sure the government would have gone, had it been faced with the case before him. If he is in doubt, he must stop, for he cannot tell that the conflicting interests in the society for which he speaks would have come to a just result, even though he is sure that he knows what the result should be. He is not to substitute even his juster will for theirs; otherwise it would not be the common will which prevails, and to that extent the people will not govern."

L. Hand, "How Far Is A Judge Free In Rendering A Decision?" Speech presented on May 14, 1933, reprinted in *The Spirit of Liberty, Papers and Addresses of Learned Hand*. ed. I Dillard (New York: Alfred Knopf, 1953) at 109.

AO-10 (w)
Rev. 1/98

FINANCIAL DISCLOSURE REPORT
Nomination Report

Report Required by the Ethics Reform Act of 1989, Pub. L. No. 101-194, November 30, 1989 (5 U.S.C. App. 4, Sec. 101-112)

1. Person Reporting (Last name, first, middle initial) Huvelle, Ellen S.	2. Court or Organization U.S. District Court of D.C.	3. Date of Report 03/26/1999
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge -- Nominee	5. Report Type (check type) X Nomination, Date 03/25/1999 Initial Annual Final	6. Reporting Period 01/01/1997 to 02/28/1999
7. Chambers or Office Address 500 Indiana Avenue Chambers 2520 Washington, D.C. 20001	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	

IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each section where you have no reportable information. Sign on the last page.

I. POSITIONS (Reporting individual only; see pp. 9-13 of Instructions)

POSITION	NAME OF ORGANIZATION / ENTITY
<input checked="" type="checkbox"/> NONE (No reportable positions.)	
1	
2	
3	

II. AGREEMENTS (Reporting individual only; see pp. 14-16 of Instructions)

DATE	PARTIES AND TERMS
<input checked="" type="checkbox"/> NONE (No reportable agreements.)	
1	
2	
3	

III. NON-INVESTMENT INCOME (Reporting individual and spouse; see pp. 17-24 of Instructions)

DATE	SOURCE AND TYPE	GROSS INCOME (yours, not spouse's)
<input checked="" type="checkbox"/> NONE (No reportable non-investment income.)		
1 1997-99	District of Columbia Superior Court Judge	\$ 301,230.00
2 1997-99	University of Virginia School of Law -- Lecturer of Trial Advocacy, Spring semesters.	\$ 9,500.00
3 1997-99	Covington & Burling -- Law Partner (S)	
4		

FINANCIAL DISCLOSURE REPORT	Name of Person Reporting	Date of Report
	Huvelle, Ellen S.	03/26/1999

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate reportable reimbursements received by spouse and dependent children, respectively. See pp. 25-28 of Instructions.)

	SOURCE	DESCRIPTION
	NONE (No such reportable reimbursements.)	
1	Exempt.	
2		
3		
4		
5		
6		
7		

V. GIFTS

(Includes those to spouse and dependent children; use the parentheticals "(S)" and "(DC)" to indicate gifts received by spouse and dependent children, respectively. See pp. 29-32 of Instructions.)

	SOURCE	DESCRIPTION	VALUE
	NONE (No such reportable gifts.)		
1	Exempt.		
2			
3			

VI. LIABILITIES

(Includes those of spouse and dependent children; indicate where applicable, person responsible for liability by using the parenthetical "(S)" for separate liability of the spouse, "(J)" for joint liability of reporting individual and spouse, and "(DC)" for liability of a dependent child. See pp. 33-35 of Instructions.)

	CREDITOR	DESCRIPTION	VALUE CODE*
	NONE (No reportable liabilities.)		
1	<input checked="" type="checkbox"/>		
2			
3			
4			
5			
6			

* VAL CODES: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001 to \$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000
 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Huvelle, Ellen S. Date of Report: 03/26/1999

VII. Page 1 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount (A-H)	(2) Type Code (e.g., dividend, rent or interest)	(1) Value (I-P)	(2) Value Method (Q-W)	Exempt				
					If not exempt from disclosure				
				(1) Type	(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income, assets, or transactions.)									
1 AIM International Fund	A	Dividend	P2	T					
2 Alliance North American Government Fund	D	Dividend							
3 CRT Government Securities Money Market Fund	C	Interest							
4 Morgan Stanley Dean Witter Active Assets Account	C	Interest	M	T					
5 Franklin Small Cap Growth Fund	A	Dividend	J	T					
6 Kemper-Dreman High Return Equity Fund	A	Dividend	J	T					
7 MFS Municipal Bond Fund	C	Dividend	K	T					
8 MFS Total Return Fund	F	Dividend	L	T					
9 Putnam International New-Opportunities Fund	C	Dividend	K	T					
10 Nuveen Municipal Value Fund	B	Interest	K	T					
11 Alliance Quasar Fund	B	Dividend	K	T					
12 Templeton Developing Markets Fund	C	Dividend	K	T					
13 America On-line		None	K	T					
14 Fleet Financial Group Inc.	A	Dividend	J	T					
15 Omega Healthcare Inc.	A	Dividend	J	T					
16 AXA-UPA		None	J	T					
17 Lucent Technologies		None	J	T					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I2=\$5,000,001 or more E=\$15,001-\$50,000

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

Name of Person Reporting		Date of Report								
Huvelle, Ellen S.		03/26/1999								
FINANCIAL DISCLOSURE REPORT										
VII. Page 2 INVESTMENTS and TRUSTS -- income, value, transactions <i>(Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)</i>										
A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method (Q-W)	Exempt					
					If not exempt from disclosure					
					(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)		
NONE (No reportable income, assets, or transactions.)										
18 FDX Corporation		None	J	T						
19 Omega Worldwide Inc.		None	J	T						
20 Coatsville PA School District 5.8% due 1/15/99	B	Interest								
21 Escondido California 3.75% due 7/1/04	A	Interest	K	T						
22 Lancaster PA 5.4% due 5/1/13	C	Interest	K	T						
23 Montgomery County MD Education 6.125% due 6/1/14	C	Interest	K	T						
24 Prince William Co. VA 6.5% due 7/1/21	B	Interest	K	T						
25 Bordentown NJ Sewer 7.00% due 12/1/05	B	Interest	J	T						
26 Philadelphia PA Hospital 5.25% due 2/15/14	C	Interest	K	T						
27 US Treasury Strips Interest Payments due 8/15/15	B	Interest								
28 US Treasury Strip due 5/15/21	C	Interest	J	T						
29 American Express Co.	A	Dividend	J	T						
30 U.S. Treasury Strips Interest Payments due 8/15/15	B	Interest	J	T						
31 Browning Ferris	A	Dividend	J	T						
32 Browning Ferris ACES	A	Dividend								
33 Walt Disney Co. Holding Co.		None	J	T						
34 Rochester Gas & Electric	A	Dividend	J	T						
1 Inc./Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000		B=\$1,001-\$2,500 G=\$100,001-\$1,000,000		C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000		D=\$5,001-\$15,000 H2=\$5,000,001 or more		E=\$15,001-\$50,000		
2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000		K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000		L=\$50,001-\$100,000 P2=\$5,000,001-\$25,000,000		M=\$100,001-\$250,000 P3=\$25,000,001-\$50,000,000		N=\$250,001-\$500,000 P4=\$50,000,001 or more		
3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value		R=Cost (real estate only) V=Other		S=Assessment W=Estimated		T=Cash/Market				

Name of Person Reporting: Huvelle, Ellen S. Date of Report: 03/26/1999

FINANCIAL DISCLOSURE REPORT (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

VII. Page 4 INVESTMENTS and TRUSTS -- income, value, transactions

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount (A-H)	(2) Type Code (e.g. dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method (Q-W)	Exempt				
					If not exempt from disclosure				
				(1)	(2)	(3)	(4)	(5)	
				Date	Value	Gain	Identity of		
				Month- Day	Code	Code	buyer/seller		
					(J-P)	(A-H)	(if private transaction)		
NONE (No reportable income, assets, or transactions.)									
52 Sony Corp XDR	A	Dividend	J	T					
53 Anne Arundell M-TIGRS due 8/1/04	C	Interest							
54 AT&T	A	Dividend							
55 Atlantic Richfield	A	Dividend							
56 Baker Hughes	A	Dividend							
57 Boeing	A	Dividend							
58 Citicorp Group	A	Dividend							
59 Washington Metro Airport Auth. 7.35% due 10/1/99	C	Interest							
60 Proctor & Gamble	A	Dividend							
61 Unilever PLC American Shares	A	Dividend							
62 Washington Metro Airport 5 1/2% due 1/1/06	B	Interest							
63 ARCO Exchange Notes Lyondell	A	Dividend							
64 Nationsbank	D	Dividend							
65 US Treasury Strips due 8/10	A	Interest							
66 U.S. Treasury Strips due 8/05	B	Interest							
67 West Virginia 8.6% due 2017	B	Interest							
68 AES Corp		None	J	T					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 E=\$15,001-\$50,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Huvelle, Ellen S. Date of Report: 03/26/1999

VII. Page 3 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount	(2) Type	(1) Value	(2) Value	Exempt					
	(A-H) Code	dividend, rent or interest	(J-P) Code	(Q-W) Code	(1) Type	If not exempt from disclosure				
					Date:	Value	Gain	Identity of		
					Month- Day	Code (J-P)	Code (A-H)	buyer/seller (if private transaction)		
NONE (No reportable income, assets, or transactions)										
35 SCANA Corp.	A	Dividend	J	T						
36 American Home Products	A	Dividend	J	T						
37 Chevron Corp.	A	Dividend								
38 Cisco Systems		None	J	T						
39 Computer Associates	A	Dividend								
40 Dupont	A	Dividend	J	T						
41 Emerson Electric	A	Dividend	J	T						
42 General Electric	A	Dividend	J	T						
43 Intel	A	Dividend	J	T						
44 Eli Lilly	A	Dividend	J	T						
45 Manulife North American Venture Annuity		None	M	T						
46 Microsoft		None	J	T						
47 Oracle Corp.		None	K	T						
48 Time Warner	A	Dividend	J	T						
49 Wal-Mart		None	J	T						
50 Williams Sonoma		None	J	T						
51 Schlumberger	A	Dividend	J	T						

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT Name of Person Reporting: Ruvelle, Ellen S. Date of Report: 03/26/1999

VII. Page 5 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value (J-P)	(2) Value (Q-W)	Exempt				
					If not exempt from disclosure				
				(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)	
NONE (No reportable income assets, or transactions.)									
69 Agouron Pharmaceutical (S)		None	J	T					
70 AIM Constellation Fund (S)	C	Dividend	K	T					
71 Allstate Corp. (S)	A	Dividend							
72 American Electric Power (S)	A	Dividend	J	T					
73 Apollo Group Inc. A (S)		None	J	T					
74 Bank of New York (S)	A	Dividend	J	T					
75 Cardinal Health Inc. (S)	A	Dividend	J	T					
76 Central Newspapers Inc. Class A (S)		None	J	T					
77 Coca Cola Enterprises (S)	A	Dividend	J	T					
78 CRT Tax Exempt Money Market Fund (S)	B	Interest							
79 Diageo PLC Sponsored PLC (S)	A	Dividend	J	T					
80 Dresser Industries (S)	A	Dividend							
81 Electron Data Systems Corp. (S)	A	Dividend							
82 EMC Corp. Mass (S)	D	Dividend	K	T					
83 Federated Government Income Securities Fund (S)	C	Dividend							
84 Fidelity Advisers Growth Opportunity Fund (S)	E	Dividend	M	T					
85 First Data Corp. (S)	A	Dividend							

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$15,001-\$50,000 E=\$15,001-\$50,000 J=\$50,001-\$100,000 F=\$50,001-\$100,000 K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

2 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

Name of Person Reporting: Huvelie, Ellen S. Date of Report: 03/26/1999

FINANCIAL DISCLOSURE REPORT
VII. Page 6 INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "X" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method (Q-W)	Exempt					
					(1) Type (e.g., buy, sell, partial sale, merger, redemption)	If not exempt from disclosure				
NONE (No reportable income, assets, or transactions)										
86 Franklin Small Cap Growth Fund (S)	A	Dividend	K	T						
87 Fremont General (S)		None	J	T						
88 General Nutrition (S)		None	J	T						
89 B.F. Goodrich (S)		None	J	T						
90 Great Atlantic & Pacific Tea Co. (S)		None	J	T						
91 Halliburton Company (S)	A	Dividend	K	T						
92 Jacor Communications (S)		None	J	T						
93 Lincoln National American Legacy II Annuity (S)		None	L	T						
94 MBIA Corp. (S)	C	Dividend								
95 MCI Communications (S)	C	Dividend								
96 Medtronic Inc. (S)	A	Dividend	J	T						
97 MSGW Active Asset Tax Free (S)	B	Interest	K	T						
98 News Corp. Ltd. Sponsored ADR (S)	A	Dividend	J	T						
99 Nuveen Municipal Bond Fund (S)	C	Interest	K	T						
100 Quintiles Transnational (S)		None	J	T						
101 Readers Digest Association (S)		None	J	T						
102 Schlumberger (S)		None	J	T						

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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 E=\$15,001-\$50,000 H2=\$5,000,001 or more

2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more

3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

VII. Page 7 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period Exempt If not exempt from disclosure				
	(1) Amount Code (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value Code (J-P)	(2) Value Method Code (Q-W)	(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date Month Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
103 Southwest Airlines (S)	A	Dividend	J	T					
104 Sun Microsystems (S)	D	Dividend	J	T					
105 Sunguard Data Systems (S)		None	J	T					
106 Templeton Foreign Fund (S)	E	Dividend	M	T					
107 Total SA Sponsored ADR (S)		None	J	T					
108 US Treasury Strips Principal Payments due 8/15/15 (S)	C	Interest	K	T					
109 Vintage Petroleum (S)		None	J	T					
110 Washington Gas Light (S)	A	Dividend	J	T					
111 Weatherford International (S)		None	J	T					
112 Werner Enterprises Inc. (S)		None	J	T					
113 US Treasury Strips Interest Payments due 8/04 (S)	A	Dividend							
114 Fidelity Ready Assets (JT)	E	Interest	M	T					
115 First Mercantile National Bank (JT)	E	Dividend							
116 Krupp Realty Limited Partnership (JT)	A	Rent	J	W					
117 Corporate Realty Limited Partnership (JT)	A	Rent	J	W					
118 1/3 interest in vacation home in Wellfleet, Mass (S)	C	Rent	M	W					
119 Greenwood at Cleveland Park LLC (JT) (restaurant)		None	J	W					

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Huvelle, Ellen S. Date of Report 03/26/1999

VII. Page 8 INVESTMENTS and TRUSTS - income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse. "(S)" for separate ownership by spouse. "(DC)" for ownership by dependent child.</i> <i>Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value (J-P)	(2) Value (Q-W)	Exempt				
					If not exempt from disclosure				
				(1) Type (e.g., buy, sell, partial sale, merger, redemption)	(2) Date Month- Day	(3) Value Gain	(4) Code (J-P)	(5) Code (A-H)	(6) Identity of buyer/seller (if private transaction)
NONE (No reportable income, assets, or transactions.)									
120 Covington & Burling (S) (law firm)	D	Interest	M	W					
121 Covington & Burling (S) (law firm)	C	Dividend	M	W					
122 Alliance Quasar (IRA)	A	Dividend	J	T					
123 Delaware Small Cap Value Fund (IRA)	C	Dividend	K	T					
124 Delaware DelCap Concept I Fund (IRA)	C	Dividend							
125 Alliance Quasar (S) (IRA)	A	Dividend	J	T					
126 Delaware Small Cap Value Fund (S) (IRA)	B	Dividend	K	T					
127 Delaware DelCap Concept I Fund (S) (IRA)	C	Dividend							
128 DC Retirement			K	T					
129 Williams & Connolly Profit Sharing Retirement Plan			N	T					
130 Williams & Connolly Retirement Savings Plan			N	T					
131 Vanguard Admiral Trsy Fund (S) (Cov. & Burling Retirement)	B	Interest	K	T					
132 Nations Prime Fund (S) (Cov. & Burling Retirement)	B	Dividend							
133 Vanguard Prime Money Market (S) (Cov & Burling Retirement)	B	Interest							
134 Vanguard Wellington Fund (S) (Cov. & Burling Retirement)	E	Dividend	N	T					
135 Vanguard S&P 500 Fund (S) (Cov. & Burling Retirement)	D	Dividend	N	T					
136 Brandywine Fund (S) (Cov. & Burling Retirement)	C	Dividend	M	T					
1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 E=\$15,001-\$50,000 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated									

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Huvelle, Ellen S. Date of Report 03/26/1999

VII. Page 9 INVESTMENTS and TRUSTS-- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions)

A. Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period					
	(1) Amount (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value (J-P)	(2) Value (Q-W)	Exempt					
						If not exempt from disclosure				
					(2) Date Month- Day	(3) Value Code (J-P)	(4) Gain Code (A-H)	(5) Identity of buyer/seller (if private transaction)		
NONE (No reportable income, assets, or transactions.)										
137 Scudder Global (S) (Covington & Burling Retirement)	B	Dividend								
138 MSDW Active Assets Tax Exempt Money Market Fund (DC)	B	Interest	J	T						
139 Certificates of Accrual Series L due 5/15/00 (DC)	A	Dividend	J	T						
140 Bell Atlantic (DC)	A	Dividend	K	T						
141 Bell South (DC)	B	Dividend	L	T						
142 CRT Tax Exempt Money Market Fund (DC)	A	Dividend								
143 Disney Corp. (DC)	A	Dividend	K	T						
144 DPL Inc. (DC)	A	Dividend	J	T						
145 Edison International (DC)	A	Dividend	J	T						
146 EuroPacific Growth Fund (DC)	D	Dividend	L	T						
147 Exxon (DC)	A	Dividend	J	T						
148 General Electric (DC)	A	Dividend	K	T						
149 General Mills (DC)	A	Dividend	K	T						
150 Intel Corp. (DC)	A	Dividend	K	T						
151 International Business Machines (DC)	A	Dividend	K	T						
152 MFS Emerging Growth Fund (DC)	A	Dividend	J	T						
153 Pacificorp (DC)	A	Dividend	J	T						

1 Inc/Gain Codes: A=\$1,000 or less (Col. B1, D4) 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=\$5,000,001 or more E=\$15,001-\$50,000 F=\$50,001-\$100,000
 2 Val Codes: J=\$15,000 or less K=\$15,001-\$50,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 (Col. C1, D3) O=\$500,001-\$1,000,000 P1=\$1,000,001-\$5,000,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal R=Cost (real estate only) S=Assessment T=Cash/Market (Col. C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT Name of Person Reporting Huvelle, Ellen S. Date of Report 03/26/1999

VII. Page 10 INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children. See pp. 36-54 of Instructions.)

A Description of Assets <i>Indicate where applicable, owner of the asset by using the parenthetical "(J)" for joint ownership of reporting individual and spouse, "(S)" for separate ownership by spouse, "(DC)" for ownership by dependent child. Place "(X)" after each asset exempt from prior disclosure.</i>	B Income during reporting period		C Gross value at end of reporting period		D Transactions during reporting period					
	(1) Amount (A-H)	(2) Type (e.g., dividend, rent or interest)	(1) Value (I-P)	(2) Value (Q-W)	Exempt If not exempt from disclosure (2) (3) (4) (5) Date: Value Gain Identity of Month- Code Code buyer/seller Day (J-P) (A-H) (if private transaction)					
NONE (No reportable income, assets, or transactions.)										
154 Pfizer (DC)	A	Dividend	K	T						
155 Washington Mutual Investors Fund (DC)	E	Dividend	M	T						
156 CBS Corporation (DC)	A	Dividend	J	T						
157										
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170										

1 Inc./Gain Codes: A=\$1,000 or less (Col. B1, D4) F=\$50,001-\$100,000 B=\$1,001-\$2,500 G=\$100,001-\$1,000,000 C=\$2,501-\$5,000 H=\$1,000,001-\$5,000,000 D=\$5,001-\$15,000 I=\$5,000,001 or more E=\$15,001-\$50,000
 2 Val Codes: J=\$15,000 or less (Col. C1, D3) O=\$500,001-\$1,000,000 K=\$15,001-\$50,000 P1=\$1,000,001-\$5,000,000 L=\$50,001-\$100,000 M=\$100,001-\$250,000 N=\$250,001-\$500,000 P2=\$5,000,001-\$25,000,000 P3=\$25,000,001-\$50,000,000 P4=\$50,000,001 or more
 3 Val Mth Codes: Q=Appraisal (Col. C2) U=Book Value R=Cost (real estate only) V=Other S=Assessment W=Estimated T=Cash/Market

	Name of Person Reporting	Date of Report
FINANCIAL DISCLOSURE REPORT	Huvelle, Ellen S.	03/26/1999

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

DC Retirement only reports the gross value. I have no way of determining the relevant income.

Williams & Connolly Retirement Plans only report the gross value. I have no way of determining the relevant income.

	Name of Person Reporting	Date of Report
FINANCIAL DISCLOSURE REPORT	Huvelle, Ellen S.	03/26/1999

IX. CERTIFICATION

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

I certify that all the 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. 4, section 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature Ellen S. Huvelle Date 3/26/99
Harbert C. Robinson My Commission Expires October 31, 1999
 Harbert C. Robinson

Note: Any individual who knowingly and wilfully falsifies or fails to file this report may be subject to civil and criminal sanctions (5 U.S.C. App. 4, Section 104).

FILING INSTRUCTIONS

Mail original and three additional copies to:

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

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Financial Statement
 Net Worth
 Ellen Segal Huvelle
 dated 7 January 1999

ASSETS		LIABILITIES	
Cash on hand and in banks (see schedule A)	502,763	Notes Payable to banks - secured	0
US Government Securities (see schedule C)	67,625	Notes Payable to banks - unsecured	0
US Securities & Mutual Funds (see schedule D)	579,525	Notes Payable to relatives	0
Unlisted Securities - add schedule	0	Notes Payable to others	0
Accounts & notes receivable	0	Accounts & bills due (see schedule L)	11,223
Due from relatives & friends	0	Unpaid income tax	0
Due from others	0	Other unpaid tax and interest	0
Doubtful	0	Real estate mortgages payable (see schedule M)	218,000
Real Estate owned (see schedule H)	816,667	Chattel mortgages & other liens payable	0
Miscellaneous Assets (see schedule I)	113,000	Other debts - itemize	0
Autos & other personal property (see schedule J)	122,500	Total Liabilities	229,223
Cash Value Life Insurance (see schedule K)	72,500		
Other assets - itemize:	0	Net Worth	5,232,583
Municipal Bonds (see schedule B)	236,203	Total Liabilities & Net Worth	\$5,458,201
Variable Annuities (see schedule E)	249,790		
Foreign Securities & Mutual Funds (see schedule F)	280,791	GENERAL INFORMATION	
Retirement Assets (see schedule G)	1,704,572	Are any assets pledged?	No
Total Assets	5,458,201	Are you defendant in any suits or legal actions	No
		Have you ever taken bankruptcy?	No
CONTINGENT LIABILITIES			
As endorser, co-maker or guarantor	0		
On leases or contracts	0		
Legal claims	0		
Provision for Federal Income Tax	0		
Other special debt	0		

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SCHEDULE A

	VALUE	TOTALS
CASH		\$502,763
JOINT		180,000
Fidelity Ultra Service Account	178,000	
First Union	2,000	
JEFF - 22343		22,107
Active Assets Tax Free	21,507	
Nationsbank	600	
ELLEN - 22346		104,417
Tax Exempt Money Market Fund	104,417	
JEFF IRA - 22342		86
Government Securities Money Market Fund	86	
ELLEN IRA - 22347		315
Government Securities Money Market Fund	315	
NICOLE UGMA - 22344		0
Tax Exempt Money Market Fund	0	
NICOLE		1,400
Crestar	400	
Bank of Boston	1,000	
JUSTIN UGMA - 22345		4,812
Tax Exempt Money Market Fund	3,877	
Certificates of Accrual Series L	935	
Treasury Securities Interest Payments		
0% due 05/15/00		
JUSTIN		1,700
Crestar	1,700	
JEFF'S COVINGTON & BURLING RETIREMENT PLAN		194,431
Vanguard Admiral Treasury Fund	44,868	
Vanguard Prime Fund	149,563	

SCHEDULE B

	VALUE	TOTALS
MUNICIPAL BONDS		\$ 236,203
ELLEN -- 22346		204,241
Coatesville Pennsylvania School District 5.800% due 01/15/99 Non-callable. AMBAC insured	10,013	
Prince William Co Water & Sewer Revenue Bonds 6.500% due 07/01/21 pre-refund 07/01/01 @ 102	16,294	
Escondido CA School District 3.7500% due 07/01/04 Non-callable	49,687	
Bordentown New Jersey Sewer Authority Bank Qualified. MBIA Insured 7.000% due 12/01/05 pre-refund 12/01/00 @ 100	10,663	
Lancaster County PA School District General Obligation FGIC Series 93 5.4% due 5/1/13	21,075	
Philadelphia PA Hosp & Higher Ed Pennsylvania Hospital 5.25% due 2/15/14	27,356	
Montgomery Co PA Higher Ed & Hosp Abington Memorial 6.125% due 6/1/14 callable 6/01/03	26,907	
MFS Municipal Bond Fund Class A	25,925	
Nuveen Municipal Value Fund	16,321	
JEFF -- 22343		31,962
Nuveen Municipal Fund		0
	31,962	

Schedule C

	VALUE	TOTALS
LONG TERM GOVERNMENT BONDS		\$ 67,625
ELLEN - 22346		18,135
US Treasury Strips Interest Payments 0% due 08/15/15	3,995	
US Treasury Strips Principal Payments 0% due 05/15/21	14,140	
JEFF - 22343		49,490
US Treasury Strips Principal Payments 0% due 05/15/21	49,490	

SCHEDULE D

	VALUE	TOTALS
DOMESTIC EQUITIES		\$541,597
ELLEN - 22346		313,079
MFS Total Return Fund	97,879	
Browning Ferris	5,480	
Fleet Financial Group	11,040	
Kemper Dreman High Return	7,267	
Omega Healthcare Investors Inc	5,900	
Omega Worldwide	251	
Rochester Gas & Electric Corp	5,952	
SCANA Corp	5,760	
American Express	5,181	
American Home Products	5,713	
America Online Inc.	14,900	
Chevron Corp	5,328	
Chubb Systems	1,188	
Cisco Systems	7,880	
Computer Associates	5,792	
E. I. Dupont DeNemours & Co	4,766	
Emerson Electric	5,407	
FDX Corporation	7,732	
General Electric	5,964	
Intel Corp	7,899	
Eli Lilly & Co	6,129	
Microsoft Corp	7,108	
Oracle Corporation	13,913	
Time Warner	7,056	
Wal Mart	1,405	
Williams Sonoma	14,750	
Franklin Small Cap Growth Fund	12,679	
Alliance Quasar Fund	32,760	

SCHEDULE D (page 2)

	VALUE	TOTALS
JEFF -- 22343		444,967
American Electric Power	9,910	
Fidelity Advisors Growth Opportunity Fund	206,906	
Washington Gas Light	5,150	
AES Corp	8,336	
Bank of New York	9,486	
Cardinal Health Inc	10,969	
Coca Cola Enterprises	7,459	
Diageo PLC Sponsored ADR	7,208	
EMC Corp	17,900	
Halliburton Company	15,692	
Medtronic Inc	8,913	
News Corp Ltd. Pref. Sponsored ADR	7,607	
Southwest Airlines Co	7,756	
Sun Microsystems	20,446	
Waste Management Inc,	1,947	
AIM Constellation Fund	42,118	
Agouron Pharmaceutical	1,669	
Central Newspapers Inc. Class A	1,699	
General Nutrition Co. Inc.	1,583	
Jacor Communications Inc.	1,810	
Precision Castparts	1,676	
Quintiles Transnational	9,350	
Sungard Data Systems Inc.	1,810	
Total SA Sponsored ADR	6,949	
Weatherford International Inc.	1,924	
Fremont General Corporation	1,649	
Franklin Small Cap Growth Fund	20,282	
BF Goodrich Co.	1,608	
Vintage Petroleum	1,801	
Reader's Digest Assoc	1,578	
Werner Enterprise Inc	1,776	

SCHEDULE D (page 3)

	VALUE	TOTALS
NICOLE UGMA --22344		161,969
Bell Atlantic Corp	15,289	
Exxon Corp	4,567	
Washington Mutual Investors Fund	130,199	
Intel Corp	11,914	
NICOLE -- 22759		64,032
CBS Corporation	6,525	
Edison International	2,800	
DPL Inc	2,163	
Walt Disney Corp	18,525	
Exxon	2,995	
General Electric	10,462	
General Mills	7,937	
Pfizer	12,625	
JUSTIN -- 22345		243,717
Bell South Corp	64,845	
PacifiCorp	5,240	
Washington Mutual Investors Fund	96,508	
International Business Machines	40,833	
Walt Disney Corp	18,525	
Intel Corp	11,914	
MFS Emerging Growth Fund Class A	5,852	
JUSTIN		64,032
CBS Corporation	6,525	
Edison International	2,800	
DPL Inc	2,163	
Walt Disney Corp	18,525	
Exxon	2,995	
General Electric	10,462	
General Mills	7,937	
Pfizer	12,625	

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SCHEDULE E

	VALUE	TOTALS
JEFF VARIABLE ANNUITY -- 95-5883307		131,029
American Legacy II	131,029	
ELLEN - VENTURE ANNUITY -- 000857486		118,761
Fidelity Moderate Asset Allocation	118,761	

SCHEDULE F

	VALUE	TOTALS
Ellen -- 22346		\$ 107,357
AIM International Fund	6,496	
AXA-UAP	6,768	
Schlumberger	4,817	
Sony Corp ADR 1974 New	4,489	
Unilever PLC American Shares	5,921	
Putnam International New Opportunities Fund	45,372	
Templeton Developing Markets Fund	33,494	
Jeff -- 22343		118,587
Schlumberger Ltd.	1,742	
Templeton Foreign Fund 4930422943	116,845	
NICOLE UGMA --22344		27,222
EuroPacific Growth Fund	27,222	
JUSTIN -- 22345		27,625
EuroPacific Growth Fund	27,625	

SCHEDULE G

	VALUE	TOTALS
ELLEN VESTED RETIREMENT BENEFITS		712,265
DC Superior Court	38,275	
Williams & Connolly	673,990	
ELLEN IRA - 22347		53,735
Alliance Quasar Fund	12,547	
Delaware Small Cap Value Fund	41,188	
JEFF IRA -- 22342		38,912
Alliance Quasar Fund	5,547	
Delaware Small Cap Value Fund	27,845	
JEFF'S COVINGTON & BURLING RETIREMENT PLAN		899,660
Vanguard Wellington Fund	324,957	
Vanguard S&P 500 Fund	429,786	
Brandywine	144,917	

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SCHEDULE H

	VALUE	TOTALS
Joint		650,000
Corporate Income I LP	15,000	
Krupp Realty III LP	10,000	
Personal Residence	625,000	
Jeff		166,667
1/3 interest in vacation home in Wellfleet, MA	166,667	

SCHEDULE I

	VALUE	TOTALS
Joint		3,000
Greenwood at Cleveland Park LLC	3,000	
Jeff		110,000
Covington & Burling Capital Account	110,000	

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SCHEDULE J

	VALUE	TOTALS
Autos		44,000
99 Jetta	18,000	
95 Jeep Cherokee	17,000	
90 Saab	9,000	
Personal Peroperty		78,500

SCHEDULE K

Jeff - Pacific Life Insurance Cash Value \$72,500

SCHEDULE L

US Bank credit card \$2,814
Nationsbank credit card \$8,409

SCHEDULE M

Home mortgage w/ Marine Midland \$218,000