

S. HRG. 118–29, Part 12

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

NOVEMBER 15, 2023

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CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

WEDNESDAY, NOVEMBER 15, 2023

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

The Committee met, pursuant to notice, at 10:04 a.m., in Room 226, Dirksen Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Hirono, Padilla, Graham, Grassley, Lee, Kennedy, and Tillis.

Also present: Senator Lankford and Delegate Sablan.

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chair DURBIN. This hearing of the Senate Judiciary Committee will come to order.

Today, we'll hear from three judicial nominees: Sara Hill, nominated to the U.S. District Court for the Northern District of Oklahoma; John Russell, also nominated to the U.S. District Court for the Northern District of Oklahoma; and Judge Ramona Manglona, nominated to serve a second 10-year term on the U.S. District Court for the Northern Mariana Islands. Congratulations to the nominees, and their families.

Before I turn to Ranking Member Graham, I want to note that Ms. Hill and Mr. Russell each have received blue slips from both Republican home State Senators, Senators Lankford, who is with us today, and Senator Mullin. I thank the Senators for working with the White House in good faith to fill these vacancies, and thank all the other Members on the Republican side who are doing the same. We are seeing similar progress in many States, and it is encouraging.

Now, I'll turn to Senator Graham for opening remarks.

OPENING STATEMENT OF HON. LINDSEY O. GRAHAM, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator GRAHAM. Thank you, Mr. Chairman.

I want to compliment my colleagues from Oklahoma, also, and, you know, trying to make the process work the best we can.

The bottom line, we're about to leave and the Supplemental will not be passed. I think the Government will be funded, but with wars raging in Israel, and they rage in Ukraine, and we have a broken border. So I'm hoping that we can find a way forward when

we get back to help our allies who are in distress, but also to help ourselves.

And the key to all this, Mr. Chairman, is getting a border solution that would deter people from coming. At the end of the day, if people feel like they can come here, get released, and never get deported, they'll keep coming.

So I've got a simple goal: Turn the system around to deter people so we make some order out of chaos, and I think that's the key to this package. And Senator Lankford's been working on it, and I appreciate all he has done. So, thank you.

Chair DURBIN. Senator Graham, you and I have been working on this issue for at least 10 years, maybe longer.

Senator GRAHAM. Longer.

Chair DURBIN. It's been 30 years since Congress has done anything substantive in this area. I think we all agree on both sides of the aisle that something needs to be done to bring order to our border situation. I hope that we can achieve that, and I think that there's a spirit of good will, which I've discussed with Senator Lankford yesterday, that can lead to that.

But I also hope we understand, as well, that trying to do it all before we provide critical aid to Israel, and to Ukraine, and humanitarian aid, may be an agenda that is not—is overly ambitious. We'll see. Let's keep a positive attitude toward it and hope that we can get this done in a thoughtful fashion.

First, let me introduce Senator Lankford, from Oklahoma.

**STATEMENT OF HON. JAMES LANKFORD,
A U.S. SENATOR FROM THE STATE OF OKLAHOMA**

Senator LANKFORD. Mr. Chairman, thank you, Ranking Member Graham, thank you so much for your time, and for the opportunity to be able to introduce Sara Hill and John Russell today to the Judiciary Committee. These are some outstanding Oklahomans that I think you'll enjoy some spirited conversation with to go through, and will have no doubt that they'll be able to answer your questions fully and completely.

I also appreciate the Committee's sufficient processing of these two nominees. At the moment, the Northern District of Oklahoma has one full-time judge, and then we have a second judge that is split between our three districts.

To give you a context on this, they have about 500 cases in their backlog right now in the Northern District of Oklahoma, based in the wake of the *McGirt* decision from several years ago, and the overwhelming number of cases that are then coming that direction.

The Northern District now no longer does civil cases at all. At all. So the civil case backlog has backed up for years because there's not enough judges to actually fulfill the civil cases. So they're doing the criminal cases right now and trying to be able to do everything they can to catch up. So the need there for the additional judges is incredibly significant for them.

Between 2020 and 2021, there was a 66 percent increase in criminal cases filed in the Northern District. Between 2021 and 2022, there was an additional 28 percent increase. Due to this massive increase in criminal cases and the need to ensure constitu-

tional rights to a speedy trial, the civil cases have not been heard, as I mentioned before.

So, we need to be able to get additional judges, so we've gone through this process. Every person who becomes a Federal judge swears an oath that states, in part, that they will "administer justice without respect to persons, and ... will faithfully and impartially discharge and perform all the duties incumbent upon" them "as a judge under the Constitution and laws of the United States."

In reviewing potential nominees, it's important to me that I believe every person who will be a judge in my State will follow that oath, and I have no doubt these two nominees will consider that process. We have a very rigorous process of interview in my State as we work through this, and as the Chairman mentioned, this has to be an agreement between both Senators in Oklahoma and the White House.

And as I would tell you that both Senators from Oklahoma and the White House don't agree on a lot of things, but we do have to find common ground to be able to work on things together. And we have gone through a rigorous process over the course of the last year to be able to come with two incredibly well-qualified candidates.

John Russell lives in Tulsa. He received his bachelor's degree from Oklahoma State University, graduated from the University of Oklahoma College of Law in 1988 with distinction.

John is a husband, a father to three daughters, and has two granddaughters. Here to support him today is his wife, Karen, his daughters, Emily and Allison, and his sister, Hope, which I hope he'll spend some time actually introducing them more completely.

John has significant experience in both public and private. He began his career as a trial attorney in the Tax Division of the Department of Justice. He's prosecuted and defended civil tax cases on behalf of the United States, and was named an outstanding attorney. He served as an assistant United States attorney for 7 years before moving to private practice, and he currently practices at GableGotwals in Tulsa.

One thing that stood out to me about John is also his dedication to serving the community, his volunteer in his pro bono time. He's been named one of Oklahoma's Super Lawyers from 2016 to 2022. He's been listed in Oklahoma's Top 50 lawyers in 2013, 2015, 2021, and 2022. I have no doubt, based on the respect that he has in our State, that he'll also be a highly competent and an excellent judge, and I recommend his nomination.

Sara Hill is the second nominee we have. She's from Tahlequah, Oklahoma, as the former attorney general for the Cherokee Nation of Oklahoma. If confirmed, she'll be the first Native American woman to serve on the Federal bench from Oklahoma.

Sara's joined today by her husband, Jerry; her sister, Jennifer; the deputy principal chief of the Cherokee Nation, Bryan Warner; and the Cherokee Nation attorney general, Chad Harsha.

Sara's an exceptionally impressive nominee whose career in private practice and in public practice has focused on serving others. Before she became attorney general for the Cherokee Nation, Sara served as a special assistant United States attorney for the Northern District of Oklahoma.

Over the many years that my staff have worked with Sara, we have found her to be one of the smartest people in the room in just about any room she walks in.

She is highly respected in Tulsa for her legal knowledge and insight, and her ability to be able to not only discuss the law, but to be able to walk through complexities in the law.

When she speaks, even those who have a different legal opinion often listen and respect the argument that she makes. Her goal as an attorney has always been to bring level-headed perspective to the goal of building consensus, traits that will make an excellent judge.

I have no doubt that as a Federal judge, Sara will be guided by the United States Constitution, a document that she knows and respects. I am confident she will serve our State and our country extremely well, and I encourage her swift confirmation.

Thank you, Mr. Chairman.

Chair DURBIN. Senator Lankford, thank you for joining us today. I know you have a busy schedule, and we'll excuse you when you're ready to leave.

Senator LANKFORD. Thank you, Mr. Chairman.

Chair DURBIN. I'll next recognize Congressman Gregorio Sablan—I hope I pronounced your name correctly?

Delegate SABLAN. Yes, you did. Thank you.

Chair DURBIN. Please proceed.

**STATEMENT OF HON. GREGORIO SABLAN, A U.S. DELEGATE
FROM THE NORTHERN MARIANA ISLANDS**

Delegate SABLAN. Yes. Thank you very much, Chairman Durbin, and Ranking Member Graham, and Members of the Judiciary Committee. Good morning.

Thank you for this opportunity to support the nomination of Ramona Villagomez Manglona to a second 10-year term as chief judge for the United States District Court for the Northern Mariana Islands.

As the sole elected representative of the Marianas in the United States Congress, I supported the nomination and confirmation of Judge Manglona when the seat opened on the Federal bench in 2009. Previously, the position had been held by men not from the Marianas.

I believe with the growing political maturity of our islands, manifested that year by my own election as the first representative of the Marianas in Congress, the time has come to fill the Federal district court seat with a qualified individual from our islands.

President Obama and the United States Senate concurred.

Now, President Biden has confirmed the validity of that decision by nominating Judge Manglona to serve a second 10-year term.

Judge Manglona has proven to be an impartial and thoughtful jurist, and has become a respected member of the Federal judiciary. During her tenure, she has participated in hundreds of cases and always exhibited a deep respect for the United States Constitution and the rule of law.

As a trailblazing first woman and first person of Chamorro descent to sit on the Federal bench in the Marianas, Judge Manglona has demonstrated that neither attribute is an impediment to excel-

lence, nor to the faithful execution of her duty to maintain the integrity of the law.

You have before you Judge Manglona's record of decision-making. So let me speak to how she has used her position to contribute to the Marianas community.

She has hosted multiple outreach programs for emerging leaders: the High School Mock Trial program, the local Judiciary's Law and the Freshman Legislature Conference, the Girl Scouts Justice Patch program, and the Pacific Century Fellows. And just last week, Judge Manglona has become a grandmother. So, happy times for her.

Judge Manglona's commitment to her community is particularly commendable in view of the two modes of the two super typhoons just 3 years apart and the global pandemic. While maintaining court operations under these difficult circumstances, she also managed to coordinate the transition to a new Federal courthouse, and she found the bandwidth to establish the district's first evidence-based drug court program.

No wonder Judge Manglona, along with her superb team, received a 2019 Director's Award for Extraordinary Actions from the Administrative Office of the United States Courts. No wonder USA Today recognized Judge Manglona as a "Woman of the Century" from the United States Territories. No wonder the American Bar Association Standing Committee on the Federal Judiciary reached the unanimous finding that Chief Judge Manglona is "well qualified" to serve on the United States District Court for the Northern Mariana Islands.

And I may say, Mr. Chairman, and Ranking Member, and Senators, it is with this I speak for many others in our community when I say it is a sense of pride when we see a woman, or a person, one of us, sitting there as the U.S. district court judge for the Northern Marianas.

So, Mr. Chairman, and Members of the Committee, I respectfully ask you to agree Ramona Villagomez Manglona should continue to serve as the chief judge, and send your recommendation to the full Senate for confirmation. Thank you.

Chair DURBIN. Thank you, Congressman. We appreciate your being here today.

Delegate SABLAN. Thank you very much.

Chair DURBIN. Now we're going to ask the nominees to approach the table and stand by their chairs for a moment while we administer the oath.

[Witnesses are sworn in.]

Let the record reflect that all three nominees have answered in the affirmative. And Ms. Hill, you'll be the first to proceed with 5 minutes, and each will have that opportunity. Ms. Hill.

STATEMENT OF SARA E. HILL, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA

Ms. HILL. Chair Durbin—

Chair DURBIN. You have to press the button on the console. There.

Ms. HILL. Thank you for that tip.

Chair DURBIN. Now you're in business.

Ms. HILL. Thank you, Chairman Durbin, and Ranking Member Graham. I appreciate the opportunity to appear before the Committee today. I'm also honored and humbled by the support of my State Senators, Senator Lankford, and my fellow Cherokee, Senator Markwayne Mullin. And I appreciate Senator Lankford's introduction here today. I want to express my appreciation to President Biden for the honor of a nomination to serve as a district judge in the Northern District of Oklahoma.

I would like to briefly introduce my parents who are watching me today from Tahlequah, Oklahoma. My father, Roy Hill, is a combat veteran who served with the 101st Airborne Division, and retired after a long career in public service working for the State of Oklahoma. My mother, a first generation college graduate, also retired from a career in public service. I am so very proud to be their daughter. I must also express gratitude for my son, Landon, a college sophomore at Northeastern State University, who is today in Tahlequah, keeping an eye on his grandparents who are hopefully also keeping an eye on him.

I would like to introduce some dear friends and family who have come with me in person today, including my sister, Jennifer Daniels; the deputy principal chief of the Cherokee Nation, Bryan Warner; attorney general of the Cherokee Nation, Chad Harsha. There are many other family, friends, and colleagues, both online and here today, who are supporting me, and I am grateful for all of them.

Last but certainly not least, I want to introduce my husband, Jerry Starkey, who stands with me today as he has stood with me for over 25 years. All of his family have made themselves my family, and I'm also incredibly grateful for my in-laws, Carol, Butch Daniels, Steven, and Tina.

In closing, I'd like to also take a moment to honor the continuing career of Judge Claire Eagan, who assumed senior status in the Northern District of Oklahoma in 2022. She was the first woman to become a district judge in that district, and it is an honor to be nominated to succeed her. I want to thank her for illuminating a path into the Federal judiciary for women in the Northern District. Thank you.

Chair DURBIN. Thank you, Ms. Hill. Mr. Russell.

**STATEMENT OF JOHN DAVID RUSSELL, NOMINEE TO SERVE
AS UNITED STATES DISTRICT JUDGE FOR THE NORTHERN
DISTRICT OF OKLAHOMA**

Mr. RUSSELL. Chairman Durbin, Ranking Member Graham, Members of the Judiciary Committee, thank you for scheduling this hearing. I want to thank President Biden for nominating me for one of the two vacancies in the Northern District of Oklahoma. It is an honor and a privilege to be nominated.

I want to thank my home State Senators, Senator Lankford and Senator Mullin, for establishing the committee to review applications, and for their recommendation of my nomination to the President. I particularly thank Senator Lankford for the warm introduction and kind remarks this morning.

I have too many people to thank, but I'm going to start with my family. And I have to say, I won the lottery when it comes to family. I would not have had the success in my career without their support. I want to particularly thank my wife, Karen, who is with me today. In 37 years of marriage, she has been my biggest supporter, pushing me to do my best and always having my back.

She gave up her career practicing law to raise our three daughters, and the great work she has done shows. You are the best. With me, too, is our oldest daughter, Dr. Emily Russell Levy, of Denver, Colorado, and our second daughter, Allison Russell Barton, of Tulsa. Our youngest daughter, Olivia Russell White, is at home in Tulsa with our two very perfect granddaughters, and they are watching remotely. I thank all three of our daughters and their husbands for their support.

I want to thank my parents, Paul and Patty Russell, who are back in Oklahoma watching online. My parents taught me the values of hard work and an education through their example. I want to thank my three sisters and their husbands.

My oldest sister, Hope Saunders is here with me today. My sisters, Allison Fuller and Susan Sharpe, are in Oklahoma watching online. I want to thank my mother-in-law, Stella Smith, watching from home, and my late father-in-law, Joe, watching from above. They have been unwavering supporters.

I want to thank the great lawyers and the support staff at my law firm, GableGotwals, for being great colleagues and their support through this process. I practice law with the best lawyers in Oklahoma, and I'm proud to be a part of that great firm.

Last, I'd like to thank the many great lawyers from whom I learned how to practice law. I will be forever grateful for their guidance. Mr. Chairman, I look forward to answering the Committee's questions. Thank you.

Chair DURBIN. Thank you, Mr. Russell. Judge Manglona.

**STATEMENT OF HON. RAMONA VILLAGOMEZ MANGLONA,
NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE
FOR THE DISTRICT COURT FOR THE NORTHERN MARIANA
ISLANDS**

Judge MANGLONA. Thank you, Chairman Durbin, Ranking Member Graham. Good morning. I would like to thank you, and the other Committee Members, for holding this hearing.

I am grateful and thankful to President Biden for nominating me to serve a second term as the sole district judge for the District Court for the Northern Mariana Islands. I am humbled by his decision to recommend that I continue serving in this judicial capacity.

I would like to also express my sincere appreciation, or, as we say in the Chamorro language, Un Dangkulu na si Yu'us Ma'ase, to Congressman Gregorio Kilili Sablan for his kind introduction and supporting my renomination.

There are family members joining us this morning who are excited to witness this confirmation process in person: my loving and supportive husband of almost 34 years, John, who's here together with my two siblings, Patricia Patricia V. Cepeda, who flew in from Houston, and Thomas P. Villagomez, who made the long 10,000-mile journey all the way from Saipan; my nephew, Thomas Peter

Villagomez, from the Bay Area; and my grandnephew, Wally Wesley, who lives right here in the DC area.

My two children, Dencio and Savana, who were here with me in 2011 for my first nomination hearing, are unable to join us today. My daughter, Savana, just gave birth a week ago to our first grandchild, Kaia Jay Manglona Jefferson. Savana and her husband, Jalen Jefferson, are at their home in Sacramento, absorbing all the joys of parenthood.

My son, Dencio, is currently in Saipan, having just recently started a new job after obtaining his master's degree in public administration at American University just this prior May. He's saving his leave time to be able to travel to Sacramento and meet his niece, Kaya J., in December, when we all hope to be able to gather for the holidays.

My nephew, Thomas A. Mangloña, II, also wanted to be here in person, but is also back home covering all the regional news, including this story. It is 1 a.m., Thursday, tomorrow's Standard Time right now, and I believe my six other siblings, and their families, are viewing this event live stream.

My in-laws, Pres and Lee Torres, in Saipan, as well as Vincent and Benita Manglona on Guam, and their children, are also online. My brother, David, who was here with me in 2011, is online from Hawaii. So we have a broad group. And I also understand some of the district court staff back on Saipan, as well as Guam, where I usually sit by designation, are also tuning in, including my dear friend, Chief Judge Frances Tydingco-Gatewood of the District Court of Guam. Thank you all for showing your support, and I am grateful.

I thank the Committee for allowing me to make these introductions. And I look forward to answering your questions.

Chair DURBIN. Judge, thank you very much.

And we know the duration of the trip makes it a special sacrifice for you to be here, and we certainly appreciate you, and your family and friends who are in attendance, for making that sacrifice. I'm going to start the round of questioning. Five minutes for each Member.

Ms. Hill, most Members of Congress who have Tribal representation in their States understand this whole issue of Tribal sovereignty and the fact that you could have served as attorney general for the Cherokee Nation. Could you summarize, in a few sentences, the difference, or the challenge, that you faced with that responsibility?

Ms. HILL. Serving as attorney general of the Cherokee Nation, you know, is—post-*McGirt* especially, has been very challenging. There's been a great increase in the number of criminal cases that are being heard. Indian Tribes have jurisdiction over crimes committed by Indians across their Indian countries, so throughout the reservation of the Cherokee Nation, the Cherokee Nation has jurisdiction, and the office of the attorney general is responsible for prosecuting those. So, as the attorney general, it has been the responsibility, post-*McGirt*, to scale up that office in a way that—we're able to handle all the different cases that came to us.

And I think that, you know, that's something that for people who have Indian country in their districts are probably more familiar with that process. It may not be that familiar to other people.

Chair DURBIN. So your responsibility as district court judge is separate and apart from the Cherokee Nation?

Ms. HILL. Certainly. A district court judge for the United States is an entirely different job than the job of an advocate. As attorney general, of course, I was an advocate for the Tribe's legal position and for its rights. Like all attorneys, I would advocate on behalf of my client with every—all the intellect and all of the strategic thought I could put into it on behalf of the Nation.

For a Federal district judge, that is entirely a different job. The job is to look at all the cases that come before you impartially and fairly, and looking at everything on their own terms, and then applying the facts to the law. And it's a much different role entirely.

Chair DURBIN. Thank you very much.

Judge Manglona—I want to pronounce your name correctly. Is it Manglona?

Judge MANGLONA. Manglona. Yes, Manglona.

Chair DURBIN. Yes. Close now. You had a range of experience as a litigator and a jurist, and spent your legal career in the Northern Mariana Islands, including a previous appointment to the bench, to which you've been renominated.

I want to make a note of this fact that after the island was hit with devastating typhoons in 2015 and 2018, you kept the courthouse open to ensure the crucial work of the judiciary would not be interrupted. Your judicial chambers were awarded the 2019 Director's Award for Extraordinary Action from the Administrative Office of the U.S. Courts.

How have your experiences equipped you to continue serving that unique need in the Northern Marianas?

Judge MANGLONA. Senator, the two super typhoons that hit Saipan, with the distance to receiving the help, was truly challenging. I was very grateful for this board from the Administrative Office, as well as my neighboring district in Guam. As I mentioned, the experience that I've gone through made me stronger in regards to being creative in how to deal with challenges.

And I actually—from our initial experience in 2015, some of the other districts that then suffered other natural disasters in other parts of the country, were able to avail of some of the lessons that we learned. And I believe all this experience is going to ensure that, should there be another disaster or calamity, I will be so well prepared to maintain or keep the courthouse doors open to ensure that people's constitutional rights are still addressed.

Chair DURBIN. Well, congratulations to you on that effort.

Judge MANGLONA. Thank you.

Chair DURBIN. Mr. Russell, while reviewing your record, I noticed you've been representing U.S. purchasers in a putative class action against the manufacturer of a breast cancer drug called Herceptin. The plaintiffs in the suit contend the company falsely labeled vials of the drug so that the purchasers regularly receive less of the active ingredient than they thought they were receiving. Can you tell us about your work in that case and what specific claims the class is raising?

Mr. RUSSELL. Senator, the plaintiffs in that case, it's a putative class action—it's also a multi-district litigation case, and the claims are breach of warranty fraud. There are several different claims relating to the lack of Herceptin that is showing up in the vials over a historical period of time. And so the claims are that there were—the doctors' offices having to administer the Herceptin were required to open additional vials at cost and loss, in each time that they administered Herceptin to a breast cancer patient.

Chair DURBIN. I'm a little familiar with that issue because we've had the opposite be the case, as well. That drugs are put in containers far greater than necessary for the ordinary dosage, and many of these very expensive drugs end up being surplus and thrown away. So labeling, and handling, and bottling is a critical element in making sure that the American consumer is treated fairly.

Thank you very much. Senator Graham.

Senator GRAHAM. Thank you.

Yes. Ms. Hill, I think the Committee received a letter from the United—UKB, how do you say, the K—

Ms. HILL. Keetoowah.

Senator GRAHAM [continuing]. Okay—questioning your impartiality and your ability to serve. What would you say?

Ms. HILL. I would say, you know, certainly, there's been a fair amount of litigation between the Cherokee Nation and the United Keetoowah Band. And in that litigation, I represented my client to the best of my ability, which is my job and duty.

Certainly, taking on the role of Federal district judge is one that leaves behind the life of advocacy and embraces the job and the life of a jurist. One who takes the case that's before them, and looks at them fairly, impartially, and applies the law to the facts. And I understand very much that that's the job of the district judge and not to serve as an advocate.

Senator GRAHAM. Okay. Are you familiar with a—called a “corrupt bargain”—the allegation of a corrupt bargain between the Cherokee Federal and HHS concerning construction of a migrant detention center? Are you familiar with that?

Ms. HILL. I'm not. I'm familiar with the attempt to construct a migrant facility that—

Senator GRAHAM. But you had nothing to do with that?

Ms. HILL. No. That was done by Cherokee Nation businesses.

Senator GRAHAM. Okay. As an advocate for the Cherokee Nation, obviously you have to represent your client with vigor, and I think that's what all lawyers do. The two Senators speak very well of you. When it comes to the Dakota Pipeline, can you tell me your position regarding that?

Ms. HILL. So when the Dakota Access Pipeline was—when the dispute in Indian country arose with the Standing Rock Reservation, I was the Secretary of Natural Resources for the Cherokee Nation. The legislature, the elected leaders of the Cherokee Nation, passed resolutions in support of the Standing Rock Tribe. And so, as part of a delegation of the Cherokee Nation, you know, I participated in activities regarding that pipeline.

Senator GRAHAM. Okay. In terms of—do you have any particular bias against the fossil fuel industry?

Ms. HILL. I do not. I've worked—I think my record reflects that I've worked also with fossil fuel companies. When they are putting in infrastructure, things like pipelines, one of the things they have to deal with is trying to make sure they don't affect the various sites where there might be Tribal interests.

And so, working directly with those pipeline companies to make sure that they're cited properly, and in compliance with the law, is something that I've also done. So I've worked with companies that are also involved in fossil fuels. I do not believe I have any bias against them, and I think my record would reflect that.

Senator GRAHAM. Ma'am, how do you say your last name, again?

Judge MANGLONA. Manglona.

Senator GRAHAM. How long does it take to get from Saipan to here?

Judge MANGLONA. Twenty-four hours one way, door to door.

Senator GRAHAM. You said that very certain.

[Laughter.]

Senator GRAHAM. That's a long haul.

Judge MANGLONA. I've done it many times.

Senator GRAHAM. So you also have cases in Guam. Is that right?

Judge MANGLONA. Yes, I sit by designation.

Senator GRAHAM. Is there anything the Committee can do to, like, make your job easier?

Judge MANGLONA. Confirm me.

[Laughter.]

Senator GRAHAM. Yes. Good answer. I just assumed you had the job, so—yes, let me not jump over that part. You seem to be well qualified. Everybody listening back in Saipan, she's doing good.

Judge MANGLONA. Yes.

Senator GRAHAM. So, I mean, how do you really—I mean, how long does it take you to get to Guam?

Judge MANGLONA. Well, Saipan and Guam are in the same archipelago. So I just fly down. It's about a 30-minute flight. Unfortunately, airline is the only way. Boat is by days. And so we're in the same time zone. It makes it easier. There were the days when we would have three to five flights in a day. Nowadays, it's very restricted. So it does constrain.

But thank goodness for modern technology. In 2021, I presided over a 7-week trial where I was doing the trial in Guam and then handling my cases virtually in Saipan. So I can move things along.

Senator GRAHAM. Okay. Thank you, much.

Chair DURBIN. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman. Congratulations, to each of you.

I ask the following two foundational questions of nominees to—for any of the Committees on which I sit. So I'll start with Ms. Hill and go right down the line. Since you became a legal adult, have you ever made unwanted requests for sexual favors or committed any verbal or physical harassment or assault of a sexual nature?

Ms. HILL. No, Senator.

Mr. RUSSELL. No, Senator.

Judge MANGLONA. No, Senator.

Senator HIRONO. Have you ever faced discipline, or entered into a settlement, related to this kind of conduct?

Ms. HILL. No, Senator.

Mr. RUSSELL. No, Senator.

Judge MANGLONA. No, Senator.

Senator HIRONO. Ms. Hill, you have a long career working for the Cherokee Nation, most recently as attorney general. So I think that you will bring a unique perspective to the Federal bench. How has your experience working for the Cherokee Nation prepared you for an appointment to the Federal bench?

Ms. HILL. One of the good things about working for the Cherokee Nation, one of the things I have most enjoyed, was the opportunity to work with lots of different types of people. Working with State leaders on issues of common concern, working with the U.S. Attorney's Office in the Northern District to prosecute crime in Indian country.

So I've had an opportunity to work with lots of different types of individuals while working for the Cherokee Nation. It is the largest federally recognized Indian Tribe, and we have a very large reservation. So it's created lots of opportunities for me to learn to work with different people, and to learn the State very well. And to learn the law of lots of different topics, from laying pipelines and fossil fuels right up to criminal jurisdictional matters in Indian country.

So it's given me a breadth of experience that I think is going to be useful to a district judge in the Northern District of Oklahoma.

Senator HIRONO. I agree with you. And if confirmed, you'll be the first Native American woman to serve as a Federal judge in Oklahoma. Now, this Committee has had a hearing in which we are, I think, sending to the floor, I hope—yes, we are—the first Native Hawaiian woman to sit on the Federal bench.

So I think it's very important that we have judges who have the kind of perspective that has to do with our Native people. So, you know, I certainly look forward to supporting you.

Again, for you, in—I'm sorry, *McGirt v. Oklahoma*—the Supreme Court held that the State of Oklahoma lacked jurisdiction to prosecute Native Americans for crimes committed on Tribal land. Can you tell the Committee briefly about the process of setting up the Cherokee Nation's Criminal Division following that Supreme Court decision?

Ms. HILL. When that case was decided, the Cherokee Nation's criminal docket was pretty uneventful. It typically had about a hundred cases a year that we would hear, because most of them were serious crimes, were tried by the Northern District or the Eastern District.

Post-*McGirt*, that completely changed. The jurisdictional rules applied throughout the reservation. So we had, I think, around 3,700 matters, criminal and traffic matters, filed that first year post-*McGirt*.

So I had to go from one criminal prosecutor to nine full-time criminal prosecutors. And that sort of ramping up included support staff, investigators, all of those things that were required. So that process of, you know, building that up very quickly was something that I had to oversee as attorney general, and it was quite the effort.

But it was—you know, that's what the law required. The Nation's jurisdiction was larger than had previously been understood until the opinion in *McGirt v. Oklahoma*.

Senator HIRONO. Thank you.

Judge Manglona, since 2011, you have served as the sole active Federal district court judge in the Northern Mariana Islands. And as such, you performed the work of a chief judge, a magistrate judge, and a bankruptcy judge. You wear many hats. Can you tell us about the unique experience of being not only the chief judge, but also the only Federal judge in a district, and how has this experience informed your judicial approach?

Judge MANGLONA. Senator, it's been a wonderful challenge to be able to do all three areas of law. I'll be candid. The bankruptcy docket is not very vibrant right now, but there were instances where we'd have to do some novel issues. And, as I mentioned, I also sit by designation in Guam. So I assist in that district, and that's where I've also had additional experience, even presiding over bankruptcy cases.

Given the broad general jurisdiction experience that I had in the trial court for 8 years, I think it really prepared me to be able to do everything from beginning to end, as magistrate judges for criminal or civil matters, from criminal warrants, all the way to sentencing as a district judge.

So, I had that full experience, and I enjoy the full panoply. And I am so rewarded when I am also working with other district judges from either my neighboring district in Guam, or elsewhere, including Hawaii.

Senator HIRONO. Thank you.

Thank you, Mr. Chairman. And while I didn't have a question for you, Mr. Russell, I look forward to supporting you also.

Mr. RUSSELL. Thank you.

Chair DURBIN. Thank you, Senator. Senator Grassley.

Senator GRASSLEY. Yes, Ms. Hill, I'm going to start with you. You were for 4 years, until recently, attorney general, as we all know now. The Cherokee Nation has made contracts with the Federal Government for services related to unaccompanied alien children through tribally owned entities like Cherokee Federal.

And this is an issue because 85,000 children have been lost track of by this administration. According to Cherokee Nation law, one of the attorney general's duties is to prepare drafts of, quote, "contracts and other instruments in which the Cherokee Nation government is interested."

So, for you, do you agree that the Cherokee Nation government would have had an interest, as according to that law, in the multi-million dollar contract entered into between the U.S. Government and the Cherokee Federal tribally owned company?

Ms. HILL. I mean, the Cherokee Nation would have had the interest of a shareholder in Cherokee Federal, which is a business arm that's operated by the Nation. So it would have an interest—an interest in the company. Certainly, it's the owner of that company, but that company is operated separately from the government. So it has its own attorneys, it has its own infrastructure.

Senator GRASSLEY. So you're saying that where your law requires you and your duties as attorney general to prepare drafts, you're

saying you would not have been involved in preparing any of those drafts?

Ms. HILL. That's correct.

Senator GRASSLEY. Okay. As attorney general—well, maybe you've answered this last question. Let me ask you and then come to the conclusion if you've answered it or not. What was your, or your office's, role with respect to these contracts entered into between Cherokee Federal and the Federal Government related to unaccompanied children's services? Did you approve them? Did you observe them? And I think you just told me, you had nothing to do with these contracts.

Ms. HILL. I did not have anything to do with those contracts.

Senator GRASSLEY. Okay. This next question is—you may have the same answer, but it goes in a little different direction because maybe as attorney general, you'd hear about any problems.

Did you, or your office, receive any complaints related to Cherokee Federal's, or any other entity, handling unaccompanied alien children, and if so, what kind of complaints did you receive and how did you handle them?

Ms. HILL. I do not recall receiving any complaints about Cherokee Federal. The facility that—as I understand it, the facility that Cherokee Federal operated was in California. It was not a local facility, and I—so it wasn't on the reservation. It wasn't within the jurisdiction of the Cherokee Nation.

I don't recall ever receiving any complaints about it. I do recall there being a bit of controversy about it, but it was not as if I had a formal request for review, or anything like that, on my desk that I can recall, Senator.

Senator GRASSLEY. Okay. If there's anything you can supply to us about these complaints you heard, just hear them, not being involved with them, I'd like that information. You don't need to give it to me now, but you could give it to me in writing.

For all of you: Very general question, but do you believe that a judge should ever consider his or own values or policy preferences when determining what the law means or what the cases outcome should be, and if so, under what circumstances?

I'll start with you, Ms. Hill.

Ms. HILL. I don't believe that the personal values or personal, you know, policy preferences of the judge should affect the outcome. You know, the laws are written by Congress. The judges should look at what the law is, they should look at what the precedent is in the circuit that we serve in. But I don't think that overlaying your opinion about those things is appropriate.

Senator GRASSLEY. If it's ditto for you, you can just say that, Mr. Russell.

Mr. RUSSELL. The same. Personal values are not important. It's the rule of law.

Senator GRASSLEY. And you, Ms. Manglona?

Judge MANGLONA. I agree with my co-panelists.

Senator GRASSLEY. Okay. Maybe I will quit. I'll put the rest in for writing.

Chair DURBIN. Thank you, Senator Grassley. Senator Kennedy.

Senator KENNEDY. Thank you, Mr. Chairman. Congratulations, to each of you.

Ms. Hill, what is “collateral estoppel”?

Ms. HILL. Collateral estoppel. I think collateral estoppel—well, Senator, I will say that my practice—my 20 years of practice has primarily been dealing with issues relating to criminal law or relating to other areas of the law. And—

Senator KENNEDY. If you don’t know just tell me.

Ms. HILL. I certainly do know collateral estoppel. I’m finding that the bright lights of the moment are making it hard for me to recall it.

Senator KENNEDY. Okay. So you don’t recall it. Okay. What is the “amount in controversy” requirement?

Ms. HILL. The amount in controversy requirement is \$75,000, that typically governs, in many cases, almost any case, in diversity jurisdiction in the Federal courts—

Senator KENNEDY. Okay.

Ms. HILL [continuing]. And certain other—

Senator KENNEDY. That’s good. What does the Thirteenth Amendment to the Constitution do?

Ms. HILL. It outlaws slavery.

Senator KENNEDY. What does the Seventh Amendment do?

Ms. HILL. It ensures that all civil jury trials—that all civil cases in the United States are done by jury trial. That you have a right to a jury trial in a civil case.

Senator KENNEDY. Okay. What is the difference between a stay order and an injunction?

Ms. HILL. A stay order would prohibit—sorry. An injunction would restrain the parties from taking action. A stay order—I’m not sure that I actually can give you the—that.

Senator KENNEDY. Okay. Tell me about—you’ll see a lot of this in Federal court. Tell me about the multi-district litigation statute.

Ms. HILL. So I’m not extremely familiar with the multi-district litigation. I do know that multi-district litigation is often consolidated into a particular court.

So all of the cases involving a particular type of issue, if there is a multi-district litigation, those will all be referred to one court and one judge who will then oversee the MDL. But I will confess, I’m not super familiar with all the ins and outs of that.

Senator KENNEDY. Okay. What kind of constitutional claims are subject to intermediate judicial scrutiny?

Ms. HILL. Cases involving certain types of classes, such as gender or illegitimacy, are subject to intermediate scrutiny. Some types of speech, like commercial speech, would be subject to intermediate scrutiny.

Senator KENNEDY. Okay. Tell me what a 12(b)(6) motion is?

Ms. HILL. It’s a motion to dismiss a claim—or, I mean, motion to dismiss an issue for failure to state a claim.

Senator KENNEDY. Okay. And what’s the standard for granting a summary judgment in Federal court?

Ms. HILL. It’s if there are no issues of material fact, and that the issue can therefore be decided as a matter of law.

Senator KENNEDY. Okay. What’s the standard for deciding whether a particular punishment is cruel and unusual under the Eighth Amendment?

Ms. HILL. So the particular standard, the court has said, and I cannot recall the case, but it says that you have to look at not only whether it is—would be shocking to an individual—to the individuals at the time that it was written, so it's not purely a historical review, as some of them are purely historical, but also you have to look at how it has changed, how those values have changed with time. It's one of those cases—circumstances where the court says it's appropriate to look at how values have changed with time.

Senator KENNEDY. Okay. Well our right against cruel and unusual punishment is a fundamental right. Is it not?

Ms. HILL. It is.

Senator KENNEDY. Okay. How do you square what you just told me about the Eighth Amendment with the case, after case, after case, by the U.S. Supreme Court that says the definition of a fundamental right is one that's explicitly stated in the Constitution, or deeply rooted in our history and tradition?

Ms. HILL. Yes. I think that it is—I think it is deeply rooted in our history and tradition. The—

Senator KENNEDY. Yes, but, certain forms of punishment are not. If a form of punishment, it existed at the time of our founding, and it's deeply rooted in our history and tradition, you're telling me that makes it automatically constitutional today? I thought you just told me, no?

Ms. HILL. No. I'm certainly not saying that. The Supreme—I'm not. What I say is, about it, is really quite irrelevant, but the Supreme Court has said we look at it with a view to the changing values on these issues.

Senator KENNEDY. Why the difference? I thought—

Ms. HILL. Well, I—

Senator KENNEDY [continuing]. They're both fundamental rights. Why the difference?

Ms. HILL. Yes. I think that's a question that the Supreme Court's going to have to answer. Whether or not they have—

Senator KENNEDY. I think it has. I'm just asking if you know.

Ms. HILL. I think I've answered the question to the best of my ability, Senator.

Senator KENNEDY. Okay. Thank you, all.

Chair DURBIN. Senator Hawley can, if you return. Oh. I think that all the Senators have appeared who are going to question today.

Ms. Hill, I congratulate you on surviving the John Kennedy 6-minute bar exam.

[Laughter.]

Ms. HILL. My contracts teacher is going to be appalled, and—

[Laughter.]

Ms. HILL [continuing]. I'm going to have to live with that, Senator, but thank you—Chair, thank you.

Senator KENNEDY. [Speaking off microphone.]

[Laughter.]

Chair DURBIN. If you promise to spare Ms. Hill, I'll—

Senator KENNEDY. Did the White House give any of you any written materials to use to prepare?

Ms. HILL. They gave—

Senator KENNEDY. Or digital materials?

Ms. HILL [continuing]. They gave us, you know, questions—previous questions that had been asked by the panel.

Senator KENNEDY. And answers?

Ms. HILL. I think we had to go find the answers ourselves. I think we had to go watch——

Senator KENNEDY. Okay.

Ms. HILL [continuing]. The various——

Senator KENNEDY [continuing]. May I——

Ms. HILL [continuing]. Committees.

Senator KENNEDY [continuing]. Have a copy of that?

Ms. HILL. I don't have one, but I am sure that it's just—it is literally just a list of questions.

Mr. RUSSELL. I don't have a copy.

Judge MANGLONA. I don't have any of the copies.

Senator KENNEDY. Would you send me a copy? I'm easy to find. Would you send me a copy, Ms. Hill?

Ms. HILL. I will.

Senator KENNEDY. Okay. Would you each send me a copy?

Judge MANGLONA. Yes, Senator.

Senator KENNEDY. Then I can compare and make sure they're all the same. Okay. Thank you.

Chair DURBIN. Senator, can we have a copy of your list of questions to share with——

Senator KENNEDY. Sure.

Chair DURBIN [continuing]. Other Members?

Senator KENNEDY. I'll even give you the answers.

[Laughter.]

Chair DURBIN. It's like a bar review course.

Ms. HILL. Yes.

Chair DURBIN. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Thanks to all of you for being here.

Ms. Hill, I'd like to start with you, if that's all right. As you know, in 2020, in the *McGirt* case, the Supreme Court held that in unique circumstances, major crimes committed in Indian country can be prosecuted only by Tribal or Federal courts. This ruling removed the State's ability to prosecute those crimes in those circumstances.

Now, you strongly support the *McGirt* decision, and it's important to keep in mind that in *Oklahoma v. Castro-Huerta* in 2022, the Supreme Court clarified States retain the authority to prosecute non-Indians who commit crimes against others, even if those crimes take place in Indian country.

Now, in one of your many critiques of that decision, you called *Castro-Huerta*, quote, "a very negative decision." And you said that, quote, "Kavanaugh's opinion"—which, of course, was the opinion of the Court, "Kavanaugh's opinion, it was terrible."

To justify that critique, you came up with a hypothetical. A hypothetical in which you stated that, quote, "A non-Indian steals a car from an Indian, and that person can be prosecuted by the State. That person can also be prosecuted by the United States. They can be convicted twice for the same act, and serve two sentences." That was part of your critique.

My concern is that your critique here demonstrates a fundamental misunderstanding of how the Double Jeopardy Clause of the Fifth Amendment works. I think most first-year law students can tell you that double jeopardy prevents separate prosecutions for the same offense when those prosecutions are brought by the same sovereign.

A non-Indian who steals a car from a non-Indian, for example, in Utah, is properly subject to prosecution by both State and Federal authorities. By the State government, and by the Federal Government, because they are separate sovereigns in our system, just as in any other State in the United States.

State governments are unique. They're unique, independent sovereigns, separate and apart from the Federal Government. And the Federal Government is a completely different sovereign. This has been a line of authority. This has been a principle that's been clearly established ever since our Nation's inception, certainly ever since we adopted the Double Jeopardy Clause in 1791 as part of our Constitution.

So yes, *McGirt* represents—presents a unique set of circumstances. An Indian committing a crime against an Indian in Indian country, but nothing in the Constitution prevents a State from prosecuting a non-Indian for their crimes, regardless of who the victim is.

So, in your view, do you disagree with the characterization of double jeopardy, as I've just stated it. Do you disagree that the States are separate sovereigns from the Federal Government for purposes of the Double Jeopardy Clause?

Ms. HILL. I certainly don't disagree with that.

Senator LEE. And if confirmed, would you follow the majority opinion in *Oklahoma v. Castro-Huerta*?

Ms. HILL. I absolutely would. And given the practice that I've had, I've been following it for some time.

Senator LEE. Your apparent desire to remove the State's authority to prosecute non-Indian offenders would, in my view, only weaken law enforcement's ability to remove violent offenders from the streets.

And it's dangerous to place loyalty to any particular group over your loyalty to long-established principles of law or of the Constitution. So when—am I misreading your statement regarding *Castro-Huerta* or the hypothetical?

Ms. HILL. I think that the full context, maybe, is not really reflected there. The full context of my comments, I can say, certainly, I, on behalf of my client, I was critical of the decision in *Castro-Huerta* because it was a decision that had other ramifications in Indian law outside—

Senator LEE. Right. But I'm not talking about the other ramifications. I'm just talking about the—about double jeopardy here.

Ms. HILL. Right. I understand that. And the—but those ramifications, that was the—some of the context of my criticism of it. I certainly believe and understand that I'm required to follow—will be required to follow the law, if I'm so fortunate as to be confirmed to serve in the Northern District.

And I understand the distinctions that, you know, you have—if you have three sovereigns, that all three sovereigns could bring those claims and there would not be a double jeopardy issue.

Senator LEE. Okay. While you were—while serving as attorney general of the Cherokee Nation, did you state that you have—had no intent to enforce the law post-*Dobbs*?

Ms. HILL. I never said that.

Senator LEE. Did you, at any point, say, “I expect, and I think everyone expects, massive constitutional challenges to that law,” just for your awareness, referring to those laws?

Ms. HILL. I was not referring to *Dobbs*, that was the decision of the Court. I was talking about the Oklahoma law that had been passed relating to abortion, post the decision in *Dobbs*, and that that law was being challenged, had already been challenged, in the courts. There was—it was significantly newsworthy in Oklahoma at the time that the Oklahoma law was being challenged.

Senator LEE. Challenged post-*Dobbs* on grounds that you believed were legitimate challenges post-*Dobbs*.

Ms. HILL. I couldn’t say that they were legitimate. I just knew that there were likely to be many challenges to it. It was very contentious.

Senator LEE. Okay. I see my time’s expired. Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Lee. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chairman. Thank you, all, for being here.

Mr. Russell and Ms. Manglona—did I get that right? I intend to support you-all’s confirmation. And even if I was leaning against you, I would’ve done it after your answer to Senator Graham’s question about how your job could be made easier. I’ve been watching the proceedings in my office.

Ms. Hill, I’ve got some questions for you. You probably know I’m from North Carolina, and I have a history with the Eastern Band of the Cherokee. And up until a couple of years ago, it was pretty positive. I was the speaker that negotiated the new compact for the Eastern Band that gave rise to live gambling and the additional casino that they had there. But we’ve had a parting of the ways that hopefully sooner or later we get back on track.

This week, the Eastern Band are in the middle of the National Congress of American Indians, doing their best to disenfranchise State-recognized Tribes as either voting members or members of the organization. Which, of course, is just another example of where they want to shut the door behind their recognition.

But I’ve got some questions I just need to clear up very quickly.

On March 12th, the U.S Department of the Interior agreed to put 17 acres in Cleveland County in North Carolina in a trust for the Catawba Nation.

On May 1st, 2020, as attorney general, your team filed a motion to intervene in the *Eastern Band of Cherokee Indians v. United States Department of the Interior*.

The motion backed the Eastern Band of the Cherokee, and claimed that the DOI willfully violated the National Historic Preservation rights, National Environment Policy Act, and Administra-

tive Procedure Act. Do you believe the DOI got the decision right or wrong?

Ms. HILL. You know, that case was some time ago. I remember that there was an issue regarding the NHPA in that particular—

Senator TILLIS. Okay. I'll let you—actually, if you'll submit that answer in writing. Just a—

Ms. HILL. That would be helpful.

Senator TILLIS [continuing]. Straightforward, whether or not you think the DOI got it right or wrong.

Can I get your commitment that you'll recuse yourself from cases involving Tribal issues, which you have had a degree of involvement that would create at least the appearance of lacking impartiality?

Ms. HILL. Yes, I would certainly recuse myself, you know, as in any circumstance where the rules would indicate I should, including—

Senator TILLIS. So it's a maybe. If it's an appearance thing, it's a maybe. Do you agree that the Eastern Band of Cherokee Indians, that there should be three congressional delegates?

Ms. HILL. I—

Senator TILLIS [continuing]. I know that you know that UKB and Eastern Band of the Cherokee may have differing opinions, here. I'm kind of curious about your opinion.

Ms. HILL. Right. I mean, I certainly represented on behalf of the Cherokee Nation, that it was the treaty holder, and that it had a right to have the treaty that—the delegate on behalf of the Cherokee Nation. That was the position that I took on behalf of the Cherokee Nation.

Senator TILLIS. If the case regarding the potential Cherokee delegate to Congress comes before you, would you recuse yourself?

Ms. HILL. I think I would recuse myself on that case.

Senator TILLIS. Do you believe that you should consider other cases regarding Lumbee Tribe of North Carolina impartially, given your background, should a case go through the courts and be in your jurisdiction related to Lumbee recognition?

Ms. HILL. I can only follow the rules of judicial conduct on any matter that comes before me, and if there was an issue raised that demanded my recusal, I would certainly recuse according to the rules.

Senator TILLIS. Okay. I'm trying to do a lightning round here. I'm sorry. I really hate interrupting people, even when I appear to be hostile. This has nothing to do with you, Ms. Hill. It has to do with a profound issue and disagreement that I have with the Eastern Band of the Cherokee. So, please accept my apologies.

There have been reports that the Cherokee Nation has made millions of dollars from immigration contracts to process individuals who enter the United States illegally, specifically unaccompanied children. As the former attorney general for the Cherokee Nation, were you involved in any of the immigration contract negotiations?

Ms. HILL. I was not.

Senator TILLIS. Okay. And in your private practice? I believe that they have done some representation on this matter?

Ms. HILL. I have never—I've never been involved, you know, in that in any real way.

Senator TILLIS. We've got a couple of—you know, it's unfair to hit you in the lightning round and ask you to recall all of that. We will be submitting a question for the record that's very concise with respect to the matter, and a couple of other things.

Mr. Chair, I'm going to yield back time so Senator Padilla can speak, but I did have one document that was the filing [holds up a document]. If I may, I'd like to seek unanimous consent to have the *Eastern Band of Cherokee Indians v. Department of the Interior* case into the record.

Chair DURBIN. Without objection.

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

Senator TILLIS. Thank you, Mr. Chair. I yield back.

Chair DURBIN. Senator Padilla.

Senator PADILLA. Thank you, Mr. Chair. Welcome to all three nominees. Congratulations on being here today, and for your willingness to serve.

My first question is a question I ask to every nominee that comes before this Committee for the Federal bench. And that's a two-part question.

Number one, do you agree with the following? I believe one of our country's greatest strengths is our diversity. Not just ethnic racial diversity, but the diversity of our economy, the diversity of cultures, the diversity of life experiences and professional experiences that I believe our Federal judiciary should represent. Hasn't always.

Working with President Biden, this Committee, we have considered and confirmed a historically diverse group of Federal judges at all levels over the last two-plus years. Do you agree that diversity is good for the courtroom, and for the judicial system? And I'm not just talking about diversity on the bench, by the way.

Here's the part B of the question. If you agree with that statement, I'd love to hear it. If you disagree, I'd love to hear why. But if you do agree, then what would you do to work toward more diverse staff in the courtroom, not just on the bench, particularly when it comes to law clerks? I think you may each be able to speak to your experience as law clerks and what that did to support your career trajectory, whether it's been in public or in private practice.

So two-part questions starting with Ms. Hill.

Ms. HILL. I certainly, you know, do agree with the value statement that you gave, Senator. And as it relates to the hiring of court personnel, including staff, I was not a clerk. And I will say that growing up in the rural community that I grew up in, I just was not—didn't have any exposure to this world that clerks—or that I even understood exactly what clerks did or what that pathway looked like.

And so I think that a lot of the work that perhaps needs to be done is just giving people that come from rural communities where you just don't have lawyers in your life—I didn't grow up in a world where there were lots of lawyers. And so that world is very opaque to me, even though I wanted to be a lawyer, I wasn't exactly sure how to understand that world.

And so, I think one of the ways to do that is to reach out into communities where, you know, where there are people from rural areas, especially in the communities in the Northern District. And

let people understand those opportunities, make people aware of what clerking is and what it can do for you, and so that people understand the value of it, and understand what the pathway is, would be one of the things I think would be valuable. And I would, you know, want to be able to contribute in some way to helping that happen.

Senator PADILLA. Beautifully said. Thank you. Mr. Russell.

Mr. RUSSELL. Senator, I agree with your value statement, and believe that diversity is important on the bench as well as in the staff at chambers of any judge.

From my part, I, like Ms. Hill, I did not clerk. But in the many firms that I have worked at, we have seen the value of clerkships as we have had and hired clerks that have come in. And having the diversity is important because we are seeing talent coming from all different places. And so, if I'm fortunate to be confirmed, I would cast as wide of a net as possible to try to get clerks from as many places as possible, from diverse backgrounds, as well as racial diversity—in all types of diversity, I think, are important so that it's never an echo chamber. Thank you.

Senator PADILLA. Thank you.

Judge MANGLONA. Senator, in my 20 years as a judge, I have seen the value of diversity. Speaking from the bench, I think it's nice for the community to see that people who are aware of them, all walks of life that are represented, are also on the bench. In the superior court that I was sitting at, there were only five trial court judges. Now with one district judge in my district, I am the only one representing, and I think it's something that is valuable for the perception of the community.

In regards to hiring law clerks, for example, I do agree, as well, for diversity. I've hired from throughout the country. Unfortunately, we don't have a law school in my region. And so there aren't much in our district. But the ability to listen and hear different perspectives from—I have a law clerk from the East Coast and a law clerk from the West Coast, and having discussions about different issues or matters, it's really enlightening. And I think that's one reason why, as a judge, when we keep an open mind and then listen to the different perspectives, it would really keep—make us, enable us to make an informed decision.

Senator PADILLA. Thank you.

Thank you, Mr. Chair. If I may, just one follow-up question for Ms. Hill. As Senator Lankford and Senator Hirono noted, and we all recognize, if confirmed, to be the first Native American woman to serve as a Federal judge in Oklahoma, where I think the Native population represents more than 10 percent of the State population. Your résumé is clearly impressive. You are clearly more than qualified for this role, but this is a milestone that many would consider long overdue.

I know a thing or two about being the first, but I'd like to hear from you. What would it mean to you and the people of Oklahoma, if you were to be confirmed, to be the first Native American woman on the District Court for Oklahoma?

Ms. HILL. Yes. Oklahoma is such an amazing place. It's my home State, and I can't say enough great things about it. One of the great things about it, though, is its Native population. It's just—

just brings something to the State that makes it utterly unique, and it's very valuable.

And I think that having such a large Native population in the State, you know, it's—I think everybody will feel—I certainly feel like, you know, having a Federal bench that reflects the community that serves it, is a sign that your Government is thriving, that the community is thriving, that things are working well.

And so I think that from that point of view, it will be a good thing to see and it's meaningful to me in that way. It's an opportunity to reflect the community that is served by the Northern District, and, you know, it's a very humbling thought to be the first.

Senator PADILLA. Thank you very much. Thank you, Mr. Chair.

Chair DURBIN. Thank you, Senator.

At this point, I'm going to adjourn today's hearing after making this logistical note. Questions for the record will be due to the nominees by 5 p.m. on Wednesday, November 22nd, which is the day before Thanksgiving. So you'll be given time to celebrate Thanksgiving after 5 p.m. So I suggest everyone plan accordingly.

The record will likewise remain open until that time to submit letters and similar materials. With that, and the gratitude of the Committee to the nominees, their families, and friends, this Committee stands adjourned.

[Whereupon, at 11:10 a.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

A P P E N D I X

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Sara Elizabeth Hill, Sara Hill-Starkey, Sara Starkey
2. **Position:** State the position for which you have been nominated.

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

Hill Law, PLLC
1481 East Allen Road
Tahlequah, Oklahoma 74464
4. **Birthplace:** State year and place of birth.

1977; Tahlequah, Oklahoma
5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2000 – 2003, University of Tulsa College of Law; J.D., 2003

1996 – 2000, Northeastern State University; B.A. (cum laude), 2000
6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2023 – present
Hill Law, PLLC
1481 East Allen Road
Tahlequah, Oklahoma 74464
Principal

2004 – 2023
 Cherokee Nation
 17675 South Muskogee Avenue
 Tahlequah, Oklahoma 74464
 Attorney General (2019 – 2023)
 Secretary of Natural Resources (2015 – 2019)
 Deputy Attorney General (2014 – 2015)
 Assistant Attorney General (2004 – 2014)

2014 – 2015
 United States Attorney's Office
 Northern District of Oklahoma
 110 West 7th Street, Suite 300
 Tulsa, Oklahoma 74119
 Special Assistant United States Attorney

2002 – 2003
 Lyons & Clark
 616 South Main Street, Suite 201
 Tulsa, Oklahoma 74119
 Law Clerk

Fall 2001
 Edward Jones Investments
 12555 Manchester Road
 Saint Louis, Missouri 63131
 Investment Representative

Summer 2001
 Atkinson, Brittingham, Gladd, Fiasco, & Edmonds, P.C. (formerly Atkinson, Haskins)
 525 South Main Street, Suite 1500
 Tulsa, Oklahoma 74103
 Law Clerk

Spring 2001
 Heilig Meyers Furniture
 1711 West Shawnee Street
 Muskogee, Oklahoma 74401
 Account Representative

Other affiliations (uncompensated)

2023 – present
 Tribal Issues Advisory Group
 U.S. Sentencing Commission

One Columbus Circle, Northeast
Suite 2–500, South Lobby
Washington, DC 20002
At-Large Voting Member

2022 – present
The Nature Conservancy
Oklahoma
10425 South 82nd East Avenue, Suite 104
Tulsa, Oklahoma 74133
Trustee

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

I did not serve in the military. I was not required to register for the selective service.

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

Distinguished Alumni Award, Northeastern State University (2023)

League of Women Voters “Madame President” Award (2022)

Tulsa World’s “People to Watch” (2022)

Co-Recipient of ACLU of Oklahoma “Angie Debo Award” (2021)

Langston University “Women in Leadership” Award (2021)

EPA Environmental Excellence Award (2019)

Keep Oklahoma Beautiful “Towering Spirit Award” (2018)

Journal Record 50 Women Making a Difference Award (2017)

Cherokee National Statesmanship Award (2016)

Journal Record “Achievers under 40” Award (2016)

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

American Bar Association
 Cherokee Nation Bar Association
 Chickasaw Nation Bar Association
 Court Appointed Special Advocates (2005 – 2010)
 Federal Bar Association
 Indian Law Section (2021 – present)
 Oklahoma Bar Association
 Oklahoma Indian Bar Association
 Tribal In-House Counsel Association (2015 – present)

10. **Bar and Court Admission:**

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

Oklahoma, 2004

There have been no lapses in membership.

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

United States Court of Appeals for the Tenth Circuit, 2009
 United States District Court for the Eastern District of Oklahoma, 2009
 United States District Court for the Northern District of Oklahoma, 2009
 United States District Court for the Western District of Oklahoma, 2017
 Supreme Court of the Cherokee Nation, 2006
 Supreme Court of the Chickasaw Nation, 2009

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school.

Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Cherokee Nation Task Force to Protect Women and Families (2021 – 2023)

Commission for the Protection of Cherokee Nation Sovereignty (2020)

Indian Country Energy and Infrastructure Working Group (2016 – 2019)

National Congress of American Indians (2022 – present)

The Nature Conservancy, Oklahoma Chapter, Trustee (2022 – present)

University of Tulsa College of Law Alumni Board (2022 – 2023)

U.S. EPA Regional Tribal Operations Committee (2016 – 2019)

U.S. EPA National Tribal Caucus (2016 – 2017)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, the organizations listed above do not currently discriminate, and have not formerly discriminated, on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Righting a Wrong: Treaty-Mandated Delegate Belongs to Cherokee Nation, Tahlequah Daily Press, Dec. 29, 2022. Copy supplied.

Restoring Oklahoma: Justice and the Rule of Law Post-McGirt, 57 Tulsa L. Rev. 553 (2022). Copy supplied.

Oklahomans Shouldn't Fear Violent Crime Will Suddenly Run Free Because of Indian Sovereignty, Tulsa World, Mar. 12, 2021. Copy supplied.

With Susan Work, *Tribal Water Settlements in Other States as a Reference for Resolution of Tribal Water Claims in Oklahoma*, presented at the Oklahoma Supreme Court's Sovereignty Symposium, June 2010. Copy supplied.

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

Initial Report to Principal Chief Chuck Hoskin, Jr., Task Force to Protect Women and Families, Dec. 1, 2021. Copy supplied.

First Periodic Report to the Principal Chief, Commission for the Protection of Cherokee Nation Sovereignty, Oct. 2020. Copy supplied.

Attorney General Interim Report to the Commission, Commission for the Protection of Cherokee Nation Sovereignty, Sept. 2020. Copy supplied.

While I was affiliated with The Nature Conservancy in Oklahoma, the organization had a standard practice of listing the names of trustees in reports detailing the trustee meetings, which were made available to the public. To the best of my recollection, I did not draft, edit, or participate in any way in the preparation of meeting minutes.

The Nature Conservancy, Meeting Minutes from the Oklahoma Chapter Board of Trustee Meeting (Sept. 8, 2023). Copy supplied.

The Nature Conservancy, Meeting Minutes from the Oklahoma Chapter Board of Trustee Meeting (May 12, 2023). Copy supplied.

The Nature Conservancy, Meeting Minutes from the Oklahoma Chapter Board of Trustee Meeting (Feb. 10, 2023). Copy supplied.

The Nature Conservancy, Meeting Minutes from the Oklahoma Chapter Board of Trustee Meeting (Sept. 23, 2022). Copy supplied.

Fiscal Year 2018 Annual Report to the Cherokee People, Cherokee Nation. Copy supplied.

Fiscal Year 2015 Annual Report to the Cherokee People, Cherokee Nation. Copy supplied.

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

Since September 2016, I have appeared monthly before the Cherokee Nation Tribal Council. As Secretary of Natural Resources, I reported to the Resources Committee and as Attorney General I reported to the Rules Committee. At Committee meetings, I would provide an update on matters being handled by my office and answer questions from legislators. The meeting minutes are available at <https://cherokee.legistar.com/Calendar.aspx>. The meeting minutes provide a synopsis of the discussion from the meeting, including all action taken by the committee, and are prepared by staff for the Cherokee Nation Tribal Council. All meetings of the Tribal Council are open to the public, including committee meetings, and recordings are available at <https://www.youtube.com/@cherokeeenation>. Meeting minutes supplied from August 2019 through August 2023.

Employees on Boards and Commissions, 2023 CNAG 02, May 9, 2023. Copy supplied.

Signatures on Election Forms, 2023 CNAG 01, Mar. 23, 2023. Copy supplied.

Examining Oklahoma v. Castro-Huerta: The Implications of the Supreme Court's Ruling on Tribal Sovereignty, Subcommittee for Indigenous Peoples of the United States, House Committee on Natural Resources, 117th Congress (Sept. 20, 2022). Video available at <https://www.youtube.com/watch?v=exeelgWkW2c>.

Political Contribution to Tribal Council Member, 2022 CNAG 01, Mar. 8, 2022. Copy supplied.

Appointment and Confirmation of Cherokee Nation Treasurer, 2021 CNAG 02, Aug. 12, 2021. Copy supplied.

Amendment to Section 78 of Title 26 Regarding Return of Absentee Ballots, 2021 CNAG 01, Mar. 24, 2021. Copy supplied.

Amendment to Section 22 of Title 28 Regarding Political Contributions, 2020 CNAG 03, Nov. 16, 2020. Copy supplied.

Availability of Per Capita Distribution of CARES Act Distribution from Congress, 2020-CNAG-02, May 28, 2020. Copy supplied.

Constitutionality of Contracting Provisions, 2020 CNAG 01, Apr. 27, 2019. Copy supplied.

Cherokee Nation Environmental Protection Commission Meeting, Apr. 2, 2013. Meeting minutes supplied.

Regulation of Low-Point Beer, 2013 CNAG 01, Jan. 28, 2013. Copy supplied.

Effect of Abstention in Tribal Council Vote, 2012 CNAG 07, Oct. 29, 2012. Copy supplied.

FOIA and Legal Privilege of Attorney Billing Statements, 2012 CNAG 01, Feb. 10, 2012. Copy supplied.

Contribution Limits and Reopening Voter Registration, 2011 CNAG 02, July 29, 2011. Copy supplied.

Video Recording of Public Meetings by Members of the Press, 2008 CNAG 02, Nov. 18, 2008. Copy supplied.

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

September 29, 2023: Honoree, Northeastern State University Distinguished Alumna Award Ceremony, Tahlequah, Oklahoma. Notes supplied.

June 26, 2023: Panelist, "Protecting Sovereignty: Discussions on Recent Court Rulings and Implementation of Decisions" Tribal Self-Governance Conference, Tulsa, Oklahoma. The panel discussed tribal prosecution of crime post-*McGirt*. I have no notes, transcript, or recording. The address for Self-Governance Communication and Education Tribal Consortium is 314 West 14th Place, Tulsa, Oklahoma 74119.

June 14, 2023: Panelist, "Tribal Water Law," Oklahoma Supreme Court, Oklahoma City, Oklahoma. PowerPoint supplied.

April 20, 2023: Speaker, "*McGirt* Update: The Future of Justice in Indian Country," Cherokee Nation, Tulsa, Oklahoma. Video available at <https://www.youtube.com/watch?v=-7WFtqAL9Lc>.

April 18, 2023: Speaker, "Tribal Jurisdiction and the Role of the Attorney General," Cherokee Nation, Tulsa, Oklahoma. PowerPoint supplied.

April 17, 2023: Panelist, "Cutting Sign in the Legal Profession," University of Utah College of Law, virtual appearance. The panel included attorneys practicing law on behalf of tribal governments sharing their career pathways and advice with law students. I have no notes, transcript, or recording. The address for the University of Utah College of Law is 383 South University Street, Salt Lake City, Utah 84112.

April 1, 2023: Panelist, "The Work of Tribal Government," University of Tulsa College of Law, Tulsa, Oklahoma. PowerPoint supplied.

February 3, 2023: Speaker, "The Supreme Court and the Establishment of Intergovernmental Agreements," Leadership Oklahoma, virtual appearance at event occurring in Sulphur, Oklahoma. Notes supplied.

February 3, 2023: Panelist, "Tribal Prosecution System Q&A," Leadership Oklahoma, virtual appearance at event occurring in Sulphur, Oklahoma. This panel discussed issues arising during post-*McGirt* period within Indian country. I have no notes, transcript, or recording. The address for Leadership Oklahoma is 3037 Northwest 63rd Street, Suite W104, Oklahoma City, Oklahoma 73116.

December 29, 2022: Speaker, "Indian Law Review - Tenth Circuit Year-End Review," Northern/Eastern Oklahoma Federal Bar Association, Tulsa, Oklahoma. The panel discussed recent court cases including *Pacheco v. El Habti*, 48 F.4th 1179 (10th Cir. 2022). I have no notes, transcript, or recording. The address for the Federal Bar Association is 4075 Wilson Boulevard, 8th Floor, Arlington, Virginia 22203.

November 16, 2022: Speaker, "Beyond Settlement: Planning and Next Steps" National Tribal Opioid Litigation Panel, Tribal In-House Counsel Association, virtual appearance at event held in Lansing, Michigan. PowerPoint supplied.

November 14, 2022: Speaker, "Tribal Sovereignty and Public Safety: *McGirt* and *Castro Huerta*," Federal Reserve System, virtual event. PowerPoint supplied.

November 2, 2022: Panelist, "Reacting to the Castro-Huerta Decision, Part II—Tribal Practitioners," 79th Annual Convention, National Congress of American Indians, Sacramento, California. The panel discussed how the *Castro-Huerta* decision impacts Indian country and how tribes could respond. I have no notes, transcript, or recording. The address for the National Congress of American Indians is 1516 P Street, Northwest, Washington, DC 20005.

September 21, 2022: Speaker, "Impaired Driving in a Shifting Landscape: New Realities in Indian Country After *McGirt*, *Cooley*, and *Castro-Huerta*," American Bar Association, virtual event. Video available at <https://www.americanbar.org/events-cle/ecd/ondemand/425417370>.

July 7, 2022: Speaker, "Discussion on *Castro-Huerta*," Cherokee Nation and OU College of Law, virtual event. The speakers discussed the decision in *Castro-Huerta* and its implications for Indian country. I have no notes, transcript, or recording. The address for the Cherokee Nation is 17675 South Muskogee Avenue, Tahlequah, Oklahoma. The address for the University of Oklahoma College of Law is 300 West Timberdell Road, Norman, Oklahoma.

July 6, 2022: Speaker, "*Castro-Huerta v. Oklahoma* and the Attack on Tribal Sovereignty; Where Do We Go From Here?" University of California, Los Angeles College of Law, virtual event. Video available at <https://youtu.be/ZmU8d4l6B0M>.

June 8, 2022: Speaker, "Criminal Law Panel," Oklahoma Supreme Court, Oklahoma City, Oklahoma. Partial video available at <https://www.facebook.com/TheCherokeeNation/videos/-live-chokeee-nation-attorney-general-sara-hill-speaks-on-the-criminal-law-pane/2795224787289545>.

May 6, 2022: Speaker, "The Rule of Law, the Power of the Law to Restore, and the Advocate," Hooding Ceremony Address, University of Tulsa College of Law, Tulsa, Oklahoma. Video available at <https://www.youtube.com/watch?v=lp3k5H2OyAw>.

April 20, 2022: Speaker, "Cherokee Nation Town Hall," Cherokee PINS Project, virtual event. Video available at <https://www.youtube.com/watch?v=xAW5D7GU95c>.

November 18, 2021: Panelist, "Exercising Criminal Jurisdiction in the Wake of *McGirt*," Indian Law Section of the Federal Bar Association, virtual event. PowerPoint supplied.

November 16, 2021: Panelist, "Inherent Sovereignty and Tribal Jurisdiction," Leadership Oklahoma, Durant, Oklahoma. The panel discussed the sources of inherent tribal jurisdiction in Indian country. I have no notes, transcript, or recording. The address for Leadership Oklahoma is 3037 Northwest 63rd Street, Suite W104, Oklahoma City, Oklahoma 73116.

November 10, 2021: Speaker, "Tribal Courts and Jurisdiction from the Tribal Point of View," Oklahoma Bar Association, Oklahoma City, Oklahoma. My remarks addressed the decision in *McGirt v. Oklahoma* in context of tribal advocacy and litigation occurring since statehood. I have no notes, transcript, or

recording. The address for the Oklahoma Bar Association is 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

October 27, 2021: Speaker, “Women in Leadership,” American Red Cross, Tulsa Chapter, virtual event. I spoke about the importance of matrilineal relationships in the Cherokee Nation, and the role of women in Cherokee politics and life. I have no notes, transcript, or recording. The address for the Tulsa chapter of the American Red Cross is 10151 East 11st Street, Tulsa, Oklahoma 74128.

October 11, 2021: Speaker, “Tribal Sovereignty and Protecting Public Safety: The Cherokee Nation Reservation post-*McGirt*,” Cherokee Nation Community Meeting, Claremore, Oklahoma. PowerPoint supplied.

October 11, 2021: Speaker, “Criminal Law Panel,” Oklahoma Supreme Court, Oklahoma City, Oklahoma. The speakers discussed the jurisdictional changes and challenges post-*McGirt*. I have no notes, transcript, or recording. The address for the Oklahoma Supreme Court is 2100 North Lincoln Boulevard, Suite 3, Oklahoma City, Oklahoma.

September 7, 2021: Speaker, “Update on *McGirt*,” Cherokee County Democrats, Tahlequah, Oklahoma. PowerPoint and notes supplied.

June 3, 2021: Panelist, “*McGirt v. Oklahoma*: State and Tribal Impact a Year Later,” Federalist Society, Tulsa Chapter, Tulsa, Oklahoma. The panel discussed the litigation ongoing between Oklahoma and individual tribal citizens in the year post-*McGirt*. I have no notes, transcript, or recording. The address for the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, DC.

May 4, 2021: Honoree, Women in Leadership Awards, Langston University, virtual event. Each honoree offered words of gratitude and wisdom for young women. I have no notes, transcript, or recording. The address for Langston University is 701 Sammy Davis Junior Drive, Langston, Oklahoma 73050.

March 5, 2021: Speaker, “*McGirt* Legislative Update,” Broken Arrow Chamber of Commerce, virtual event. I discussed the Cherokee Nation’s response to the decision in *McGirt*, and discussed ongoing litigation related to implementation of that decision. I have no notes, transcript, or recording. The address for the Broken Arrow Chamber of Commerce is 210 North Main Street C, Broken Arrow, Oklahoma 74102.

February 16, 2021: Speaker, “*McGirt v. Oklahoma*: Reflections on a Landmark Case and What We’ve Learned So Far,” University of California, Los Angeles College of Law, virtual event. Video available at <https://www.youtube.com/watch?v=GwTAOioQmeY>.

2020 (specific date unknown): Speaker, “Tribal Viewpoints on *McGirt*,” Oklahoma District Attorney’s Association Conference, Grove, Oklahoma. I discussed reasons for collaboration and cooperation between the Cherokee Nation and local district attorneys. I have no notes, transcript, or recording. The address for the District Attorneys Council is 421 Northwest 13th Street, Suite 290, Oklahoma City, Oklahoma 73103.

November 13, 2020: Panelist, “The *McGirt* Decision,” Tribal In-House Counsel Association Annual Conference, virtual event. PowerPoint supplied.

September 14, 2020: Panelist, “Expanding Access in a Shrinking Environment,” Tribal Water Law, CLE International, virtual event. PowerPoint supplied.

July 28, 2020: Speaker, “Let’s Talk Town Hall” Tulsa World, virtual event. Video available at <https://www.youtube.com/watch?v=FbxgmL58I18>.

June 10, 2019: Keynote Speaker, “Sustainability as Sovereignty,” Tribal Alliance for Pollinators Conference, Tulsa, Oklahoma. PowerPoint supplied.

February 20, 2019: Keynote Speaker, “Women in Natural Resources,” Oklahoma Natural Resources Conference, Tulsa, Oklahoma. I discussed how I became involved in natural resource management issues and how young women might also assume leadership positions. I have no notes, transcript, or recording. The Oklahoma Natural Resources Conference has been suspended since 2020, but the address is 111 Chesapeake Street, Norman, Oklahoma 73019.

November 16, 2018: Panelist, “*Murphy v. Royal*: Overview and Implications,” Tribal In-House Counsel Association, East Lansing, Michigan. PowerPoint supplied.

June 6, 2018: Panelist, “Land, Wind and Water,” Oklahoma Supreme Court, Oklahoma City, Oklahoma. The panel discussed evolving issues in Oklahoma related to water rights or other natural resources in Indian country. I have no notes, transcript, or recording. The address for the Oklahoma Supreme Court is 2100 North Lincoln Boulevard, Suite 3, Oklahoma City, Oklahoma 73105.

February 26, 2018: Panelist, “Welcome to the Creek Reservation: *Murphy v. Royal* Impact,” Federalist Society, Tulsa Chapter, Tulsa, Oklahoma. The panel discussed how the decision in *Murphy v. Royal* might impact eastern Oklahoma jurisdiction. I have no notes, transcript, or recording. The address for the Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, DC 20006.

February 23, 2018: Speaker, “Illinois River, Tribal Interests and Values in the Waterway,” Tribal Water Law, CLE International. PowerPoint supplied.

2018 (specific date unknown): Scoring Panelist, OBA Mock Trial Competition, Oklahoma Bar Association, Tahlequah, Oklahoma. I observed mock trials put on by high school students, scored their performance, and provided feedback. I have no notes, transcript, or recording. The address for the Oklahoma Bar Association is 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

June 7, 2017: Panelist, “Land, Wind, and Water,” Oklahoma Supreme Court, Oklahoma City, Oklahoma. The panel discussed evolving issues in Oklahoma related to water rights or other natural resources in Indian country. I have no notes, transcript, or recording. The address for the Oklahoma Supreme Court is 2100 North Lincoln Boulevard, Suite 3, Oklahoma City, Oklahoma 73105.

March 16, 2017: Panelist, “The Chickasaw-Choctaw Compact in Context,” University of Oklahoma American Indian Law Review, Norman, Oklahoma. I discussed the Chickasaw-Choctaw water settlement in the context of its potential impact on the other Five Tribes. I have no notes, transcript, or recording. The address of the University of Oklahoma College of Law is 300 Timberdell Road, Norman, Oklahoma 75019.

February 23, 2017: Speaker, “Eastern Oklahoma Perspective on the Chickasaw-Choctaw Water Settlement,” CLE International, Oklahoma City, Oklahoma. I discussed the Chickasaw-Choctaw water settlement in the context of its potential impact on the other Five Tribes. I have no notes, transcript, or recording. The address for CLE International is 7995 East Prentice Avenue, Suite 200, Greenwood Village, Colorado 80111.

February 22, 2017: Speaker, “Energy Development in Indian Country,” U.S. Forest Service, Tulsa, Oklahoma. I spoke about alternative energy projects at the Cherokee Nation. I have no notes, transcript, or recording. The address of the U.S. Forest Service is 1400 Independence Avenue, Southwest, Washington, DC 20250.

November 18, 2016: Panelist, “Tribal-State Compacts,” Leadership Oklahoma, Tahlequah, Oklahoma. The panel discussed the process of negotiating tribal-state compacts in Oklahoma. I have no notes, transcript, or recording. The address for Leadership Oklahoma is 3037 Northwest 63rd Street, Suite W104, Oklahoma City, Oklahoma 73116.

October 27, 2016: Speaker, “Tribal Water Rights,” Tulsa Regional Chamber, Tulsa, Oklahoma. I provided an overview of tribal water rights claims in Oklahoma. I have no notes, transcript, or recording. The address for the Tulsa Regional Chamber is 1 West Third Street, Tulsa, Oklahoma.

October 14, 2016: Panelist, “State Question 777 – Right to Farm,” Tulsa Food Security Council. The panel discussed environmental and public policy objections to State Question 777. I have no notes, transcript, or recording. The Tulsa Food

Security Council appears to be reorganizing and no address for the group could be located.

September 7, 2016: Keynote Speaker, "Cherokee Nation Native Plants and Indigenous Land Management," 18th National Environmental Tar Creek Conference, Miami, Oklahoma. PowerPoint supplied.

November 10, 2015: Guest Lecturer, Tribal Water Rights, Northeastern State University, Tahlequah, Oklahoma. I discussed the progress of tribal water rights cases in Oklahoma and unique aspects of federal law in the Five Tribes. I have no notes, transcript, or recording, but press coverage is supplied. The address for Northeastern State University is 600 North Grand Avenue, Tahlequah, Oklahoma 74464.

2014 (specific date unknown): Panelist, "ICWA and the impact of the Supreme Court's decision in *Adoptive Couple*," Association of Administrators of ICPC Annual Conference. The panel discussed *Adoptive Couple v. Baby Girl*, 570 U.S. 637 (2013). I have no notes, transcript, or recording. The address for the Association of Administrators of the Interstate Compact on the Placement of Children is 1300 17th Street North, Arlington, Virginia, 22209.

April 10, 2014: Panelist, "Texting Paternity Away and Bringing ICWA into the 21st Century, Indian Law Conference, Federal Bar Association. The panel discussed *Adoptive Couple v. Baby Girl*, 570 U.S. 637 (2013). I have no notes, transcript, or recording. The address for the Federal Bar Association is 4075 Wilson Boulevard, 8th Floor, Arlington, Virginia 22203.

2013 (specific date unknown): Speaker, "2013: Year in Review," Oklahoma Indian Child Welfare Association Annual Conference, Tulsa, Oklahoma. I discussed Oklahoma Supreme Court and Oklahoma Court of Civil Appeals cases from that year. I have no notes, transcript, or recording. The address for the Oklahoma Indian Child Welfare Association is P.O. Box 1274, Shawnee, Oklahoma 74802.

July 24, 2013: Speaker, "Legal Infrastructure: Protecting Natural Resources," Inter-tribal Environmental Council Meeting, Tulsa, Oklahoma. I discussed the importance of drafting and implementing tribal codes and regulations. I have no notes, transcript, or recording. The address for the Intertribal Environmental Council is 206 East Allen Road, Tahlequah, Oklahoma 74464.

2012 (specific date unknown): Panelist, "Legal Issues Surrounding Tribal Water," Leadership Oklahoma, Durant, Oklahoma. The panel discussed evolving legal issues involving tribal water law in Oklahoma. I have no notes, transcript, or recording. The address for Leadership Oklahoma is 3037 Northwest 63rd Street, Suite W104, Oklahoma City, Oklahoma 73116..

2012 (specific date unknown): Speaker, "CLEET Training: Criminal Jurisdiction in Indian Country," Cherokee Nation, Tahlequah, Oklahoma. I discussed the criminal jurisdictional framework in Indian country and walked the officers through common scenarios. I have no notes, transcript, or recording. This address for the Cherokee Nation is 17675 Muskogee Avenue, Tahlequah, Oklahoma 74464.

2012 (specific date unknown): Scoring Panelist, OBA Mock Trial Competition, Oklahoma Bar Association, Tahlequah, Oklahoma. I observed mock trials put on by high school students, scored their performance, and provided feedback. I have no notes, transcript, or recording. The address for the Oklahoma Bar Association is 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

May 5-7, 2011: Scoring Panelist, OBA Mock Trial Competition, Oklahoma Bar Association, Tahlequah, Oklahoma. I observed mock trials put on by high school students, scored their performance, and provided feedback. I have no notes, transcript, or recording. The address for the Oklahoma Bar Association is 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

2007 (specific date unknown): Speaker, "The law on transfer under the ICWA," Oklahoma Lawyers for Children, Oklahoma City, Oklahoma. PowerPoint supplied.

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

Jacob Fischler, *Congress Silent on Tribal Jurisdiction in Oklahoma*, Enid News and Eagle, Sept. 5, 2023. Copy supplied.

Barbara Hoberock, *PlatePay Might Need Law Enforcement Data; Ninth Turnpike Goes Cashless*, Tulsa World, Aug. 29, 2023. Copy supplied.

Neal Franklin, *Jurisdiction Complicates Cases of Missing, Murdered Indigenous People*, Tulsa World, Aug. 19, 2023. Copy supplied.

Sara Serrano, *Political Roundup: Locals Discuss City Authority Over Natives*, Tahlequah Daily Press, Aug. 4, 2023. Copy supplied.

Randy Krehbiel, *Stitt Sues as Another Override Tallied in Oklahoma Legislature's Battle Over Tribal Compacts*, Tulsa World, July 31, 2023. Copy supplied (reprinted in multiple outlets).

Kaylee Olivas, *'I Will Not Give an Inch' OK Gov. Files Lawsuit Against Republican Lawmakers for Overriding His Tribal Compact Vetoes*, KFOR, July 31, 2023. Copy supplied.

Derrick James, *Temporary Stay Issued in Circuit Court's Ruling on Traffic Citations for Natives*, Ada Evening News, July 26, 2023. Copy supplied (reprinted in multiple outlets).

Sean Murphy, *Oklahoma Governor's Feud with Native American Tribes Continues over Revenue Agreements*, Associated Press, July 22, 2023. Copy supplied.

Sara Serrano, *CN AG Explains How Hooper Case Impacts Tribal Citizen Citations*, Muskogee Daily Phoenix and Times-Democrat, July 19, 2023. Copy supplied (reprinted in multiple outlets).

Derrick James and Sara Serrano, *Tribal Officials React to Hooper Case Misinformation*, Duncan Banner, July 19, 2023. Copy supplied (reprinted in multiple outlets).

Brodie Myers, *Cherokee Nation and Verdigris Reach Agreement*, KJRH, July 18, 2023. Video available at <https://www.youtube.com/watch?v=eQpqa4kvetc>.

Caleb Symons, *Opioid Distributor Takes Cherokee Case to Federal Court*, Law360, July 14, 2023. Copy supplied.

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Tim Talley, *Appeal Court Rules Tribe Can't Join Poultry Suit*, Associated Press, Sept. 22, 2010. Copy supplied.

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Travis Snell, *Native Works Pulled in Art Act Confusion*, Cherokee Phoenix, Nov. 10, 2008. Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these cases, approximately what percent were:

jury trials:	_____%
bench trials:	_____% [total 100%]
 - ii. Of these cases, approximately what percent were:

civil proceedings: _____ %
 criminal proceedings: _____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
 - c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

15. **Public Office, Political Activities and Affiliations:**

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

In 2015, I was appointed by Principal Chief Bill John Baker to Secretary of Natural Resources, a Cabinet-level position within the Cherokee Nation's executive branch that required confirmation by the Tribal Council. I completed my four-year term in 2019.

In 2019, I was appointed by Principal Chief Chuck Hoskin, Jr. as Attorney General, a Cabinet-level position within the Cherokee Nation's executive branch that requires confirmation by the Tribal Council. I resigned from that position on September 1, 2023.

In 2023, I was appointed to serve as a voting, at-large member of the Tribal Issues Advisory Group of the United States Sentencing Commission. My term expires on December 31, 2024.

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

None.

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

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

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not served as a clerk to a judge.

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

I began a solo practice on September 1, 2023. My office address is 1481 East Allen Road, Tahlequah, Oklahoma 74464.

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

2004 – 2023
Cherokee Nation
17675 South Muskogee Avenue
Tahlequah, Oklahoma 74464
Attorney General (2019 – 2023)
Secretary of Natural Resources (2015 – 2019)
Deputy Attorney General (2014 – 2015)
Assistant Attorney General (2004 – 2014)

2014 – 2015
United States Attorney for the Northern District of Oklahoma
110 West 7th Street Suite 300
Tulsa, Oklahoma 74119
Special Assistant United States Attorney

2023
Hill Law, PLLC
1481 East Allen Road
Tahlequah, Oklahoma 74464
Principal

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

character has changed over the years.

From 2004 through 2009, my practice was primarily tribal court and state court trial practice. I served as a prosecutor in the Cherokee Nation District Court on juvenile and criminal cases, and I appeared as counsel for the Nation in state court child welfare proceedings. This included handling all aspects of cases, up to and including jury trials and appeals. In addition, I also worked on a variety of other matters including probates involving restricted Indian land, employment cases, and tax issues.

From 2009 through 2015, I began to focus on environmental, natural resource, and land management issues as well as tribal court appellate cases. My practice at this time included complex multi-state environmental litigation, tribal water rights, and matters involving federal laws on historic preservation, environmental review, and tribal land status within the Cherokee Nation. In 2014 and 2015, I also served as a Special Assistant United States Attorney for the Northern District in Oklahoma and worked on several federal criminal cases, while simultaneously serving as an Assistant Attorney General in the Cherokee Nation.

From 2015 to 2019, as the Cherokee Nation's Secretary of Natural Resources, my practice focused exclusively on environmental litigation and policy, including a case that involved complex issues relating to the decommissioning of a uranium conversion facility.

From 2019 through August 2023, I served as Attorney General for the Cherokee Nation and had constitutional responsibility for all litigation of the government and its businesses. After the United States Supreme Court's decision in *McGirt*, the Cherokee Nation's criminal jurisdiction extended over 7,000 square miles, including all or parts of 14 counties and a significant part of the city of Tulsa. Directing the post-*McGirt* litigation and scaling up the Cherokee Nation's criminal prosecution capacity were substantial parts of my practice.

From September 1, 2023, to the present, I have represented the Cherokee Nation as outside counsel and operated Hill Law, PLLC as a solo practice. I work at the direction of the new Attorney General on a broad range of legal issues facing the Cherokee Nation. I have no other clients.

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

I have had two clients during my legal career: the Cherokee Nation and the United States. Federal Indian law and tribal law have been a central area of specialization.

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

From 2019 to the present, my practice has consisted of 50 percent litigation. I prepare motions and briefs and appear occasionally in court. From 2015 to 2019, my practice would have been about 10 percent litigation. From 2004 to 2015, my practice consisted of 75 percent litigation. During this time, I routinely appeared in tribal, state, and federal courts.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 40% |
| 2. state courts of record: | 20% |
| 3. other courts: | 30% |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 90% |
| 2. criminal proceedings: | 10% |

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

I estimate that I have tried 43 cases to a verdict, judgment, or final decision. In most of these cases, including all jury trials, I was sole counsel for the Cherokee Nation. In some cases, I have served as either lead or associate counsel for the Cherokee Nation as part of a larger legal team.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 20% |
| 2. non-jury: | 80% |

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

While serving as Attorney General for the Cherokee Nation, I was involved in briefing as amicus before the Supreme Court of the United States in a series of cases that involved, directly or indirectly, the Cherokee Nation's Reservation and the authority of the state in Indian country.

Oklahoma v. Castro Huerta, 42 S. Ct. 2486 (2022) (brief amici curiae of Cherokee Nation, *et al.*, 2022 WL 1057053).

McGirt v. Oklahoma, 140 S. Ct. 2452 (2020) (brief of amici curiae historians *et al.*, 2020 WL 774429).

Sharp v. Murphy, 140 S. Ct. 2412 (2020) (brief of amici curiae historians *et al.*, 2018 WL 4773101).

Oklahoma v. Shriver, 142 S. Ct. 1128 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2022 WL 209547) (cert. denied).

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Oklahoma v. Perales, 142 S. Ct. 937 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2022 WL 5930572) (cert. denied).

Oklahoma v. Leathers, 142 S. Ct. 938 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2022 WL 5568078) (cert. denied).

Oklahoma v. Castro Huerta, No. 21-429 (2021) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2021 WL 5087933).

Oklahoma v. Cottingham, 142 S. Ct. 937 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2022 WL 5107423) (cert. denied).

Oklahoma v. McDaniel, 142 S. Ct. 2894 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2021 WL 5087967) (certiorari granted, judgment vacated and remanded for further consideration in light of decision in *Castro-Huerta*).

Oklahoma v. Shriver, D., 142 S. Ct. 936 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2022 WL 5087989) (cert. denied).

Oklahoma v. McCombs, 142 S. Ct. 935 (2022) (brief of amicus curiae the Cherokee Nation in opposition to cert, 2021 WL 5087961) (cert. denied).

Oklahoma v. Spears, 142 S. Ct. 934 (2022) (brief of amicus curiae the Cherokee Nation in opposition to certiorari, 2021 WL 5087921) (cert. denied).

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases

were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Cherokee Nation v. Bernhardt et al.*, No. 4:12-CV-493-GKF-JFJ, 2020 WL 1429946 (N.D. Okla. Mar. 24, 2020) (Frizzell, J.), *vacated and remanded sub nom. Cherokee Nation v. Haaland*, No. 20-5054, 2022 WL 1436699 (10th Cir. May 6, 2022) (Holmes, Rossman, JJ., Tymkovich, C.J.).

I represented the Cherokee Nation in this case from 2012 through its conclusion in 2022.

The Assistant Secretary – Indian Affairs issued a decision in 2012 accepting into trust a 2.03-acre parcel of land for the United Keetoowah Band (UKB) in Tahlequah, Oklahoma. The Cherokee Nation sued the Secretary of the Interior and the Assistant Secretary of the Interior, arguing that the United States could not take land into trust for gaming purposes within the exterior boundaries of the treaty territory of the Cherokee Nation. The issues involved complex federal regulations regarding Indian lands under the Indian Gaming Regulatory Act, federal laws and regulations that dictate how and under what circumstances land may be taken into trust for Indian tribes, and required an analysis of Cherokee Nation's history and treaties. I worked on all these issues as part of the litigation team, including contributing to the drafting of motions and responses. The district court determined that the United States could not take the land into trust for the UKB, and the UKB and the United States appealed the decision to the United States Court of Appeals for the Tenth Circuit. After the decision by the United States Supreme Court in *McGirt*, the Assistant Secretary withdrew the underlying decision accepting the land into trust for the UKB. At this point in the litigation, I was overseeing the matter as Attorney General. The Tenth Circuit Court of Appeals dismissed the appeal as moot, vacated the district court's decision, and remanded with instructions to dismiss the case.

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Midtown Law Center
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Oklahoma City, OK 73103
(405) 456-0030

2. *In re Effect of Cherokee Nation v. Nash*, No. SC-17-07, 2017 WL 10057514 (Cherokee Sup. Ct. Sept. 1, 2017), judgment entered sub nom. *Effect of Cherokee Nation v. Nash*, No. SC-17-07, 2021 WL 2011566 (Cherokee Sup. Ct. Feb. 22, 2021).

I represented the Cherokee Nation in this case from 2020 through its conclusion in 2021.

The Cherokee Nation and the descendants of people enslaved under the laws of the Cherokee Nation prior to 1866 (“Cherokee Freedmen”) were in litigation in various federal courts over the extant right of Cherokee Freedmen to citizenship in the Cherokee Nation under the terms of treaties between the Cherokee Nation and the United States. Ultimately, the D.C. district court determined that Cherokee Freedmen were entitled to citizenship, *Cherokee Nation v. Nash*, 267 F. Supp. 3d 86, 89 (D.D.C. 2017), and the Cherokee Nation began registering these citizens pursuant to an order of the Cherokee Nation Supreme Court, implementing the decision of the federal court. The Cherokee Nation petitioned the Cherokee Nation Supreme Court to remove language from the Cherokee Nation Constitution and laws that would create different rights for Cherokee Freedmen and other Cherokee citizens. The Cherokee Nation Supreme Court struck the language from the Cherokee Nation Constitution and laws.

Co-counsel for Cherokee Nation:

Chrissi Nimmo
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Tahlequah, OK 74465
(918) 453-5000

3. *Cherokee Nation v. Stitt*, No. 5:19-CV-01198-D, 475 F. Supp. 3d 1277 (W.D. Okla.

Sept. 23, 2020) (DeGuisti, J.).

I represented the Cherokee Nation in this case from 2019 through its conclusion in 2020.

In July 2019, Defendant Governor Stitt announced his intent to either renegotiate or terminate the model gaming compacts that had been in place between Oklahoma and the tribes for 15 years. Plaintiff tribes, including the Cherokee Nation, believed that the compacts would automatically renew at the end of 2019. The dispute was whether the requirements listed for the compacts to automatically renew for successive additional 15-year terms had been met. On December 31, 2019, the Cherokee Nation, Choctaw Nation, and Chickasaw Nation sued Governor Stitt in his official capacity, seeking a declaratory judgment regarding automatic renewal. I worked collaboratively on all elements of the litigation, including drafting the Plaintiff Nations' motion for summary judgment, with co-counsel and counsel from other tribal nations. Ultimately, the issue was decided on cross-motions for partial summary judgment, with Judge DeGuisti determining that the compacts automatically renewed for an additional 15-year term at the end of 2019 by operation of its unambiguous terms.

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4. *Oklahoma and Cherokee Nation v. Sequoyah Fuels Corp.*, CV-2017-23 (Sequoyah Cnty. Dist. Ct. Dec. 6, 2018) (Payton, J.).

I represented the Cherokee Nation in this case from 2017 through its conclusion in 2018.

Sequoyah Fuels Corporation (SFC), once owned by Kerr-McGee, processed yellowcake and converted it to uranium hexafluoride at its Gore, Oklahoma location. Its facility was part of an 85-acre parcel that became contaminated with radioactive debris and other materials. About 10,000 tons of highly radioactive raffinate material was bagged and stored at the site, bound for either off-site disposal or on-site, permanent storage. SFC argued that it could find no place willing to take the material at any price. While the company acknowledged that it was bound by a prior agreement to take the material to an offsite location so long as the costs did not exceed \$3.5 million, it argued that it was legally impossible for it to complete even partial removal of the material due to regulatory requirements. In February 2017, Oklahoma and the Cherokee Nation filed suit in the state's district court for a declaratory judgment to determine the parties' rights under the contractual agreement, and to enjoin SFC from engaging in its proposed on-site disposal plan. I worked directly with our internal team and attorney for the state of Oklahoma on all elements of the litigation. After a hearing, the judge temporarily enjoined on-site disposal but required the parties to meet weekly to attempt to determine a path forward, and I met weekly in-person with counsel for Defendant to work on potential solutions. Writs of prohibition and mandamus requested by the Defendant were denied by the Oklahoma Supreme Court and the parties were able to find a site that could take the raffinate materials. By the end of November 2018, the last of the more than 500 semi-trucks of highly contaminated material had left the site.

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Gerald Hilsher (retired)

5. *Olaya et al. v. Baker*, No. SC-2013-05, 12 Am. Tribal Law 331, 2014 WL 9883687 (Cherokee Sup. Ct. Nov. 10, 2014).

I represented the Cherokee Nation in this case from 2012 through its conclusion in 2014. I performed all of the substantive legal work on this case, including oral argument before the Cherokee Nation Supreme Court.

Four former employees of the Cherokee Nation filed a complaint in the District Court of the Cherokee Nation alleging various violations of civil rights, violations of policy, and intentional infliction of emotional harm. The Nation filed a motion to dismiss the Plaintiffs' claims on sovereign immunity grounds, arguing that tribal officials like the Principal Chief are also immune from suit when acting in their official capacities. The

district court found in favor of the Defendant Principal Chief and found that it lacked jurisdiction over the civil rights claims due to the Cherokee Nation's sovereign immunity. One statutory claim that created a cause of action for whistleblowers was remanded to the district court and dismissed upon agreement of the parties.

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6. *Gooding v. Ketcher et al.*, No. 4:10-CV-131-TCK-FHM, 838 F. Supp. 2d 1231 (N.D. Okla. July 30, 2012) (Kern, J.).

I represented the Cherokee Nation in this case from 2010 through its conclusion in 2012. I was sole counsel for the Nation in this case.

In July 2009, Plaintiff Gooding used an American flag as a prop during the performance at the Cherokee Nation owned Hard Rock Casino in Tulsa, Oklahoma. After this performance, a Cherokee Nation Marshal arrested Plaintiff for violating an Oklahoma law that criminalized treating the United States flag with indignity. Plaintiff Gooding sued the Marshal, the Cherokee Nation, and other law enforcement agencies and officers under 42 U.S.C. § 1983 for violating his civil rights.

The claims against the Cherokee Nation were dismissed by the Plaintiff, and the claims against the Cherokee Nation Marshal were dismissed for lack of jurisdiction due to the sovereign immunity of the Cherokee Nation.

Co-Counsel for Defendant Cherokee Nation and Marshal Ketcher:

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7. *Oklahoma ex rel. Edmondson v. Tyson Foods, Inc.*, No. 4:05-CV-329-CKF-SH, 619 F.3d 1223 (10th Cir. Sept. 21, 2010) (Tacha, Ebel, Hartz, JJ.).

I represented the Cherokee Nation in this case from 2008 through 2010 while the issue of the Nation's intervention as a Plaintiff was being litigated. I drafted the motions filed by the Nation in this case and did the substantive legal work under the supervision of the Cherokee Nation Attorney General.

In June 2005, the Oklahoma Attorney General sued several poultry producers ("Integrators") in the United States District Court for the Northern District of Oklahoma. Oklahoma brought some of these claims as a trustee under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") and brought other causes of action under federal and state law. The Cherokee Nation was aware of the

litigation and discussed the litigation with both the state and the Integrators but did not seek to enter the litigation as a party. In October 2008, Tyson moved to dismiss the case for failure to join the Cherokee Nation. It argued that the Cherokee Nation had a significant claim to ownership of the natural resources within the Illinois River Watershed, and that the state's case could not justly move forward in the Cherokee Nation's absence. The district court ultimately dismissed the State's damage claims because the Cherokee Nation was not a party to the litigation. The Cherokee Nation filed a motion to intervene as a co-Plaintiff against the Integrators, but the district court denied the motion to intervene as untimely. The matter was appealed to the United States Court of Appeals for the Tenth Circuit, which affirmed the decision of the district court.

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8. *In the Matter of A.M.C.*, No. 103,166 (Okla. Civ. App. Mar. 2, 2007) (Adams, J.J., Joplin, P.J. Mitchell, V.C.J.).

I represented the Cherokee Nation in this case from 2006 through its conclusion in 2007. I was sole counsel for the Nation and handled the matter both at the district court and before the Court of Civil Appeals.

The Cherokee Nation intervened in a juvenile deprived matter where a Cherokee child was placed outside the placement preferences of the Indian Child Welfare Act ("ICWA") with a non-relative, non-Indian family. The Cherokee Nation sought to have the child placed with an approved Cherokee foster family. After two days of trial on the Nation's motion to transfer the child to a Cherokee foster family and to transfer the case to the Nation's court, the Osage County District Court found that good cause existed to deviate from the placement preferences found in the federal ICWA and Oklahoma ICWA. On appeal, the Nation argued that the record did not contain sufficient evidence to support that finding, and further argued that the trial court should have granted the motion for transfer. The Oklahoma Court of Civil Appeals concluded that the trial court abused its discretion in determining that good cause existed to deviate from the placement

preferences and remanded the matter for reconsideration on the motion to transfer. The case was subsequently transferred to the Cherokee Nation.

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Attorney for Foster Parents:

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Assistant District Attorney:

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9. *In the Matter of J.L.A.*, No. 06 97348-A, 153 P.3d 570 (Kan. Ct. App. Mar. 16, 2007) (Greene, Malone, Hill, JJ.).

I represented the Cherokee Nation in this case from 2006 through its conclusion in 2007. I was sole counsel for the Nation.

JLA was taken into custody by the Kansas Department of Social and Rehabilitation Services ("SRS") in 2004 and placed in foster care with a family outside the placement preferences of the Indian Child Welfare Act. A relative placement for the child was located, and the Cherokee Nation, SRS, and the child's attorney advocated that the child be placed with her relatives in Oklahoma. SRS notified the foster parents of the intended change of placement, and the Cherokee Nation filed a motion to transfer the case to the Cherokee Nation's court. The foster parents objected, and the hearing on placement and transfer occurred over three days. The district court transferred jurisdiction to the Cherokee Nation. The foster parents appealed.

A stay was initially issued, but later withdrawn by the appellate court. JLA then became a ward of the Cherokee Nation's District Court. On appeal, the Nation argued that the foster parents' appeal was moot, and that the Cherokee Nation's District Court now had exclusive jurisdiction over JLA. The Kansas Court of Civil Appeals agreed and dismissed the appeal.

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Rawley J. (Judd) Dent (deceased)

10. *Cherokee Nation v. Nomura*, 2007 OK 40, 160 P.3d 967 (Okla. May 22, 2007).

I represented the Cherokee Nation in this case from 2005 through its conclusion in 2007.

Cherokee Nation was made aware that there was a proposed adoption of a Cherokee child to a non-Indian family in Florida. Dozens of prospective Cherokee adoptive families were available to adopt, but the prospective adoptive family from Florida had failed to timely notify the Cherokee Nation. To leave Oklahoma with the child, the Florida prospective adoptive parents would need the Oklahoma Administrator of the Interstate Compact on the Placement of Children ("ICPC") to execute a 100A form on behalf of the sending state. The Nation sought a temporary restraining order in an Oklahoma district court to prohibit the ICPC Administrator from executing the 100A, and therefore prevent the removal of the child from Oklahoma pursuant to the ICPC. The Administrator had a legal obligation to ensure that notice was provided to the Nation in both voluntary and involuntary child custody proceedings under the relevant provisions of the Oklahoma Indian Child Welfare Act. The Florida adoption agency intervened in the case to stop Oklahoma from asserting jurisdiction. It also asserted constitutional claims on behalf of the natural mother, arguing that the mother retained a liberty interest in determining who would adopt her child even though her rights had already been terminated in a Florida court. At the conclusion of the multi-day trial, the district court issued a temporary restraining order to the ICPC Administrator to prevent the 100A from issuing, and the case went up on appeal to the Oklahoma Supreme Court. The Oklahoma Supreme Court determined that the ICPC Administrator did have an affirmative duty to see that there was compliance with the placement preferences of the Oklahoma and Federal Indian Child Welfare Acts before approving any adoption under the Interstate Compact Act. The adoption agency subsequently withdrew its request for a 100A. I was sole counsel for the Cherokee Nation in this case and handled every aspect from filing the initial request for a restraining order and litigating the issue before the district court, to briefing the issues before the Oklahoma Supreme Court on appeal.

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Attorney for American Adoptions of Florida, Inc.:

Michael E. Yeksavich (deceased)

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

Since 2020, I have had the opportunity to build up the capacity of the Cherokee Nation's prosecutor's office after the United States Supreme Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). Prior to *McGirt*, the Cherokee Nation would file no more than 100 criminal cases a year. In the year immediately after the decision in *McGirt*, the Cherokee Nation filed nearly 3,700 felony and misdemeanor cases. Growing the capacity of the tribal prosecutor's office involved hiring dozens of new staff, including attorneys, paralegal support staff, victim witness coordinators, juvenile justice staff, and probation officers. It also required finding solutions to detention, prisoner transport, and logistical challenges of every variety.

I have also had the opportunity to work on federal legislative priorities in Oklahoma's Indian country. There are several federal laws that specifically and specially apply to the citizens and lands of the Five Tribes. One such law, enacted in 1947, set a one-half blood quantum requirement that citizens of the Five Tribes must possess to retain their allotted lands in restricted status. With this law in place, land loss among tribal citizens of the Five Tribes had accelerated, often leaving families landless and impoverished. Elected leaders of the Five Tribes wanted to see the law changed. I had the opportunity to work on legislative language that would remove the blood quantum requirement from the law. I was also able to work closely with the legal teams of the Five Tribes to educate government relations professionals on the extent of the problem, and why changes to the federal laws were needed. On December 31, 2018, President Donald Trump signed Stigler Act Amendments of 2018 into law. With these changes in effect, most individual Indians within the Five Tribes who possess less than a one-half blood quantum can inherit and own restricted Indian land.

I have not performed any lobbying activities or registered as a lobbyist.

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

None.

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

I am self-employed and provide legal services to the Cherokee Nation pursuant to a contract. That contractual arrangement can be terminated with 45 days' notice to the Cherokee Nation. After work under the contract ceases, I will have no additional compensation due.

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

None.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role, including cases that I handled or that were handled by the Cherokee Nation Attorney General's Office while I was associated with it. I will evaluate any other actual or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal when necessary.

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

I will apply Canon 3 of the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all other laws, rules, and practices governing conflicts of interest to all matters involving actual or potential conflicts of interest. I will consult with the Administrative Office of the United States Courts for additional guidance.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have consistently volunteered my time to serve the disadvantaged. I have volunteered with Court Appointed Special Advocates of Cherokee County to help train new volunteer advocates, and I have participated in "Ask a Lawyer" events held by the Oklahoma Bar Association on Law Day. I have also served frequently as a scoring panelist for Oklahoma's high school mock trial program. I volunteer as a Trustee for the Oklahoma chapter of The Nature Conservancy, which protects wild areas in Oklahoma. These undeveloped lands provide habitat for important plants needed for traditional medicine and are critical for the survival of Cherokee language, communities, and people.

26. **Selection Process:**

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

In June 2021, I contacted the office of Senator James Lankford and the Office of White House Counsel to inquire about applying for the vacancy existing in the United States District Court for the Northern District of Oklahoma. Thereafter, I

was screened and interviewed by a committee established by Senator Lankford to evaluate potential judicial candidates for appointment. On April 28, 2023, I met with Senator Lankford. On August 10, 2023, I met with attorneys from the White House Counsel's Office. Since August 26, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 18, 2023, the President announced his intent to nominate me.

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

No.

**Senator Lindsey Graham, Ranking Member
Questions for the Record**

Ms. Sara Elizabeth Hill, nominee to be United States District Judge for the Northern District of Oklahoma

1. **Please explain whether you agree or disagree with the following statement: “The judgments about the Constitution are value judgments. Judges exercise their own independent value judgments. You reach the answer that essentially your values tell you to reach.”**

Response: I disagree with that statement. A district judge is bound to impartially apply the precedent established when interpreting the Constitution. Judges are not free to disregard precedent and substitute their own value judgments, which would undermine the rule of law.

2. **When asked why he wrote opinions that he knew the Supreme Court would reverse, Judge Stephen Reinhardt’s response was: “They can’t catch ’em all.” Is this an appropriate approach for a federal judge to take?**

Response: I am unfamiliar with this response, but I disagree with the concept that lower court judges should attempt to avoid application of binding precedent from the Supreme Court. If so fortunate as to be confirmed, I would impartially apply the precedent established by the Supreme Court and the Tenth Circuit in every case.

3. **Do you consider a law student’s public endorsement of or praise for an organization listed as a “Foreign Terrorist Organization,” such as Hamas or the Popular Front for the Liberation of Palestine, to be a disqualification for a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes. I would consider public endorsement or praise for a terrorist organization disqualifying for a potential clerkship in my chamber if I am confirmed.

4. **In the aftermath of the brutal terrorist attack on Israel on October 7, 2023 the president of New York University’s student bar association wrote “Israel bears full responsibility for this tremendous loss of life. This regime of state-sanctioned violence created the conditions that made resistance necessary.” Do you consider such a statement, publicly made by a law student, to be disqualifying with regards to a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes, I consider this statement to be disqualifying regarding a potential clerkship in my chamber if I am confirmed.

5. **Please describe the relevant law governing when a federal court may entertain and grant a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court.**

Response: Title 28 United States Code, Section 2254 states that a “district court shall entertain an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

To obtain habeas corpus relief a state prisoner must demonstrate that he or she has exhausted all remedies before the state court and that “there is an absence of available State corrective process.” 28 U.S.C. § 2254(b)(1).

An application for a writ of habeas corpus for a person in state custody “pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim-- (1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.” 28 U.S.C. § 2254(d).

When reviewing a state court’s decision to determine whether that decision is an unreasonable application of the Supreme Court’s case law, “the ruling must be objectively unreasonable, not merely wrong; even clear error will not suffice.” Virginia v. LeBlanc, 582 U.S. 91, 94 (2017).

6. **Please describe the relevant law governing how a prisoner in custody under sentence of a federal court may seek and receive relief from the sentence.**

Response: Title 28 United States Code, Section 2255 governs how a prisoner held under a federal sentence may seek relief from that sentence.

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.
28 U.S.C. § 2255(a).

A prisoner may also challenge the constitutionality of their conviction or sentence under 28 U.S.C. § 2241 in a civil action against the warden of the facility in which they are housed. These civil suits are filed in the jurisdiction where the prison is located. See 28 U.S.C. § 2241(d). “A habeas application under 28 U.S.C. § 2241 generally attacks the execution of a sentence rather than its validity.” Leatherwood v. Allbaugh, 861 F.3d 1034, 1041 (10th Cir. 2017)

7. **Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.**

Response: In *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and *Students for Fair Admissions, Inc. v. University of North Carolina*, the Supreme Court reviewed the admissions policies by both universities which considered a potential student's race during its candidate ranking and selection process. 600 U.S. 181, 191(2023). The Supreme Court held that race-based admissions programs were subject to strict scrutiny to determine whether the admissions policies violated the Fourteenth Amendment. The Court held that the goals of the policies were not sufficiently coherent to survive strict scrutiny. Id. at 214. The Court determined that the admissions policies violated the Constitution and Title VI.

8. **Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?**

Response: Yes.

If yes, please list each job or role where you participated in hiring decisions.

Response: During my time as Deputy Attorney General, I assisted in making hiring decisions for staff and attorneys. As Secretary of Natural Resources, I made hiring decisions for staff involved in environmental permitting programs and GIS. As Attorney General, I made hiring decisions regarding support staff, juvenile justice, probation, and attorneys.

9. **Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

Response: No.

10. **Have you ever solicited applications for employment on the basis of race, ethnicity, religion, or sex?**

Response: No.

11. **Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

Response: No, not to the best of my knowledge.

If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer's decision to grant the preference.

12. **Under current Supreme Court and Tenth Circuit precedent, are government classifications on the basis of race subject to strict scrutiny?**

Response: Yes. See Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll., 143 S. Ct. 2141 (2023).

13. **Please explain the holding of the Supreme Court's decision in *303 Creative LLC v. Elenis*.**

Response: The plaintiff in *303 Creative LLC v. Elenis* was a graphic designer who wished to create wedding websites but did not want to be required to create wedding websites for same-sex couples due to her religious beliefs. She sought to enjoin the Colorado Civil Rights Commission from enforcing the Colorado Anti-Discrimination Act, which could have lodged an enforcement action against her if she refused to create such websites for same-sex couples. *303 Creative*, 600 U.S. 570, 580 (2023). The Court held that the creation of a website was pure speech by the plaintiff, and the Constitution's free speech clause did not permit enforcement of a law which compelled speech. *Id.* at 587.

14. **In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), Justice Jackson, writing for the Court, said: "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."**

Is this a correct statement of the law?

Response: The Supreme Court recently referenced this quote in *303 Creative LLC v. Elenis*, 600 U.S. 570, 585 (2023), which indicates that the quote has a continuing value to the Justices and relevancy within their jurisprudence.

15. **How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?**

Response: When determining whether a law regulates speech in a way that is "content-based" or "content-neutral," I would apply binding Supreme Court and Tenth Circuit precedent, including *Reed v. Town of Gilbert*, 576 U.S. 155, 163-64 (2015), *City of Austin v. Reagan Nat'l Advert. of Austin, LLC*, 596 U.S. 61 (2022), and

StreetMediaGroup, LLC v. Stockinger, 79 F.4th 1243 (10th Cir. 2023). In Reed, the Supreme Court held that “[g]overnment regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed.” 576 U.S. at 163 (citations omitted). Pursuant to Reed, “the crucial first step in the content-neutrality analysis” is “determining whether the law is content neutral on its face.” Id. at 165. If it is determined that the law is neutral on its face, I would then consider “the law’s justification or purpose” to determine whether it is “content-based.” Id. at 166.

16. What is the standard for determining whether a statement is not protected speech under the true threats doctrine?

Response: The Supreme Court has held that “[t]rue threats are ‘serious expression[s]’ conveying that a speaker means to ‘commit an act of unlawful violence.’” Counterman v. Colorado, 600 U.S. 66, 74 (2023). The First Amendment “requires proof that the defendant had some subjective understanding of the threatening nature of his statements,” but “a mental state of recklessness is sufficient.” Id. at 2111–12. The government must show “that the defendant consciously disregarded a substantial risk that his communications would be viewed as threatening violence.” Id. But the First Amendment requires no more than a recklessness mens rea standard. Id. at 2113.

17. Under Supreme Court and Tenth Circuit precedent, what is a “fact” and what sources do courts consider in determining whether something is a question of fact or a question of law?

Response: Black’s Law Dictionary defines “fact” as “[s]omething that actually exists; an aspect of reality” and as “[a]n actual or alleged event or circumstance, as distinguished from its legal effect, consequence, or interpretation.” Black’s Law Dictionary (11th ed. 2019). Black’s Law Dictionary defines a “question of law” as “[a]n issue to be decided by the judge, concerning the application or interpretation of the law” A jury cannot decide questions of law, which are reserved for the court. Id. Questions of fact are often mixed with questions of law, requiring analysis to determine the proper standard of review. In Roberts v. Printup, 595 F.3d 1181, 1186 (10th Cir. 2010), the Court said, “[o]ur review of mixed questions of law and fact will be “under the clearly erroneous or de novo standard, depending on whether the mixed question involves primarily a factual inquiry or the consideration of legal principles.” Estate of Holl v. Comm’r, 54 F.3d 648, 650 (10th Cir. 1995).

18. Which of the four primary purposes of sentencing—retribution, deterrence, incapacitation, and rehabilitation—do you personally believe is the most important?

Response: Congress has determined that the purposes of sentencing embrace just punishment, deterrence, incapacitation and rehabilitation. 18 U.S.C. 3553(a). A sentence including a term of imprisonment may serve further all four purposes simultaneously. Because the statute does not designate any of the four primary purposes as being superior

to the others, sentencing decisions must consider them all. If confirmed, I will follow the law and apply the binding precedent from the Supreme Court and the Tenth Circuit.

19. Please identify a Supreme Court decision from the last 50 years that you think is particularly well reasoned and explain why.

Response: As a nominee to the district court, the Code of Conduct for United States Judges requires that I maintain the integrity and impartiality of the courts by refraining from any action that could be interpreted as prejudging issues that litigants might bring before me. See Code of Conduct for United States Judges, Canon 3, A(6). Providing personal commentary on Supreme Court decisions would conflict with that. If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

20. Please identify a Tenth Circuit judicial opinion from the last 50 years that you think is particularly well reasoned and explain why.

Response: As a nominee to the district court, the Code of Conduct for United States Judges requires that I maintain the integrity and impartiality of the courts by refraining from any action that could be interpreted as prejudging issues that litigants might bring before me. See Code of Conduct for United States Judges, Canon 3, A(6). Providing personal commentary on Tenth Circuit decisions would conflict with that. If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Tenth Circuit's decisions.

21. Please explain your understanding of 18 USC § 1507 and what conduct it prohibits.

Response: The law states that anyone "who, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined or imprisoned not more than one year, or both."

22. Is 18 U.S.C. § 1507 constitutional?

Response: The Supreme Court has held that a state law that was nearly identical to 18 U.S.C. 1507 was a "narrowly drawn statute [and] obviously a safeguard both necessary and appropriate to vindicate the State's interest in assuring justice under law." Cox v. State of La., 379 U.S. 559, 562 (1965).

To the extent this question asks for my opinion as to the constitutionality of a federal law, I must refrain from prejudging issues that litigants may bring before the courts. See Code

of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

23. Is it ever appropriate to consider foreign law in constitutional interpretation? If yes, please describe in which circumstances such consideration would be appropriate.

Response: No. Foreign law does not provide any binding interpretation of the U.S. Constitution. If confirmed, I would apply the interpretations that the Tenth Circuit and the Supreme Court have provided for constitutional provisions.

24. Please answer the following questions yes or no. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer:

a. Was *Brown v. Board of Education* correctly decided?

Response: Yes. As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions. Because the law surrounding de jure segregation in Brown v. Board of Education is well settled and unlikely to be further litigated, I am allowed under the Code of Conduct to opine that this case was correctly decided.

b. Was *Loving v. Virginia* correctly decided?

Response: Yes. As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions. Because the law surrounding interracial marriage in Loving v. Virginia is well settled and unlikely to be further litigated, I am allowed under the code of conduct to opine that this case was correctly decided.

c. Was *Griswold v. Connecticut* correctly decided?

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

d. **Was *Roe v. Wade* correctly decided?**

Response: This case was overruled by Dobbs v. Jackson Women's Health Organization, 142 S. Ct. 2228 (2022). To the extent this question asks for my opinion as to the correctness of any Supreme Court precedent, I must refrain from prejudging issues that litigants may bring before the courts. If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

e. **Was *Planned Parenthood v. Casey* correctly decided?**

Response: This case was overruled by Dobbs v. Jackson Women's Health Organization, 142 S. Ct. 2228 (2022). To the extent this question asks for my opinion as to the correctness of any Supreme Court precedent, I must refrain from prejudging issues that litigants may bring before the courts. If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

f. **Was *Gonzales v. Carhart* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

g. **Was *District of Columbia v. Heller* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

h. **Was *McDonald v. City of Chicago* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

- i. **Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

- j. **Was *New York State Rifle & Pistol Association v. Bruen* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

- k. **Was *Dobbs v. Jackson Women's Health* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

- l. **Were *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

- m. **Was *303 Creative LLC v. Elenis* correctly decided?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding

precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

25. What legal standard would you apply in evaluating whether or not a regulation or statutory provision infringes on Second Amendment rights?

Response: When the plain text of the Second Amendment covers an individual's conduct, the Constitution presumptively protects that conduct. It falls to the government to justify any regulation by demonstrating that it is consistent with the Nation's historical tradition of firearm regulation. *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2129–30, (2022). 2022); see also *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *D.C. v. Heller*, 554 U.S. 570, 635 (2008).

26. Demand Justice is a progressive organization dedicated to “restor[ing] ideological balance and legitimacy to our nation’s courts.”

- a. **Has anyone associated with Demand Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

27. The Alliance for Justice is a “national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”

- a. **Has anyone associated with Alliance for Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

- 28. **Arabella Advisors is a progressive organization founded “to provide strategic guidance for effective philanthropy” that has evolved into a “mission-driven, Certified B Corporation” to “increase their philanthropic impact.”**

- a. **Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund.**

Response: No.

- c. **Are you currently in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- d. **Have you ever been in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- 29. **The Open Society Foundations is a progressive organization that “work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens.”**

- a. **Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

- 30. **Fix the Court is a “non-partisan, 501(C)(3) organization that advocates for non-ideological ‘fixes’ that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people.”**

- a. **Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with Fix the Court? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Fix the Court? If so, who?**

Response: No.

- 31. **Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).**

Response: In June 2021, I contacted the office of Senator James Lankford and the Office of White House Counsel to inquire about applying for the vacancy existing in the United States District Court for the Northern District of Oklahoma. Thereafter, I was screened and interviewed by a committee established by Senator Lankford to evaluate potential judicial candidates for appointment. On April 28, 2023, I met with Senator Lankford. On August 10, 2023, I met with attorneys from the White House Counsel’s Office. Since August 26, 2023, I have been in contact with officials from the Office of Legal Policy at the

Department of Justice. On October 18, 2023, the President announced his intent to nominate me to the Senate.

32. **During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

33. **During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

34. **During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

35. **During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

36. **During your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

37. **Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?**

Response: No.

- a. **If yes,**
 - i. **Who?**
 - ii. **What advice did they give?**

iii. Did they suggest that you omit or include any particular case or type of case in your questionnaire?

38. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On August 10, 2023, I met with attorneys from the White House Counsel's Office. Since August 26, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 18, 2023, the President announced his intent to nominate me to the Senate.

39. Please explain, with particularity, the process whereby you answered these questions.

Response: I received these questions from the Office of Legal Policy at the Department of Justice on November 22, 2023. I prepared my responses and submitted a draft of those responses to the Office of Legal Policy. I made additional minor revisions in response to comments from the Office of Legal Policy. I then finalized and submitted these responses.

**Questions for the Record from Senator Charles E. Grassley for Sara E Hill,
Nominee to be United States District Judge for the Northern District of Oklahoma**

“Nominations”

November 15, 2023

1. In your testimony at the hearing, you stated that the Cherokee Nation has the interest of a Shareholder in Cherokee Federal, a business arm that is operated by the Nation. In 2021, Cherokee Nation Management & Consulting LLC received a \$706.9 million contract to operate the Pomona Emergency Intake Site for Unaccompanied Children. 51 CNCA § 105(B)(5) (effective as of March 19, 2007) says, “the duties of the Attorney General as the chief legal officer of the Nation shall be...[t]o prepare drafts of regulations, and of contracts and other instruments in which the Cherokee Nation government is interested and to render opinions on the legal sufficiency of all contracts and other instruments in which the Cherokee Nation is interested and the best interest of the people of the Cherokee Nation are served[.]” You testified that you “did not have anything to do with those contracts.”
 - a. Please explain why you, or your office, were not involved in the preparation or review of this contract despite the legal obligations placed on the Cherokee Nation Attorney General by 51 CNCA § 105(B)(5)?

Response: The Attorney General represents the Cherokee Nation. When I served as Attorney General, the office reviewed and drafted instruments involving the Cherokee Nation, but the Pomona Emergency Intake Site for Unaccompanied Children was not constructed or operated by the Cherokee Nation. It was operated by Cherokee Federal, which maintains its own legal existence, has its own in-house counsel, and its own CEO separate from the Cherokee Nation. As I stated at my hearing, the Attorney General’s Office had no role in the handling of this contract during my tenure.

- b. What is the procedure for bringing a contract “in which the Cherokee Nation government is interested” to the attention of the Cherokee Nation Attorney General’s Office? Who in the Attorney General’s Office is supposed to handle the review of such contracts?

Response: When I served as Attorney General, if there was a contract issue involving the Cherokee Nation, then the Attorney General’s office would work on the matter. As I stated above in response to question 1(a), the facility in Pomona, California did not involve the Cherokee Nation. The Attorney General’s Office had no role in the handling of this contract during my tenure.

- c. Whose responsibility was it to bring the 2021 Cherokee Nation Management & Consulting LLC Contract for the Pomona Emergency Intake Site to the attention of the Cherokee Nation Attorney General's Office?**

Response: As I stated above in response to question 1(a), there was no one who was charged with bringing the contract to the attention of the Attorney General's office. Cherokee Federal has its own in-house legal department and is a separate legal entity from the Cherokee Nation. The Attorney General's office had no role in handling this contract during my tenure.

- d. Was the 2021 Cherokee Nation Management & Consulting LLC contract for the Pomona Emergency Intake Site brought to your office's attention? If so, by whom?**

Response: I have never seen any contract for the Pomona Emergency Intake Site.

- e. Please identify the individual at Cherokee Nation Management & Consulting LLC who was responsible for the preparation of this contract?**

Response: I do not know who would have been responsible for the preparation of this contract.

- 2. You testified that you recalled "there being a bit of controversy" about the Pomona Emergency Intake Site operated by Cherokee Federal. Please elaborate on the complaints you heard.**

Response: I remember hearing at some point that an unflattering article had been written about the facility. However, I do not recall any complaints about this matter.

- 3. Do you recall any complaints about this matter? If so, what were they and how did your office respond?**

Response: I do not recall any complaints about this matter.

Senator Mike Lee
Questions for the Record
Sara Elizabeth Hill, Nominee for District Court Judge for the Northern
District of Oklahoma

1. How would you describe your judicial philosophy?

Response: In my view, a District Judge must impartially and fairly hear every case, and if confirmed to serve in that role, I would employ a philosophy that involves careful study of precedents and neutral application of the law to the facts before me to achieve that. First, that process would include diligently identifying the relevant law, including all precedent from the Tenth Circuit and the Supreme Court. It's critical to study the record the litigants have created and consider each side of the argument with an open mind. I would then apply the law to the facts before me. Finally, I would test the outcome reached to confirm that I have thoroughly considered all relevant facts and fairly and properly applied the relevant law. This process limits the inquiry to the facts presented by the case and provides a foundation for fair adjudication of the issues.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: I would first turn to precedent from the Tenth Circuit and the Supreme Court, to see how these courts had interpreted the statute at issue. If precedent on point exists, I would apply the Supreme Court or Tenth Circuit interpretation to the case before me. If there was no such precedent, I would consult the text directly as any plain meaning that can be ascertained is dispositive. If the statute is ambiguous, then I would look to other circuits for persuasive authority interpreting the statute, search for analogous statutes that contain similar wording, apply canons of construction appropriate under Supreme Court and Tenth Circuit precedent, and where authorized by Tenth Circuit and Supreme Court precedent, review the legislative history, such as committee reports.

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: District judges in Oklahoma must defer to the interpretations that the Tenth Circuit and the Supreme Court have provided for constitutional provisions. Those are the sources that I would consult when deciding a case that turned on the interpretation of a constitutional provision. If there were no precedent in the Supreme Court or the Tenth Circuit, I would look for persuasive authority from other Circuits.

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

Response: The Supreme Court precedent has instructed that plain meaning and original meaning of the text of a constitutional provision is essential. The importance

of original meaning and plain meaning has been addressed recently by the Court in several cases involving Constitutional interpretation. See Kennedy v. Bremerton School District, 142 S. Ct. 2407 (2022); New York State Rifle & Pistol Ass’n, Inc. v. Bruen, 142 S. Ct. 2111 (2022).

5. **How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?**

Response: Please see my response to question 2.

6. **Does the “plain meaning” of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic conventions evolve?**

Response: The Supreme Court has instructed that courts should normally interpret a statute in accord with the ordinary public meaning of its terms at the time of its enactment. See Bostock v. Clayton Cnty., Georgia, 140 S. Ct. 1731, 1738 (2020).

7. **What are the constitutional requirements for standing?**

Response: There are three Constitutional requirements necessary to establish standing. First, the plaintiff must demonstrate an injury in fact that is concrete and particularized. Next, the plaintiff’s injury must be fairly traceable to the challenged action of the defendant. Finally, the injury must be redressable by a favorable judicial decision. The Supreme Court has established these three requirements as the “irreducible” constitutional minimum of standing. Lujan v. Defs. of Wildlife, 504 U.S. 555, 560-61 (1992).

8. **Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?**

Response: The Necessary and Proper Clause in Article I of the Constitution provides Congress the power “[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” U.S. Const. art. I, § 8, cl. 18. See McCulloch v. Maryland, 17 U.S. 316 (1819).

9. **Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?**

Response: The Supreme Court has held that Congress is not required to specify the source of its enumerated power. See Nat. Fed’n of Indep. Bus. v. Sebelius, 567 U.S.

519 (2012). Congress must nonetheless have a source of power under the Constitution to enact legislation. When analyzing the Constitutionality of any statute, I will follow the precedent of the Supreme Court and the Tenth Circuit.

10. Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?

Response: The Supreme Court has held that the Constitution protects certain rights that are not expressly enumerated in the Constitution. The rights protected are those deeply rooted in the Nation's "history and tradition" and "implicit in the concept of ordered liberty." See Washington v. Glucksberg, 117 S. Ct. 2258, 2268 (1997). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit regarding rights not expressly enumerated in the Constitution. While several rights have been identified by the Supreme Court, the number and extent of rights continues to be litigated. See Griswold v. Connecticut, 381 U.S. 479 (1965); Loving v. Virginia, 388 U.S. 1 (1967); Obergefell v. Hodges, 576 U.S. 644 (2015).

11. What rights are protected under substantive due process?

Response: Substantive due process rights are protected by the due process clause of the Fifth and Fourteenth Amendments and are identified as fundamental rights "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." Washington v. Glucksberg, 521 U.S. 702, 720-21 (1997). These rights include the right to marry, and the right to have and educate children, among others. See Loving v. Virginia, 388 U.S. 1 (1967) and Obergefell v. Hodges, 576 U.S. 644 (2015); Skinner v. Oklahoma ex rel. Williamson, 316 U.S. 535 (1942); Meyer v. Nebraska, 262 U.S. 390 (1923).

12. If you believe substantive due process protects some personal rights such as a right to contraceptives, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?

Response: The Supreme Court has determined the status of substantive due process rights, whether personal or economic, and those decisions are binding on the district court. The Supreme Court overturned Lochner v. New York in W. Coast Hotel Co. v. Parrish, 300 U.S. 379 (1937). A right to marital privacy was established in Griswold v. Connecticut, 381 U.S. 479 (1965). If confirmed, I will be bound by the precedent of the Supreme Court.

13. What are the limits on Congress's power under the Commerce Clause?

Response: The Supreme Court has identified three broad categories of activity that Congress may regulate pursuant to the Commerce Clause. Congress may regulate the channels of interstate commerce, the instrumentalities of interstate commerce, and

activities that have a substantial relation to interstate commerce. See United States v. Lopez, 514 U.S. 549, 558 (1995).

14. What qualifies a particular group as a “suspect class,” such that laws affecting that group must survive strict scrutiny?

Response: The Supreme Court has identified several suspect classes such that laws affecting the group must survive strict scrutiny. Suspect classes include race and national origin and also include alienage, which the Supreme Court has referred to as the “prime example of a ‘discrete and insular’ minority.” Graham v. Richardson, 403 U.S. 365, 372, (1971). See Sugarman v. Dougall, 413 U.S. 634, 649 (1973) and Oyama v. California, 332 U.S. 633, 646 (1948).

15. How would you describe the role that checks and balances and separation of powers play in the Constitution’s structure?

Response: The Constitutional separation of power “diffuses power the better to secure liberty.” Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635 (1952). The Constitution’s checks and balances “enjoins upon its branches separateness but interdependence, autonomy but reciprocity.” Id. These structures ensure that the “separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch.” United States v. Lopez, 514 U.S. 549, 552 (1995).

16. How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: I would examine the text of the Constitution and the binding precedent of the Supreme Court and the Tenth Circuit and diligently and thoroughly review the record and arguments submitted by the parties. The Supreme Court has addressed many circumstances where separation of powers was implicated, including Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952) and Nixon v. United States, 506 U.S. 224, 234-35 (1993).

17. What role should empathy play in a judge’s consideration of a case?

Response: There is a role for empathy and patience when judges interact with counsel and the parties who appear before the court. Demonstrating courtesy and respect for others as required by Canon 3 of the Code of Conduct for United States Judges fosters that dynamic in the courtroom. In determining the outcome of a case, it is the law and the precedent of the Supreme Court and the Tenth Circuit that must inform decision-making. Decisions should not be based on an individual judge’s thoughts, opinions, or sympathies.

- 18. Which is worse; invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?**

Response: Neither of these outcomes is acceptable, as judges must avoid either circumstance. If confirmed, I would be bound to apply the precedent of the Supreme Court and the Tenth Circuit.

- 19. From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?**

Response: District Courts hear the matters that properly come before them, and cannot refuse to hear cases that challenge the constitutionality of a statute. I do not know what factors may have led to the changes described above. If confirmed, I would be bound to apply the precedent of the Supreme Court and the Tenth Circuit.

- 20. How would you explain the difference between judicial review and judicial supremacy?**

Response: Black's Law Dictionary defines "judicial review" as the "court's power to review the actions of other branches or levels of government." Black's Law Dictionary (11th ed. 2019). Black's Law Dictionary defines "judicial supremacy" as "[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states." Black's Law Dictionary (11th ed. 2019). The Supreme Court has held that the federal courts must invalidate an act of the legislature that is repugnant to the Constitution. Marbury v. Madison, 1 Cranch 137, 2 L.Ed. 60 (1803).

- 21. Abraham Lincoln explained his refusal to honor the Dred Scott decision by asserting that "If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal." How do you think elected officials should balance their independent obligation to follow the Constitution with the need to respect duly rendered judicial decisions?**

Response: Article VI of the Constitution makes the Constitution the "supreme Law of the Land." Since Marbury v. Madison, it has been "emphatically the province and duty of the judicial department to say what the law is." Both state and federal elected

officials are obligated to support the Constitution and cannot decide to ignore judgments by the Supreme Court. Everyone is subject to the basic principle that “the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system.” Cooper v. Aaron, 358 U.S. 1, 18 (1958).

- 22. In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that’s important to keep in mind when judging.**

Response: The point that Hamilton was making, in my view, was that the separation of powers in the Constitution also created an interdependency between the branches that ensured the protection of the rights and privileges of the citizenry. While judges protect the will of the people as expressed in the Constitution from being overtaken by unconstitutional acts, the people must turn to the legislature to create laws and the executive to enforce those laws. The judiciary lacks the power to perform either of those vital functions. Each branch has its own powers and its own limitations by design.

- 23. As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extend the precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: It is not within the power of a district court judge to substitute his or her own judgment for the judgment of the Supreme Court or the relevant Circuit Court. If confirmed, I would follow the law and precedent of the Supreme Court and the Tenth Circuit faithfully in every respect. If no precedent spoke squarely to the issue under consideration, I analyze the issue based on the reasoning followed by the Supreme Court and the Tenth Circuit in related cases.

- 24. When sentencing an individual defendant in a criminal case, what role, if any, should the defendant’s group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges’ sentencing analysis?**

Response: The individual defendant’s race, gender, nationality, sexual orientation or gender identity does not play a role in the sentencing analysis. The factors considered

in sentencing are found in 18 U.S.C. 3553(a), and if confirmed I will reference those factors.

- 25. The Biden Administration has defined “equity” as: “the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” Do you agree with that definition? If not, how would you define equity?**

Response: Black’s Law Dictionary defines “equity” as “fairness; impartiality; evenhanded dealing. Black’s Law Dictionary (11th ed. 2019). The word is used in many different contexts, and I do not have a personal definition that would operate in these contexts. If I were confirmed, I would apply the precedent of the Supreme Court and the Tenth Circuit.

- 26. Is there a difference between “equity” and “equality?” If so, what is it?**

Response: Black’s Law Dictionary defines “equality as “[t]he quality, state, or condition of being equal; esp., likeness in power or political status. Black’s Law Dictionary (11th ed. 2019). Like the word equity defined in question 25, the word “equality” is used in many different contexts, and I do not have a personal definition that would operate in these contexts. If I were confirmed, I would apply the precedent of the Supreme Court and the Tenth Circuit.

- 27. Does the 14th Amendment’s equal protection clause guarantee “equity” as defined by the Biden Administration (listed above in question 24)?**

Response: The Fourteenth Amendment guarantees equal protection. The Supreme Court has determined that “[e]qual protection does not require that all persons be dealt with identically, but it does require that a distinction made have some relevance to the purpose for which the classification is made. Baxstrom v. Herold, 383 U.S. 107, 111 (1966). If I were confirmed, I would apply the precedent of the Supreme Court and the Tenth Circuit.

- 28. How do you define “systemic racism?”**

Response: I do not have a personal definition for systemic racism. The dictionary definition of the phrase describes it as “[t]he oppression of a racial group to the

advantage of another as perpetuated by inequity within interconnected systems (such as political, economic, and social systems).” Merriam-Webster’s Dictionary (2022).

29. How do you define “critical race theory?”

Response: I do not have a personal definition for critical race theory. The dictionary definition of the phrase describes it as, “[a] reform movement within the legal profession, particularly within academia, whose adherents believe that the legal system has disempowered racial minorities.” Black’s Law Dictionary (11th ed. 2019).

30. Do you distinguish “critical race theory” from “systemic racism,” and if so, how?

Response: Please refer to answers above in questions 28 and 29.

31. The State of Oklahoma passed S.B. 612 on April 11, 2022, imposing criminal penalties on doctors who performed elective abortions, unless the abortion was necessary to preserve the life of a pregnant woman and her life was endangered by the pregnancy itself.

On April 28, 2022—while you were serving as Attorney General for the Cherokee Nation—you spoke to the Tribal Council Rules Committee. During that meeting, a member of the Council expressed concern that unless the criminal code in the reservation were updated, the reservation would become a “possible criminal asylum” within the state of Oklahoma, allowing people to escape the new state law.

Historically, updates to the Criminal Code of Cherokee Nation to coincide with Oklahoma State Code originated from the Attorney General’s office. The councilmember asked you if you intended to follow your own precedent as Attorney General and update the criminal code to reflect the abortion law. You responded by saying, “I have no intent to update the criminal codes as it relates to [the State’s abortion law].” You further stated that the abortion law “is subject to challenge once it becomes effective, so I expect, and I think everyone expects, massive constitutional challenges to that law.”

How do you justify your decision to withhold updating the criminal code to reflect the law of the land in Oklahoma in anticipation of constitutional challenges? As Attorney General, are there other examples of you selectively enforcing the laws based on your political passions?

Response: In the Cherokee Nation political system, as in the United States political system, the legislative body – not the Attorney General – makes the laws. Cherokee Nation Const., Art. VI. The Tribal Council, which is the Cherokee Nation’s

legislative body, has separate counsel and staff. My role as Attorney General was never to make the Cherokee Nation's laws but to enforce them. Cherokee Nation Const., Art. VII, Section 13.

While I was Attorney General, I did provide technical assistance to the legislative and executive branches of the Cherokee Nation, but only when called upon by the Speaker of the Tribal Council or the Principal Chief. I had no intent to update the criminal code as it related to any issue where neither the Tribal Council nor the Principal Chief had asked for technical assistance. Id.

My comment about the challenge expected to Oklahoma's abortion law was made so the Cherokee Nation's Tribal Council would be aware of the imminent litigation, especially if there was a desire to draft similar legislation. It would have been my obligation to defend the law, had one been passed, and I would not have hesitated to do so.

I took my oath of office as Cherokee Nation Attorney General extremely seriously and did not refuse to enforce any laws of the Cherokee Nation. Instead, I worked hard to ensure that violations of the Cherokee Nation's criminal laws were prosecuted, that victims were protected, and all people who interacted with the Cherokee Nation Attorney General's office were treated with dignity and respect.

- 32. If confirmed as a federal judge, would you continue to decline to uphold laws you dislike, on the presumption that they may face the specter of a possible constitutional challenge? Could you be trusted to rule in favor of litigants who disagree with your political philosophies?**

Response: As stated in my response to question 31, I never declined to uphold the Cherokee Nation's laws and instead enforced the Cherokee Nation's laws consistent with my oath of office. If confirmed, I will follow the law and the precedent of the Supreme Court and the Tenth Circuit. My career reflects my commitment to the rule of law, and if confirmed I commit to treat all litigants with fairness and impartiality.

- 33. During your tenure as Attorney General for the Cherokee Nation, Cherokee Federal, an organization entirely under the direction of the Cherokee Nation, contracted with the Department of Health and Human Services to provide migrant care for people who entered this country illegally for a total exceeding \$2 billion. These contracts are the second largest grant in HHS history. Andrew Lorenz-Strait, a former Biden Transition Team member and the figure responsible for securing those contracts with Cherokee Federal, was caught on camera calling them a "corrupt bargain," and said that "[i]t's been f***** up, but it's a boom for [his] business."**

Less than one month after the so-called “corrupt bargains” were exposed, you resigned as Attorney General. Did you know Andrew Lorenz-Straight? Did you ever work with him in any capacity?

Response: I do not know Andrew Lorenz-Straight. I never worked with him in any capacity.

For clarity, Cherokee Federal is not “under the direction of the Cherokee Nation.” The Cherokee Nation owns several companies, including Cherokee Federal. However, these companies have their own legal existence, with their own executives and attorneys. They are not controlled by the Cherokee Nation.

- 34. Did you work with or advise Cherokee National, or any other organization that profited from those federal grants meant for migrant care?**

Response: I did not work directly with Cherokee Federal on any federal grants related to migrant care. I did work for the Cherokee Nation, which owns several companies including Cherokee Federal. The Cherokee Nation receives a dividend from its businesses.

- 35. Did the revelation of corruption behind those multi-billion dollar contracts influence your decision to resign as Attorney General of the Cherokee Nation in any way?**

Response: No. I am unaware of any corruption. My departure from the Cherokee Nation was unrelated to any events that occurred during my tenure as Attorney General.

- 36. In remarks you gave criticizing the Supreme Court’s decision in *Oklahoma v. Castro-Huerta* (2022), you stated the following: “[I]f you have a non-Indian who steals a car from an Indian, that person can be prosecuted by the state. That person can also be prosecuted by the United States. They can be convicted twice for the same act and serve two sentences.”**

Does your statement criticizing *Castro-Huerta* reflect a misunderstanding of Double Jeopardy, or did you intentionally mischaracterize the consequences of *Castro-Huerta* to inflame passions against the current United States Supreme Court?

Response: I neither misunderstood Double Jeopardy nor did I intentionally mischaracterize the consequences of *Castro-Huerta*. I set out a hypothetical scenario to help a lay audience understand the change in the law.

Prior to the decision in *Castro-Huerta*, precedent set out that the state lacked jurisdiction over a crime committed by a non-Indian against an Indian. See *Williams v. Lee*, 358 U.S. 217, 220 (1959). Tribes typically lack criminal jurisdiction over non-

Indians, which left the United States as the sole sovereign capable of prosecuting the non-Indian offender for offenses against Indians in Indian country. After the Supreme Court's decision in Castro-Huerta, it was clear that both the state and the United States could prosecute such a crime in Indian country. Where before a non-Indian would only be subject to punishment by the United States, he or she now finds himself or herself subject to prosecution by both the state and the United States. Oklahoma v. Castro-Huerta, 142 S. Ct. 2486, 2504 (2022). If confirmed, I would faithfully apply Castro-Huerta and any other Supreme Court precedent.

37. **The United Keetoowah Band of Cherokee represent a significant group who reside almost entirely within the boundaries of the Northern District of Oklahoma. The UKB contacted this Committee with stern opposition to your nomination. In part, they stated that you have “gone out of your way to harm the UKB and [their] 14,000 members.” They stated that “[the UKE] are certain that Ms. Hill would not be fair in any case involving the UKB that would come in front of [you], and [they] suspect that there are other Oklahoma tribes who would share [their] view.”**

If you were tasked with presiding over a case involving members of the UKB, would you automatically recuse yourself from that case? If not, how would you determine which cases you would retain knowing the tribe's official opposition to your nomination? How can the UKB members be assured that they would receive a fair trial in your courtroom?

Response: There are both federal laws and Canons within the Code of Conduct for United States Judges that govern the recusal of judges. See 28 U.S.C. § 144 and 28 U.S.C. § 455.

Canon 3(C)(1) of the Code of Conduct for United States Judges governs disqualification based on conflicts of interest and provides that a judge “shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned.” This requires consideration of all relevant circumstances disclosed by reasonable inquiry.

An appearance of impropriety arises under Canon 2A when “reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry” would conclude that “the judge's honesty, integrity, impartiality, temperament or fitness to serve as a judge is impaired.”

I commit to following the law and the Code of Conduct for United States Judges regarding recusal in any and every case that came before. Moreover, should I be confirmed I will ensure that all litigants receive a fair trial and other fair consideration in my courtroom. This applies both to UKB members and all other litigants who may appear before me.

**Senator John Kennedy
Questions for the Record**

Sara E. Hill

- 1. Are there any circumstances under which it is justifiable to sentence a criminal defendant to death? Please explain.**

Response: Yes. In the United States, the death penalty is constitutional. See Gregg v. Georgia, 428 U.S. 153 (1976). The decision regarding which offenses are capital offenses is within the purview of the legislature. Capital defendants, like all defendants, are entitled to the full protections guaranteed to them by the Constitution, and the courts are responsible for ensuring that those rights are protected.

- 2. Except when a statutory maximum controls, when is it appropriate for a sentencing judge to impose a sentence below the range provided by the Sentencing Guidelines?**

Response: A sentence imposed outside the guideline range and outside the Sentencing Guidelines framework is referred to as a variance. While sentences within the range provided by the Sentencing Guidelines framework enjoy a presumption of reasonableness, variances do not enjoy such a presumption. A variance is appropriate where it is reasonable. Rita v. United States, 551 U.S. 338, 354–55 (2007). In the Tenth Circuit, the strength of the evidence needed to support a variance is higher when the variance from the Sentencing Guidelines is greater. United States v. Bishop, 469 F.3d 896, 907 (10th Cir. 2006).

- 3. Is the U.S. Supreme Court a legitimate institution?**

Response: Yes.

- 4. Is the current composition of the U.S. Supreme Court legitimate?**

Response: Yes.

- 5. Please describe your judicial philosophy. Be as specific as possible.**

Response: In my view, a District Judge must impartially and fairly hear every case, and if confirmed to serve in that role, I would employ a philosophy that involves careful study of precedents and neutral application of the law to the facts before me to achieve that. First, that process would include diligently identifying the relevant law, including all precedent from the Tenth Circuit and the Supreme Court. It's critical to study the record the litigants have created and consider each side of the argument with an open mind. I would then apply the law to the facts before me. Finally, I would test the outcome reached to confirm that I have thoroughly considered all relevant facts and fairly and

properly applied the relevant law. This process limits the inquiry to the facts presented by the case and provides a foundation for fair adjudication of the issues.

6. Is originalism a legitimate method of constitutional interpretation?

Response: Black's Law Dictionary defines "originalism" as "[t]he doctrine that words of a legal instrument are to be given the meanings they had when they were adopted; specif., the canon that a legal text should be interpreted through the historical ascertainment of the meaning that it would have conveyed to a fully informed observer at the time when the text first took effect. Black's Law Dictionary (11th ed. 2019).

Supreme Court precedent has instructed that plain meaning and original meaning of the text of a constitutional provision is essential. The importance of original meaning and plain meaning has been addressed recently by the Court in several cases involving Constitutional interpretation. See Kennedy v. Bremerton School District, 142 S. Ct. 2407 (2022); New York State Rifle & Pistol Ass'n, Inc. v. Bruen, 142 S. Ct. 2111 (2022).

7. If called on to resolve a constitutional question of first impression with no applicable precedents from either the U.S. Supreme Court or the U.S. Courts of Appeals, to what sources of law would you look for guidance?

Response: Supreme Court precedent has instructed that plain meaning and original meaning of the text of a constitutional provision is essential. The importance of original meaning and plain meaning has been addressed recently by the Court in several cases involving Constitutional interpretation. If it were possible to determine the original public meaning from unambiguous text, then the inquiry would end.

8. Is textualism a legitimate method of statutory interpretation?

Response: Black's Law Dictionary defines "textualism" as, "[t]he doctrine that the words of a governing text are of paramount concern and that what they fairly convey in their context is what the text means. Black's Law Dictionary (11th ed. 2019). If it is possible to determine the plain meaning from the text of a statute, that is dispositive. The Supreme Court has held that "in the context of an unambiguous statutory text whether a specific application was anticipated by Congress is irrelevant." Bostock v. Clayton Cnty., Georgia, 140 S. Ct. 1731, 1751 (2020) (internal quotation marks removed).

9. When is it appropriate for a judge to look beyond textual sources when determining the meaning of a statute or provision?

Response: It is not appropriate to look beyond textual sources unless there is ambiguity and no relevant precedent from the Tenth Circuit and the Supreme Court aids in the interpretation of the statute. When that occurs, judges can consider the statutory context of the language by reviewing the provisions adjacent to the text under consideration.

Canons of construction may be useful in interpreting the language as well. In circumstances where the Supreme Court has indicated it is appropriate to do so, judges may also undertake a review of legislative history such as committee reports.

a. Should a judge ever look beyond textual sources when a statute's meaning is clear? Please explain.

Response: If the statute is clear, then there is no need to look beyond textual sources.

10. Does the meaning (rather than the applications) of the U.S. Constitution change over time? If yes, please explain in detail the circumstances under which the U.S. Constitution's meaning changes over time and the relevant constitutional provisions.

Response: The Constitution does not change unless it is amended. The Supreme Court has explained that the Constitution is an enduring document with a "historically fixed meaning" that "applies to new circumstances." N.Y. Rifle & Pistol Ass'n v. Bruen, 142 S. Ct. 2111, 2132 (2022).

11. What is the role of legislative history in determining a statute's meaning?

Response: Different types of legislative history, such as speeches from the floor during debate and committee reports, can provide details about the circumstances surrounding the passage of a bill that may be relevant. However, the legislative history of a statute alone cannot determine a statute's meaning. The Supreme Court has stated that while "clear legislative history can illuminate ambiguous text," the Court will not allow "ambiguous legislative history to muddy clear statutory language." Azar v. Allina Health Servs., 139 S. Ct. 1804, 1814 (2019).

12. When is it appropriate for a district judge to issue a nationwide injunction? Please also explain the legal basis for nationwide injunctions and the relevant factors a district judge should consider before issuing one.

Response: Federal courts are limited by Article III to hear only cases and controversies. U.S. Const. Article II, Section 2. They also are limited to hearing cases where the parties have standing, which requires a showing of concrete injury in fact, an injury traceable to the challenged action, and that relief can be granted to remedy the plaintiff's injury. In the Tenth Circuit, the Court has stated that, "[t]he injury in fact requirement differs depending on whether the plaintiff seeks prospective or retrospective relief." Colorado Cross Disability Coal. v. Abercrombie & Fitch Co., 765 F.3d 1205, 1211 (10th Cir. 2014) (finding that disability advocate who indicated intent to return to department store could serve as representative of a nationwide class).

Federal Rule of Civil Procedure 65 generally governs injunctions. If confirmed, I would follow the binding precedent of the Supreme Court and the Tenth Circuit.

- 13. After the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022), a federal district judge in Washington, DC suggested that the Thirteenth Amendment may provide a basis for a constitutional right to abortion.**

a. Do you agree?

Response: I am unfamiliar with this suggestion. To the extent this question asks for my opinion on matters that may come before me if I am confirmed, I must refrain from prejudging issues that litigants may bring. If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit.

b. Is it ever appropriate for a lower court judge to imply the existence of a constitutional right despite the existence of controlling precedent to the contrary?

Response: All district judges are required to follow controlling precedent from the U.S. Supreme Court and any superior Circuit Court.

- 14. Is there ever an appropriate circumstance in which a district judge may ignore or circumvent or seek to undermine a precedent set by the circuit court under which it sits or the U.S. Supreme Court?**

Response: No. All district judges are required to follow controlling precedent from the U.S. Supreme Court and any superior Circuit Court.

- 15. Would you faithfully apply all precedents of the U.S. Supreme Court?**

Response: If confirmed, I will follow and apply all binding precedent from the Supreme Court and the Tenth Circuit.

- 16. Would you faithfully apply the U.S. Supreme Court's decision in *Oklahoma v. Castro-Huerta*, 142 S. Ct. 2486 (2022), including any dicta, see *Utah Republican Party v. Cox*, 892 F.3d 1066, 1079 (10th Cir. 2018)?**

Response: If confirmed, I will follow and apply all binding precedent from the Supreme Court and the Tenth Circuit, including *Utah Republican Party v. Cox* and *Castro-Huerta*.

- 17. Please explain when it would be appropriate for you to recuse from participation in a matter involving the Cherokee Nation or the two other Cherokee tribes.**

Response: There are both federal laws and Canons within the Code of Conduct for United States Judges that govern the recusal of judges. See 28 U.S.C. § 144 and 28 U.S.C. § 455. Canon 3(C)(1) of the Code of Conduct for United States Judges governs disqualification based on conflicts of interest and provides that a judge "shall disqualify himself or herself

in a proceeding in which the judge's impartiality might reasonably be questioned." This requires consideration of all relevant circumstances disclosed by reasonable inquiry. An appearance of impropriety arises under Canon 2A when "reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry" would conclude that "the judge's honesty, integrity, impartiality, temperament or fitness to serve as a judge is impaired."

I commit to follow the law and the Code of Conduct for United States Judges regarding recusal in every case.

18. Please describe the analysis you would use to evaluate whether a law or regulation infringes on an individual's rights under the Second Amendment in light of the Supreme Court's opinion in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).

Response: When the plain text of the Second Amendment covers an individual's conduct, the Constitution presumptively protects that conduct. It falls to the government to justify any regulation by demonstrating that the regulation is consistent with the Nation's historical tradition of firearm regulation. *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 142 S. Ct. 2111, 2129–30, (2022); see also *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010); *District of Columbia v. Heller*, 554 U.S. 570, 635 (2008).

To demonstrate that the regulation is consistent with the Nation's historical tradition of firearm regulation, the government can "use analogical reasoning ... [to] identify a well-established and representative historical analogue, not a historical twin." *Bruen*, 142 S. Ct. 2111, 2133 (2022).

19. When should a district judge deem a previously unrecognized unenumerated right to be "fundamental" and therefore entitled to protection under the Fourteenth Amendment?

Response: Substantive due process rights are protected by the due process clause of the Fifth and Fourteenth Amendments and are identified as fundamental rights when "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702, 720–21 (1997).

20. Please identify any unrecognized unenumerated rights that could plausibly be worthy of fundamental status.

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering my personal opinion on issues that may come before me if I am confirmed. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court's decisions.

21. What is the difference between judicial review and judicial supremacy?

Response: Black's Law Dictionary defines "judicial review" as the "court's power to review the actions of other branches or levels of government." Black's Law Dictionary (11th ed. 2019). Black's Law Dictionary defines "judicial supremacy" as "[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states." Black's Law Dictionary (11th ed. 2019). The Supreme Court has held that the federal courts must invalidate an act of the legislature that is repugnant to the Constitution. Marbury v. Madison, 1 Cranch 137, 2 L.Ed. 60 (1803).

22. Should a district judge give deference to an agency's interpretation of a statute that imposes criminal penalties? Please explain in detail.

Response: Typically, a court first decides "whether Congress has directly spoken to the precise question at issue[.]" using "traditional tools of statutory construction." Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 843 (1984). When Congress has been clear, then the court gives effect to Congress clearly expressed intent. Id. at 842. But "if the statute is silent or ambiguous with respect to the specific issue," the court must proceed to determine whether the agency's interpretation is "based on a permissible construction of the statute." If it is, then the court must defer to the agency's interpretation.

I am aware that legal scholars have debated whether Congress can delegate to any agency the authority to interpret a statute that imposes criminal penalties. F. Andrew Hessick & Carissa Byrne Hessick, *Nondelegation and Criminal Law*, 107 Va. L. Rev. 281, 282 (2021). However, I know of no Tenth Circuit or Supreme Court precedent that resolves this issue.

Consistent with the Code of Conduct for United States Judges and the need to avoid prejudging matters that may come before me if I am confirmed, it would be inappropriate for me to comment on the deference given to an agency's interpretation of a statute that imposes criminal penalties.

23. Please describe how courts determine whether an agency's action violates the Major Questions Doctrine.

Response: The Major Questions Doctrine is implicated when an administrative agency exercises authority of such "economic and political significance" that the Court cannot conclude that Congress intended to confer such authority. W. Virginia v. Env't Prot. Agency, 142 S. Ct. 2587, 2608 (2022). To determine whether the agency has gotten too far past its conferred authority, the Court must examine the language of the statute the agency claims has empowered it. Id. at 2587, 2609 (2022). To use broad and extraordinary power, the Court requires the agency to point to "clear congressional authorization." Util. Air Regul. Grp. v. E.P.A., 573 U.S. 302, 324 (2014). If there is no

clear source of congressional authorization, the agency may have violated the Major Questions Doctrine.

24. Please identify one federal judge or justice, current or former, whose service on the bench most inspires you and explain why.

Response: I am inspired by the career of Claire Eagan, who was the first woman to sit on the federal bench in the Northern District of Oklahoma. Throughout her long career of public service, she served not only her district but also on the Foreign Intelligence Surveillance Court and in a leadership position as the chair of the Executive Committee of the Judicial Conference.

25. Please explain the doctrine of collateral estoppel.

Response: Black's Law Dictionary defines "collateral estoppel" as "1. The binding effect of a judgment as to matters actually litigated and determined in one action on later controversies between the parties involving a different claim from that on which the original judgment was based. 2. A doctrine barring a party from relitigating an issue determined against that party in an earlier action, even if the second action differs significantly from the first one." Black's Law Dictionary (11th ed. 2019).

26. You have been nominated to serve as a federal district judge. Please list all instances in which you served as lead counsel in a federal district court case that went to final judgment.

Response: I have practiced extensively in the federal courts. That practice included a period during which I served as a Special Assistant United States Attorney in the Northern District of Oklahoma as part of the Indian country prosecution team. In addition to this, I have litigated cases in multiple District Courts and before the Tenth Circuit Court of Appeals. I have also served as counsel for amicus before the United States Supreme Court in more than a dozen cases. Federal cases in which I served as primary counsel for all or part of the matter include Cherokee Nation v. Bernhardt et al., No. 4:12-CV-493-GKF-JFJ, 2020 WL 1429946 (N.D. Okla. Mar. 24, 2020) (Frizzell, J.), vacated and remanded sub nom. Cherokee Nation v. Haaland, No. 20-5054, 2022 WL 1436699 (10th Cir. May 6, 2022) (Holmes, Rossman, JJ., Tymkovich, C.J.); Gooding v. Ketcher et al., No. 4:10-CV-131-TCK-FHM, 838 F. Supp. 2d 1231 (N.D. Okla. July 30, 2012) (Kern, J.); Oklahoma ex rel. Edmondson v. Tyson Foods, Inc., No. 4:05-CV-329-CKF-SH, 619 F. 3d 1223 (10th Cir. Sept. 21, 2010) (Tacha, Ebel, Hartz, JJ.); Cherokee Nation v. United States Department of Interior, 1:20-cv-02167 (TJK) (D.D.C.). Final judgment has been entered in Cherokee Nation v. Stitt, No. 5:19-CV-01198-D, 475 F. Supp. 3d 1277 (W.D. Okla. Sept. 23, 2020) (DeGuisti, J.). More information and detail regarding my practice in the federal courts is available in my Senate Judiciary Questionnaire.

27. You have been nominated to serve as a federal district judge. To the best of your recollection, please list all cases in which you served as lead counsel in a case tried before a jury in federal district court.

Response: I have tried approximately a dozen cases before a jury in my career. Those jury trials were juvenile cases, and the details of the cases are confidential. Typically, they involved termination of parental rights, although the Cherokee Nation's juvenile deprived code also permitted a jury trial on the initial determination of deprivation early in my career. I was sole counsel for the Cherokee Nation in all of the cases that I tried to a jury in state and tribal court. I have not tried a case before a jury in a federal district court.

- 28. You have been nominated to serve as a federal district judge. To the best of your recollection, please list all cases in which you presented opening or closing statements to a jury in federal district court.**

Response: Please see the response to question 27.

- 29. To the best of your recollection, please list all instances in which you presented oral argument before a U.S. Court of Appeals panel.**

Response: I have represented my client in appellate cases before the Cherokee Nation Supreme Court, the Oklahoma Court of Civil Appeals, the Kansas Court of Civil Appeals, the Oklahoma Supreme Court, and the Tenth Circuit Court of Appeals. I presented oral arguments before the Cherokee Nation Supreme Court many times, including in *Olaya et al. v. Baker*, No. SC-2013-05, 12 Am. Tribal Law 331 (Cherokee Sup. Ct. Nov. 10, 2014). I have not presented an oral argument before a U.S. Court of Appeals panel.

- 30. Please explain whether you have ever sought admission to practice before the U.S. Supreme Court and why or why not.**

Response: I have never sought admission to practice before the U.S. Supreme Court. I had not had occasion to seek such admission.

- a. If you have sought admission to practice before the U.S. Supreme Court and were unsuccessful, please explain the circumstances of your application or potential application and the response you received.**

- 31. Please explain in detail why you left the position of Attorney General to engage in the solo practice of law in September 2023.**

Response: After nearly twenty years at the Cherokee Nation, I felt it was time for a career change. The Cherokee Nation held elections in 2023, and I decided to step down as the new and returning elected officials were coming into office.

- 32. At the Committee's November 15, 2023, hearing, you indicated that you would give Senator Kennedy a copy of the materials provided to you by the White House to**

prepare you for questioning. Please provide those materials or confirm how and when you will be providing them.

Response: I indicated that I had received a list of previous questions that had been asked during Senate Judiciary Committee meetings. The Department of Justice had advised me that the White House will be addressing this question under separate cover.

Questions from Senator Thom Tillis
for Sara E. Hill

Nominee to be United States District Judge for the Northern District of Oklahoma

1. **Ms. Hill, on March 12 2020, the U.S. Department of Interior (DOI) agreed to put 17 acres in Cleveland County, NC in a trust for the Catawba Nation. On May 1, 2020, as Attorney General, you and your team filed a motion to intervene in the *Eastern Band of Cherokee Indians v. United States Department of Interior* civil case.**

The motion to intervene backed the Eastern Band of Cherokee Indians and claimed that the DOI willfully violated the National Historic Preservation Rights, National Environmental Policy Act and Administrative Procedure Act. Do you believe that the DOI got the decision right or wrong?

Response: In my capacity as Attorney General of the Cherokee Nation, I filed a motion on behalf of my client that argued that the Department of the Interior violated the National Historic Preservation Act (NHPA), the National Environmental Policy Act (NEPA), and the Administrative Procedure Act (APA) in reaching its decision to approve the land-into-trust application and a related development project for the Catawba Nation on lands historically held by the Cherokee Nation. The District Court determined that any such violations were immaterial and disposed of the case on other grounds.

2. **Can I get your commitment that you will recuse yourself from cases involving tribal issues on which you have had a degree of involvement that would create at the least the appearance of lacking impartiality?**

Response: There are both federal laws and Canons within the Code of Conduct for United States Judges that govern the recusal of judges. See 28 U.S.C. § 144 and 28 U.S.C. § 455. Canon 3(C)(1) of the Code of Conduct for United States Judges governs disqualification based on conflicts of interest and provides that a judge “shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” This requires consideration of all relevant circumstances disclosed by reasonable inquiry. An appearance of impropriety arises under Canon 2A when “reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry” would conclude that “the judge’s honesty, integrity, impartiality, temperament or fitness to serve as a judge is impaired.”

I commit to following the law and the Code of Conduct for United States Judges regarding recusal in every case.

3. **Can I get your commitment that you will recuse yourself from cases involving cases filed by the Eastern Band of Cherokee Indians?**

Response: Please refer to the response provided in question 2.

- 4. Can I get your commitment that you will recuse yourself from cases involving cases filed by the Eastern Band of Cherokee Indians, including litigation to take specified lands and easements in Monroe County, Tennessee, into trust for the use and benefit of the Eastern Band of Cherokee Indians?**

Response: Please refer to the response provided in question 2. Given that the Eastern Band of Cherokee Indians is based in the southeastern part of the United States, it is unlikely such matters would come before the Northern District of Oklahoma.

- 5. Do you agree with the Eastern Band of Cherokee Indians that there should be three congressional delegates?**

Response: During my tenure as Attorney General of the Cherokee Nation, I advocated for my client's position that the treaty right to a delegate to Congress belonged exclusively to the Cherokee Nation. In my capacity as Attorney General, I supported that position publicly in media interviews and in opinion pieces written in the local newspaper.

- 6. If a case regarding a potential Cherokee delegate to Congress comes before you—would you recuse yourself?**

Response: Yes, having considered this particular issue pursuant to the Code of Conduct for United States Judges and federal statutes governing recusal, I would recuse myself if such an issue were to come before me.

- 7. Do you believe you could consider cases regarding the Lumbee Tribe of North Carolina impartially given your background, specifically relating to federal recognition?**

Response: Yes. Moreover, I commit to following the law and the Code of Conduct regarding recusal in every case.

- 8. Ms. Hill—there have been reports that the Cherokee Nation has made millions of dollars from immigration contracts to process individuals who enter the U.S. illegally, specifically unaccompanied children. As former Attorney General for the Cherokee Nation, were you involved in any of the immigration contract negotiations? If so, which ones?**

Response: I was not involved in any immigration contract negotiations. Cherokee Federal, which I understand operated the facility in question, is a separate legal entity that has its own counsel and CEO.

9. Can a judge's personal views and background benefit them in interpreting and applying the law, or would you say that they are irrelevant?

Response: A judge's personal views are not relevant in interpreting and applying the law. A person's background in the law, including knowledge and experiences gained through legal education and career, can be helpful in applying the law. For example, a judge may be readily familiar with certain statutes and precedent based on prior experience.

10. Do you believe impartiality is an aspiration or an expectation for a judge?

Response: Canon 2 of the Code of Conduct for United States Judges states that judges must perform their duties fairly, impartially, and diligently. In addition to impartiality being an expectation, it is also a requirement.

11. What is judicial activism? Do you consider judicial activism appropriate?

Response: Black's Law Dictionary defines judicial activism as "[a] philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usu. with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore governing texts and precedents." Black's Law Dictionary (11th ed. 2019). I do not find judicial activism, as that term is defined above, to be appropriate.

12. Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?

Response: Judges should not second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome. It is the role of the political branches of government to make policy decisions.

13. Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?

Response: I have observed that faithfully interpreting the law often leads to outcomes that may be undesirable to someone. It is very rare that all parties leave a court feeling that a desirable outcome was achieved. As a judge, I believe it's important to keep in mind the critical role the judiciary plays in our republic. The rule of law does not consider whether an outcome is desired, but instead requires fair and impartial application of the law to all parties who come before the court.

14. What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?

Response: The Supreme Court has made it clear that the Second Amendment includes a fundamental right for citizens to keep and bear arms. If confirmed, it will be my duty to follow the Supreme Court's binding precedent, including its decisions in D.C. v. Heller, 554 U.S. 570 (2008), New York State Rifle & Pistol Association v. Bruen, 142 S. Ct. 2111 (2022), and McDonald v. Chicago, 561 U.S. 742 (2010).

15. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?

Response: The Supreme Court has established a two-step process for resolving qualified immunity claims.

First, the court must determine whether the plaintiff has alleged sufficient facts to make out a violation of a constitutional right. Pearson v. Callahan, 555 U.S. 223, 232 (2009). If the plaintiff satisfies that step, then the court must determine whether the alleged conduct by the officer violated a clearly established constitutional right. Id. Unless both parts of the two-step process are satisfied, the officer is entitled to qualified immunity. If confirmed, I will follow the precedent of the Supreme Court and the Tenth Circuit related to qualified immunity.

16. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?

Response: The question of whether the current qualified immunity jurisprudence provides sufficient protection for law enforcement officers is a question for policymakers to address. If confirmed, I would be bound to follow the law and the precedent of the Supreme Court and the Tenth Circuit.

17. What do you believe should be the proper scope of qualified immunity protections for law enforcement?

Response: The question of the proper scope of qualified immunity for law enforcement officers is a question for policymakers to address. If confirmed, I would be bound to follow the law and the precedent of the Supreme Court and the Tenth Circuit.

18. What are your thoughts regarding the importance of ensuring that all IP rights are in fact enforced?

Response: The Constitution specifically empowered Congress to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." My thoughts on the importance of enforcing IP rights are informed by the priority placed upon them by the Constitution. If

confirmed, I will faithfully apply the laws passed by Congress consistent with the precedent of the Supreme Court, the Federal Circuit, and the Tenth Circuit.

- 19. In the context of patent litigation, in some judicial districts plaintiffs are allowed to request that their case be heard within a particular division. When the requested division has only one judge, this allows plaintiffs to effectively select the judge who will hear their case. What are your thoughts on this practice, which typically is referred to as “forum shopping” and/or “judge shopping?”**

Response: I am unfamiliar with this practice of forum shopping for a particular judge in patent litigation. In the Northern District of Oklahoma, cases are assigned randomly so that no litigant can choose his or her own judge.

- 20. The Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in shambles. What are your thoughts regarding the Supreme Court’s patent eligibility jurisprudence?**

Response: As a nominee to the district court, the Code of Conduct for United States Judges precludes me from offering commentary regarding my personal opinion on whether Supreme Court cases were correctly decided. See Code of Conduct for United States Judges, Canon 3, A(6). If confirmed, I will follow and apply binding precedent from the Supreme Court and the Tenth Circuit without regard to any personal views on the Supreme Court’s decisions.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

EASTERN BAND OF CHEROKEE INDIANS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:20-cv-00757-JEB
	)	
UNITED STATES DEPARTMENT OF THE	)	
INTERIOR, et al.	)	
	)	
Defendants.	)	

**THE CHEROKEE NATION’S MOTION TO INTERVENE
AND STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT**

Interested Party, the Cherokee Nation, moves pursuant to Federal Rules of Civil Procedure Rule 24 to intervene in the case as Intervenor-Plaintiff. Intervention as of right is warranted because the Cherokee Nation’s interests in protecting its aboriginal, historical and treaty territory, along with items of Cherokee cultural and ceremonial patrimony found therein, will not be adequately represented by Plaintiff Eastern Band of Cherokee Indians (“Eastern Band”). In this instance, Defendant United States Department of the Interior (“DOI”), Defendant United States Bureau of Indian Affairs (“BIA”), Defendant DOI Secretary David Bernhardt, Defendant Assistant Secretary for Indian Affairs Tara Sweeney, and Defendant Acting BIA Eastern Regional Office Director R. Glen Melville (collectively, “Defendants”), wholly and completely failed to provide notice, an invitation to consult, or any communication or disclosure whatsoever to the Cherokee Nation concerning Catawba’s Kings Mountain project and land into trust application within Cherokee aboriginal, historical and treaty territory, thereby violating the National Historic Preservation Act (“NHPA”), 54 U.S.C. § 300101 *et seq.*, the National Environmental Protection Act (“NEPA”), 42 U.S.C. § 4321 *et seq.*, the Administrative Procedure Act “APA”), 5 U.S.C. § 701 *et seq.*, and other laws.

As the sovereign Tribal Nation entitled to consultation concerning this land into trust agency action, no entity or party can adequately represent the Cherokee Nation's interests but the Cherokee Nation. Although the Cherokee Nation and the Eastern Band share a history, after a series of federal policies and federal removal, the two now constitute separate, distinct Tribal Nations entitled to independent government-to-government relationships with the United States—and Defendants cannot send a letter to the Eastern Band and consider that a completion of their obligation to consult with the Cherokee Nation. The Cherokee Nation's independent interests in protecting its aboriginal, historical and treaty territory, along with items of Cherokee cultural and ceremonial patrimony found therein, will be gravely impaired if the Cherokee Nation is not permitted to intervene under Fed. R. Civ. P. 24(a)(2).

In the alternative, permissive intervention is warranted under Rule 24(b)(1)(B), as the Cherokee Nation's defense of its rights that Defendants violated would have numerous questions of law and fact in common with the Eastern Band positions.

In support of this motion, the Cherokee Nation relies on the Nation's Statement of Points and Authorities contained herein. The Cherokee Nation's proposed Complaint in Intervention is attached hereto as Exhibit A.

Counsel for the Cherokee Nation has circulated a copy of the attached Complaint with counsel for the parties in this case and has sought to intervene unopposed. Plaintiff Eastern Band does not oppose the motion and counsel for the United States did not consent to the motion. Counsel for Intervenor-Defendant Catawba Indian Nation, could not formulate a position in the time provided and will file a response to the motion once it does so.

STATEMENT OF POINTS AND AUTHORITIES**I. INTRODUCTION**

The Cherokee Nation seeks to intervene to assert its opposition to Defendant Assistant Secretary Tara Sweeney's March 12, 2020 Decision, ECF No. 1-2, to take lands into trust for the Catawba Indian Nation within Cherokee aboriginal, historical and treaty territory, as well as the Defendants' actions in issuing a Finding of No Significant Impact ("FONSI") and Final Environmental Assessment ("Final EA"), rather than undertaking an Environmental Impact Statement ("EIS"), as well as Defendants' failure to comply with the NHPA, NEPA, APA and other federal laws.

Because Defendants willfully and blatantly violated the NHPA, NEPA, APA and other laws, the Cherokee Nation easily satisfies the requirements for intervention as of right under Federal Rule of Civil Procedure 24(a)(2). Even though the Kings Mountain Site sits within Cherokee Nation's historical homelands, Defendants developed their plans, and conducted their environmental review process, without ever engaging with—or even sending a communication to—the Cherokee Nation. The Defendants announced their decision to take lands into trust for the Catawba Indian Nation in Cleveland County, North Carolina, within the Cherokee Nation Historic treaty territory, on March 12, 2020. Defendants' failure to notify the Cherokee Nation, failure to consult with the Cherokee Nation, and failure to communicate with the Cherokee Nation or otherwise disclose to the Cherokee Nation information about the March 12 Decision and the planning and processes leading up to a Final EA harms Cherokee cultural, historical, and religious sites and resources, and threatens to irreparably destroy the Cherokee Nation's sovereign right to consult with federal agencies before a major federal action is undertaken that

would remove the Cherokee Nation's right to repatriate human remains and cultural resources discovered within the Cherokee Nation's historical homelands.

II. BACKGROUND

B. The Cherokee Nation and The Kings Mountain Site

The Cherokee Nation has been connected to the lands that now comprise Cleveland County, North Carolina, and the Kings Mountain Site since time immemorial. Lands located within the State of North Carolina, including the Kings Mountain, Site were ceded by the Cherokees in the Treaty of July 20, 1777. The Cherokee Nation continues to maintain cultural sovereignty over its historic treaty territory and regularly consults with federal agencies, private organizations and companies, and individuals to ensure NHPA and NEPA compliance.

C. Agency Proceedings and This Action

On March 12, 2020, Defendant Assistant Secretary Tara Sweeney issued a final agency action, on behalf of the Defendants, granting the Catawba Indian Nation's Kings Mountain Site land-into-trust request. At no time during the multi-year process that resulted in the March 12 Decision did Defendants reach out to the Cherokee Nation to consult on Catawba's Kings Mountain Site land-into-trust application. Nor did Defendants give the Cherokee Nation any opportunity to engage in the planning and development that led to a FONSI and Final EA, rather than an EIS. Defendants never inquired with the Cherokee Nation as to how the March 12 Decision might affect the Cherokee Nation. Not only did Defendants fail to consult with the Cherokee Nation, Defendants made no attempt whatsoever to communicate with the Cherokee Nation about the Kings Mountain Site—not through email, not through in-person meetings, and not by any other means of communication.

Five days after the Defendants' March 12 Decision, the Eastern Band of Cherokee Indians ("Eastern Band") filed this action, claiming that Defendants' March 12 Decision, along with its actions leading up to the March 12 Decision, violated no fewer than three federal laws—the APA, the NHPA, the NEPA. The Eastern Band seeks a declaration that Defendants' March 12 Decision is unlawful, a preliminary injunction against taking the land into trust, and other relief. *Id.* at 43. The Eastern Band concurrently sought a temporary restraining order against the Kings Mountain Site being taken into trust, but the parties agreed that the Catawba Nation would not submit land title documents to the Department to complete the land into trust transaction until Monday, May 4, 2020.

D. The Cherokee Nation's Interest in the Present Action

In addition to Defendants' total and complete failure to provide any notice whatsoever to the Cherokee Nation, failure to invite the Cherokee Nation to participate in any consultation on Catawba's Kings Mountain Site project and the March 12 Decision, and failure to communicate or otherwise disclose to the Cherokee Nation their intent to take the lands into trust for another tribe in Cherokee aboriginal, historical and treaty territory.

III. ARGUMENT

A. THE CHEROKEE NATION HAS ARTICLE III STANDING TO INTERVENE

As a threshold matter, "intervenors must demonstrate Article III standing." *Deutsche Bank National Trust Company v. FDIC*, 717 F.3d 189, 193 (D.C. Cir. 2013). Article III standing "requires a showing of injury-in-fact, causation, and redressability." *Id.* The Cherokee Nation meets each requirement.

First, under D.C. Circuit precedent, "sufficient injury in fact" exists when an agency "fail[s] to fulfill [its] continuing statutory duties under the cultural protection statutes. . . . If the [agency] neglects [its] . . . duties, the Tribe [may] seek relief against the [agency]"

pursuant to those statutes” *Crow Creek Sioux Tribe v. Brownlee*, 331 F.3d 912, 918 (D.C. Cir. 2003); *see also Oglala Sioux Tribe v. U.S. Nuclear Regulatory Comm’n*, 896 F.3d 520, 534-35 (D.C. Cir. 2018) (“In this context, the agency may not properly conclude that its failure to comply with NEPA is harmless simply because the Tribe cannot point to specific historical sites that are at risk. Indeed, placing the burden on the Tribe to show harm was especially inappropriate because the inadequate EIS may well make doing so impossible. *See Winter*, 555 U.S. at 23, 129 S.Ct. 365.”).

That is the situation here. The Defendants’ March 12 Decision effectively precludes the Cherokee Nation from benefiting from the consultation mandated by federal law that affords Tribal Nations the right to protect religious and cultural sites within their treaty and historical territory. Here, the Defendants’ March 12 Decision is based on a Final EA and FONSI that are fundamentally flawed due to Defendants’ total failure to, at a minimum, invite the Cherokee Nation to consult on the Kings Mountain Site project as required by NHPA and the Section 106 guidelines promulgated by the Advisory Council on Historic Preservation—underscoring the deficient analysis to the human environment provided in the Final EA. *See* 54 U.S.C. 306108; 30 C.F.R. § 800.2(c)(2); Advisory Council on Historic Preservation, *Consultation with Indian Tribes in the Section 106 Review Process: A Handbook* 10 (2012) (“Even when there are no federally recognized Indian tribes with tribal lands in the [area] where the project is located, *the agency must still make a reasonable and good faith effort to identify and consult with any Indian tribes that attach religious and cultural significance to historic properties that may be affected by the undertaking. The circumstances of history may have resulted in an Indian tribe now being located a great distance from its ancestral homelands and places of importance.* Therefore, agencies are required to identify Indian tribes that may attach religious and cultural significance

to historic properties in the area of the undertaking, even if there are no tribes near the area of the undertaking or within the state.”) (emphasis added). Thus, the fact that Cherokee Nation is no longer located in Cleveland County, North Carolina, in no way obviates Defendants’ lawful obligation to engage with the Cherokee Nation to identify and protect historical sites and cultural resources within the Cherokee Nation’s historical homelands *before* undertaking a major federal agency action within Cherokee aboriginal territory.

Furthermore, if the United States and Catawba were to prevail, the Cherokee Nation would lose the opportunity to protect Cherokee lands and resources from possible destruction. Hence, the loss of these rights constitutes a concrete and imminent injury for Article III standing.

Second, the Cherokee Nation’s injury is directly traceable to the Defendants’ March 12 Decision, and deficient Final EA and FONSI. Declaration of Elizabeth Toombs, Cherokee Nation Tribal Historic Preservation Officer (“Toombs Decl.”) ¶¶ 6-9, ECF No. 17-2. If Defendants take the lands into trust for Catawba, there will be no opportunity to cure the deficient Final EA and FONSI that, among other things, fail to provide any analysis of the impact of the project based on consultation with the Cherokee Nation or any mitigation measures that may be determined appropriate after consulting with the Cherokee Nation. Furthermore, in the event Catawba begins construction on these lands, the Cherokee Nation will lose the opportunity to protect its Cherokee cultural patrimony—an outcome that specifically contradicts and violates NEPA and NHPA.

Third, a resolution of this litigation in favor of the Cherokee Nation would prevent the injury the Cherokee Nation faces and uphold the stated principles of NEPA and NHPA. *Oglala Sioux Tribe*, 896 F.3d at 529 (“Moreover, if review is delayed until final judgment, and vulnerable but as-yet-unidentified historical, cultural, or religious sites are damaged in the

interim, the court will be unable to remedy that injury to the public interest—an interest that NEPA’s procedural mandate was intended to vindicate.”) (citing *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349-51, 109 S.Ct. 1835, 104 L.Ed.2d 351 (1989)).

B. The Cherokee Nation Should Be Granted Intervention as of Right

Under Rule 24(a)(2), an applicant is entitled to intervene if (1) the intervention motion is “timely,” (2) the movant “claims an interest relating to the property or transaction that is the subject of the action,” (3) the movant “is so situated that disposing of the action may as a practical matter impair or impede the movant’s ability to protect its interest,” and (4) the existing parties do not already “adequately represent that interest.” Fed. R. Civ. P. 24(a)(2). The Cherokee Nation satisfies all four requirements.

1. The Cherokee Nation’s Motion Is Timely

The D.C. Circuit evaluates timeliness “in consideration of all the circumstances, especially weighing the factors of time elapsed since the inception of the suit, the purpose for which intervention is sought, the need for intervention as a means of preserving the applicant’s rights, and the probability of prejudice to those already parties in the case.” *Karsner v. Lothian*, 532 F.3d 876, 886 (D.C. Cir. 2008) (citations omitted). At its core, the timeliness requirement “is aimed primarily at preventing potential intervenors from unduly disrupting litigation[] to the unfair detriment of the existing parties.” *Roane v. Leonhart*, 741 F.3d 147, 151 (D.C. Cir. 2014).

Here, there was no delay in seeking intervention. The Cherokee Nation is filing this motion before the Department has completed the land-into-trust acquisition, before Catawba has begun construction on the land, and before an answer or dispositive motion has been filed by Defendants. Further, the Court at the recent hearing on the motion for preliminary injunction stated that the Eastern Band would have an opportunity to file an updated motion for temporary restraining order. April 15, 2020 Hr’g Tr. 29. Hence, no party can claim to be prejudiced by any

delay caused by this motion or credibly argue that intervention would unduly disrupt this nascent litigation.

2. The Cherokee Nation Has An Interest Relating To The Subject Of This Action

The Cherokee Nation has a direct interest in this action. The “transaction ... that is the subject of the action,” Fed. R. Civ. P. 24(a)(2), bears directly on the Cherokee Nation’s right to protect Cherokee cultural patrimony in the Cherokee historical territory. For another, the D.C. Circuit has held that where the would-be intervenor “has constitutional standing, it *a fortiori* has ‘an interest relating to the property or transaction which is the subject of the action.’” *Connecticut v. United States Dep’t of the Interior*, 344 F. Supp. 3d 279, 304 (D.D.C. 2018) (quoting *Crossroads Grassroots Policy Strategies v. FEC*, 788 F.3d 312, 320 (D.C. Cir. 2015) (quoting Fed. R. Civ. P. 24(a)).

3. The Cherokee Nation’s Interests Would Be Impaired if the United States and Catawba Nation Prevail

If the United States and Catawba prevail in this action, the Cherokee Nation would be prohibited from studying the Kings Mountain Site and protecting Cherokee cultural resources at the Site. These circumstances satisfy the requirement that the disposition of this case “may as a practical matter impair or impede” the Cherokee Nation’s ability to protect its rights and interests. Fed. R. Civ. P. 24(a)(2).

4. The Parties May Not Adequately Represent the Cherokee Nation’s Interests

The last requirement for intervention as of right requires showing that the current Plaintiff’s “representation of [the would-be intervenor’s] interest ‘may be’ inadequate.” *Fund for Animals*, 322 F.3d at 735 (quoting *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). The D.C. Circuit has described this requirement as both “low” and “not onerous.”

Crossroads Grassroots, 788 F.3d at 321. Indeed, “a movant ordinarily should be allowed to intervene unless it is clear that the party will provide adequate representation.” *Id.* (quotation marks omitted). The minimal showing is easily made here.

First, representation may be inadequate when the would-be intervenor’s stake in the litigation is “narrower” than that of the existing plaintiff. *Dimond v. District of Columbia*, 792 F.2d 179, 193 (D.C. Cir. 1986). Here, the Eastern Band has a broader set of concerns related to the trust acquisition. While the Cherokee Nation agrees with the Eastern Band’s positions—and believes they are a sound basis for judgment against Defendants on the merits—the Cherokee Nation has a narrower interest in protecting Cherokee cultural resources.

Second, the Cherokee Nation has different relationships and experiences with federal agencies when protecting Cherokee cultural resources. Despite having a government-to-government relationship with federal agencies that involves consultation on properties in Cleveland County, North Carolina, Defendants made no attempt to contact, much less consult the Cherokee Nation on Catawba’s Kings Mountain Site land-into-trust application, planning and development related to an environmental assessment at any stage, and their March 12 Decision. Further, while the Final EA provides contact information for the Eastern Band’s THPO, no such listing is provided for the Cherokee Nation’s THPO, should the project move forward and mitigating measures be invoked in the event there is a significant find after construction begins.

Thus, only the Cherokee Nation can adequately represent itself in explaining the hardships resulting from the Defendants’ failures to protect Cherokee lands and resources.

C. In the Alternative, the Cherokee Nation Should Be Permitted to Intervene Under Rule 24(b)

The Cherokee Nation alternatively requests permissive intervention under Federal Rule of Civil Procedure 24(b)(1)(B). As the D.C. Circuit has explained, Rule 24(b)(1)(B) allows this

Court to permit intervention by any entity that makes a timely motion and that has “a claim or defense that has a question of law or fact in common with the main action.” *EEOC v. National Children’s Center, Inc.*, 146 F.3d 1042, 1046 (D.C. Cir. 1998). Rule 24(b) also requires the court to consider “whether the proposed intervention ‘will unduly delay or prejudice the adjudication of the original parties’ rights.” *Sierra Club v. Van Antwerp*, 523 F. Supp. 2d 5, 10 (D.D.C. 2007) (quoting Federal Rule of Civil Procedure 24(b)(3)).

All of these factors support intervention here. First, as explained, the Cherokee Nation’s motion is timely. *See supra pp 8-9*. Second, because the Cherokee Nation “seeks to uphold ... the same actions that Plaintiff[] seek[s] to overturn,” the Cherokee Nation’s defenses “and the main action obviously share many common questions of law and perhaps of fact.” *Franconia Minerals (US) LLC v. United States*, 319 F.R.D. 261, 268 (D. Minn. 2017). Moreover, the Nation will “present defenses to the precise claims brought by” the Eastern Band. *Van Antwerp*, 523 F. Supp. 2d at 10. Third, permitting the Cherokee Nation to intervene will not unduly delay or prejudice the adjudication of any party’s rights. This Cherokee Nation is filing its motion to intervene less than 46 days after the initial complaint was filed, and the Cherokee Nation does not seek to inject any novel issue into the case that could cause delay.

The Supreme Court, in granting permissive intervention in an original action, recognized that Indian Tribes’ “participation in litigation critical to their welfare should not be discouraged.” *Arizona v. California*, 460 U.S. 605, 615 (1983). Consistent with that recognition, this Court has routinely granted tribal motions to intervene under Rule 24(b) to oppose federal agency decisions in which tribal rights under NEPA and the NHPA were allegedly violated. The same result is warranted here.

CONCLUSION

The Court should grant the Cherokee Nation's motion to intervene under Federal Rule of Civil Procedure 24(a) or, in the alternative, under Rule 24(b).

Respectfully submitted this 1st day of May, 2020.

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Tahlequah, OK 74465-0948
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Email – chad-harsha@cherokee.org

By: /s/ Paiten Taylor-Qualls
Paiten Taylor-Qualls (OK0013)
Assistant Attorney General
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P.O. Box 948
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Email – paiten-qualls@cherokee.org

Attorneys for Cherokee Nation

CERTIFICATE OF SERVICE

I, Sara E. Hill, hereby certify that a copy of the foregoing was served electronically by the Court CM/ECF system on May 1, 2020, upon all counsel of record.

By: /s/ Paiten Taylor-Qualls



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

November 7, 2023

Via Email

The Honorable Charles Schumer
Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, D.C. 20510

The Honorable A. Mitchel McConnell
Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Durbin
Chairman
Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
211 Russell Senate Office Building
Washington, D.C., 20510

Re: Oklahoma Attorney General's support for the confirmation of Sara E. Hill
to the United States District Court for the Northern District of Oklahoma

Dear Senators:

I write in support of the nomination of Sara Hill to the United States District Court for the Northern District of Oklahoma. I strongly agree with Senators Lankford and Mullin that Ms. Hill is an excellent candidate for federal judgeship and urge the Senate to confirm her nomination.

Ms. Hill has dedicated much of her distinguished twenty-year legal career to public service in northeastern Oklahoma. I am sure your review of her stellar record will reveal she is more than adequately qualified and experienced to make an excellent addition to the federal bench.

Ms. Hill is an excellent match for Oklahoma's Northern District, especially considering the paradigm shift resulting from the U.S. Supreme Court's decision in *McGirt v. Oklahoma*. For starters, she has served the Cherokee Nation and its people for nearly two decades. Most recently, Ms. Hill served as Attorney General for the Cherokee Nation from 2019–2023. Before that, she held positions within the Cherokee Nation as Secretary of Natural Resources from 2015–2019, Deputy Attorney General from 2014–2015, and Assistant Attorney General from 2004–2014. During the time she actively served my fellow Oklahomans, Ms. Hill was also appointed as Special Assistant United States Attorney for the Northern District of

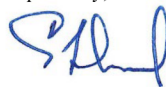
Oklahoma from 2014–2015. Much of the federal Northern District of Oklahoma falls within the historical boundaries of the Cherokee Nation.

As Attorney General for the Cherokee Nation, Ms. Hill played a key role in navigating the abrupt change in criminal jurisdiction post-McGirt. In addition to working closely with local law enforcement, Ms. Hill directed increased resources to respond to the surge in new tribal prosecutions. Her commitment to the rule of law has ensured that numerous victims in northeastern Oklahoma were not abandoned or forgotten following jurisdictional uncertainty over the course of the last three years.

Furthermore, Ms. Hill's previous tenure as a Special Assistant United States Attorney means she is not a stranger to the United States District Court for the Northern District of Oklahoma. Her familiarity with legal issues she will adjudicate in the Northern District stems in part from her tireless commitment to litigation which helped shape relevant law at intermediate appellate courts and the United States Supreme Court.

I am fully confident in my support of Ms. Hill's ascension to the federal bench based on her strong ties to the district—ranging from her formal education at Northeastern State University and University of Tulsa's College of Law to her many years of public service while employed by the Cherokee Nation, her formidable skills and expertise in matters of federal Indian law which are relevant to the many pending and future matters before the Northern District, and most importantly her dedication to public service in Oklahoma. Therefore, I respectfully request that you consider my support and promptly confirm Ms. Hill's nomination to the United States District Court for the Northern District of Oklahoma.

Respectfully,

A handwritten signature in blue ink, appearing to read "Gentner Drummond", with a stylized, cursive script.

GENTNER DRUMMOND
Oklahoma Attorney General



NATIONAL
NATIVE AMERICAN
BAR ASSOCIATION

November 9, 2023

Senator Richard Durbin, Chairman
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Senator Lindsey Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Nomination of Sara Hill to the U.S. District Court for the Northern District of Oklahoma

Dear Chairman Durbin and Ranking Member Graham:

The National Congress of American Indians (NCAI), the Native American Rights Fund (NARF), and the National Native American Bar Association (NNAABA) jointly write in support of Sara Hill's nomination to serve on the United States District Court for the Northern District of Oklahoma. We urge you to take swift action to vote her nomination favorably out of Committee so that she may be promptly confirmed by the full Senate.

Increasing the number of Native Americans in the federal judiciary is a shared priority of NCAI, NARF, and NNAABA. Our organizations collectively represent a substantial constituency of Tribal Nations, Native American individuals, and Indian law professionals. NCAI is the oldest, largest, and most representative Native American and Alaska Native tribal organization in the country, serving the broad interests of Tribal governments and communities. NARF is the leading non-profit law firm representing the interests of Native American, Native Hawaiian, and Alaska Native Tribal Nations, peoples, organizations, and individuals throughout the United States – entities and individuals which, without NARF's existence, might otherwise lack adequate legal representation. NNAABA is an organization whose members include American Indian, Alaska Native, and Native Hawaiian attorneys, Indian law and native rights practitioners and professors, as well as Tribal court judges and advocates.

Many issues of daily life for people in Native communities are significantly affected by federal law, including federal common law, and cases involving Native American Tribal Nations and individuals and their interests are heard primarily in federal courts. For these reasons, it is imperative that federal judges are well-versed in the unique political status, legal principles, and human rights of Tribal Nations and Native individuals. Yet, despite the disproportionate impact of federal court decisions on Native individuals, Tribal Nations, and Tribal communities, Native Americans continue to be under-represented in the federal judiciary. Of the more than 870 authorized federal judgeships, only six judges currently serving on the federal bench are from American Indian, Alaska Native, and Native Hawaiian communities.

Sara Hill is highly qualified to be a federal judge. She is a dedicated and experienced attorney who, prior to going into private practice in August 2023, most recently served for four years as the Attorney General of the Cherokee Nation. The Cherokee Nation is the largest Tribal Nation in the United States with more than 460,000 tribal citizens worldwide, more than 142,000 of whom reside within its 7,000 square-mile Reservation in northeastern Oklahoma.

Faithfully serving the Cherokee Nation for 19 years, primarily in the Attorney General's office, Ms. Hill's work ranged from handling negotiations between the Cherokee Nation and the State of Oklahoma on hunting and fishing rights, to reaching agreements with the State on motor vehicle requirements, to filing litigation and successfully advocating to protect the Cherokee Nation from unwanted storage of radioactive material near major water sources. During her career, Ms. Hill has litigated in state and federal courts, including before the U.S. Supreme Court. She has also served as a Special Assistant U.S. Attorney in the U.S. Attorney's Office for the Northern District of Oklahoma.

Ms. Hill led the Cherokee Nation's legal and public safety and justice efforts following the Supreme Court's decision in *McGirt v. Oklahoma*, 140 S. Ct. 2452 (2020). During her tenure as Attorney General, Ms. Hill oversaw a historic Tribal investment in Tribal law enforcement, pre-trial and post-conviction detention space, court space and personnel, and legal services, including the expansion of the Cherokee Nation's prosecution office. Her efforts to quickly ramp up and expand the Cherokee Nation's criminal justice system post-*McGirt* were critical to ensuring the public safety and justice of all citizens – Tribal and non-Tribal, alike – living and working on the Cherokee Nation Reservation.

Throughout her career, Ms. Hill has demonstrated exceptional commitment to civil service. That she is a Native American with deep roots in and strong ties to not only to her Tribal Nation, the Cherokee Nation, but to Native communities generally and the State of Oklahoma, where she was raised, educated, and has worked for her entire career are relevant factors deserved of your favorable consideration.

If confirmed, Ms. Hill would be the first Native American woman to be seated on the federal bench in Oklahoma, and the *only* active Native American federal judge in the state. Oklahoma is home to 39 federally recognized Tribal Nations and approximately 43% of lands in Oklahoma are considered Indian country. We note also that since the Supreme Court's ruling in *McGirt*, there is an urgent need for additional federal judges in Oklahoma, especially in the Northern District. It is vitally important that candidates like Ms. Hill – with her vast knowledge of and experience in federal Indian law and the Native and non-Native communities affected by this body of law – be seated on the federal bench.

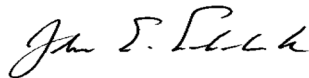
NCAI, NARF, and NNABA are proud to support Sara Hill's nomination to the U.S. District Court for the Northern District of Oklahoma. We hope that the Senate will move swiftly and decisively to confirm this worthy and historic nominee.

Should you have any questions or wish to discuss these issues further, please do not hesitate to contact NCAI Legal and Policy Director, Ryan Seelau, at rseelau@ncai.org, and NARF Staff Attorney, Morgan Saunders, at msaunders@narf.org.

Sincerely,



Fawn Sharp, President
National Congress of American Indians



John E. Echohawk, Executive Director
Native American Rights Fund



Makalika Naholowaa, President
National Native American Bar Association

cc:

Senator James Lankford
United States Senate
Hart Senate Office Building, SH-316
Washington, DC 20510

Senator Markwayne Mullin
United States Senate
Hart Senate Office Building, SH-330
Washington, DC 20510



PRESIDENT

RAKIM BROOKS

CHAIR

PAULETTE MEYER

November 13, 2023

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee

Dear Chairman Durbin:

On behalf of the Alliance for Justice (AFJ), a national association representing more than 150 public interest and civil rights organizations, I write to urge you to confirm Sara E. Hill to the United States District Court for the Northern District of Oklahoma, a truly exceptional nominee, as expeditiously as possible.

When confirmed, Hill will be the first Native American woman to serve on a federal court in Oklahoma, a state with a Native American population that is greater by proportion of population than any other save Alaska. Moreover, she will be one of just a few federal judges with deep environmental law expertise. And these are just two of the aspects of this nominee's background that demonstrate the ways in which her confirmation will promote professional and demographic diversity in the federal judiciary.

A graduate of Northeastern State University and the University of Tulsa College of Law, Hill began her legal career in 2004 working as a prosecutor in the Cherokee Nation District Court litigating criminal and juvenile cases. In addition, Hill represented the Nation in state court child welfare proceedings, handling all aspects of each case, up to and including jury trials and appeals. After working on criminal and juvenile matters for five years, Hill then shifted her focus to environmental, natural resource, and land management issues. Specifically, her work included multi-state environmental litigation, tribal water rights, and matters involving federal laws on historic preservation.

In 2015, Hill was appointed to serve as the Cherokee Nation's Secretary of Natural Resources. During this time, she focused exclusively on environmental policy and litigation. Among others, she oversaw a case that involved complex issues relating to the decommissioning of a uranium conversion facility. Hill then went on to serve as Attorney General for the Cherokee Nation. In that role, she had constitutional responsibility for all litigation of the government of the Cherokee Nation and its businesses.

Hill has received recognition both nationally and at home in Oklahoma. In 2016, she was awarded the Cherokee National Statesmanship Award, which is given in recognition of those who, as public servants, epitomize the servant leader ideal, exemplifying Cherokee values and acting with respect, dignity and

Eleven Dupont Circle NW, Suite 500 | Washington, DC 20036 | www.afj.org | t:202-822-6070 *Field*

Offices

Dallas | Houston | Los Angeles | San Francisco

graciousness while working for the betterment of Cherokee Nation and its citizens. Additionally, Hill was awarded the EPA Environmental Excellence Award, and the Keep Oklahoma Beautiful's Towering Spirit Award respectively. These accolades testify to the extent and significance of Hill's contributions to the field of law.

Given her remarkable qualifications, we urge your office to ensure the Senate confirms Sara E. Hill to the United States District Court for the Northern District of Oklahoma as soon as possible. She will represent and inspire the people of Oklahoma whom she has served so admirably, and her confirmation will affirm our nation's highest aspirations for what it means to be an officer of the court and pursue public service in law.

Sincerely,

Rakim H.D. Brooks

Rakim Brooks

President, Alliance for Justice



ᏌᏍᏏᏉ ᏃᏉᏃ[®]
CHEROKEE NATION[®]
 P.O. Box 948 • Tahlequah, OK 74465-0948
 918-453-5000 • www.cherokee.org

Chuck Hoskin Jr.

Principal Chief
 ᏌᏍᏏᏉ ᏃᏉᏃ
 ᏃᏍᏏᏉᏉᏉ

Bryan Warner

Deputy Principal Chief
 ᏍᏚᏉᏃᏍᏏᏉᏉ
 ᏍᏍᏏᏉ ᏃᏉᏃ ᏃᏍᏏᏉᏉᏉ

November 10, 2023

The Honorable Richard J. Durbin
 Chair
 Committee on the Judiciary
 United States Senate
 224 Dirksen Senate Office Building
 Washington, DC 20510

The Honorable Lindsey Graham
 Ranking Member
 Committee on the Judiciary
 United States Senate
 224 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chair Durbin and Ranking Member Graham:

I write in advance of the Senate Judiciary Committee's hearing on the nomination of Sara Hill to serve as United States District Judge for the Northern District of Oklahoma to express my strong support for her historic candidacy.

I was not surprised to learn that Sara, a Cherokee Nation citizen and someone who has served our Tribe with distinction for the better part of the last two decades, was nominated for this position. Sara's background, humility, reputation for fairness, collegiality, and outstanding legal mind make her a superior choice. I know her to be an ardent believer in truth and justice; without question she is one of the most important and impactful attorneys in our Nation's history.

A native Oklahoman, Sara is a person of integrity who will work tirelessly to promote confidence in an independent judiciary. Moreover, as a Tribal citizen she is uniquely qualified to serve the Northern District, home to 13 federally-recognized Native American Tribes. More than 100,000 Native Americans live and work on the reservations located in the Northern District.

Currently there are no Tribal citizens serving as federal judges in Oklahoma, a state where close to 14 percent of the population is Native American. I strongly believe it will improve the federal judiciary to add a judge in the Northern District who reflects this community. Additionally, Sara would be the first Native American woman to sit on a Federal bench in Oklahoma.

I wholeheartedly support Sara Hill's candidacy for United States District Judge for the Northern District of Oklahoma, and join the more than 460,000 citizens of Cherokee Nation in enthusiastic anticipation of her confirmation hearing.

I am extremely confident the Northern District of Oklahoma will benefit greatly from her service for years to come.

Wado,

A handwritten signature in black ink that reads "Chuck Hoskin Jr." The signature is written in a cursive, flowing style.

Chuck Hoskin Jr.
Cherokee Nation Principal Chief

**SONOSKY, CHAMBERS, SACHSE,
MILLER & MONKMAN, LLP**

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DONALD J. SIMON
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LLOYD B. MILLER E-MAIL: lloyd@sonosky.net

November 13, 2023

VIA ELECTRONIC MAIL

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9900 S.W. WILSHIRE STREET, SUITE 240
PORTLAND, OR 97225
(503) 573-8446 FAX (503) 305-3654

*ALASKA BAR

Honorable Dick Durbin, Chairman
Honorable Lindsey Graham, Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Graham:

I write upon my own initiative to offer my unqualified support for the nomination of Sara Hill to serve as a judge on the United States District Court for the Northern District of Oklahoma. Sara is eminently qualified to serve as a district judge and, if confirmed, will bring honor to the Judiciary, to the United States, and to the Cherokee Nation of which she is a citizen.

I and my firm have served as outside counsel for the Cherokee Nation on a wide range of issues spanning the last 25 years. As a result, I have had the privilege of working very closely with Sara on a diverse set of legal matters, particularly during the period 1999-2023 when Sara served as Attorney General for the Cherokee Nation. By every measure—professional competence, integrity, judicial temperament, fairness, experience, and professional qualifications—Sara excels. Sara is whip smart and brings a keen eye to the assessment of every legal issue that comes before her. She is a fine writer and a sharp editor. She is quick to identify factual gaps or legal flaws, be that in her opponents' arguments or those of her fellow colleagues. She has a healthy skepticism that leads her to dig deep into an issue before reaching any conclusion. She is strong and holds her ground once she has reached a conclusion after due deliberation.

Sara's integrity and judicial temperament are also beyond reproach. She is not doctrinaire. She treats all people with respect, both in person and in private, and she immediately earns the respect of others. She is a calming presence when turmoil or raised voices surround her. She believes in the fair and equal application of the rule of law.

And just as importantly, Sara possesses the experience and qualifications necessary to be an effective federal judge. As Attorney General she was the lead architect of an entirely new tribal justice system required to accommodate the impact of the Supreme Court's *McGirt* decision on the inner workings of the Cherokee Nation's criminal courts. She has the fine and subtle mind necessary to parse complex legal issues and render judgments that apply the law and facts to those who will come before her. She has the compassion to ensure that every party who appears in her court will come away knowing they were heard and honored, regardless of who prevails. She has the personal skills necessary to mediate disputes if called upon to serve in that role. She is well liked and honored by her colleagues.

Litigation can be contentious, even political, no less so for the Cherokee Nation than for other governments. In that environment, some who unsuccessfully opposed the Cherokee Nation in litigation may now oppose the appointment of anyone who served as the Cherokee Nation's Attorney General. But that would be both meanspirited and unwarranted. The Nation largely prevailed in the main federal court litigations in which Sara was involved as Attorney General or in other positions, precisely in reflection of her professional competence, integrity and experience. Those who were on the losing end of those litigations should praise her demonstrated qualifications to serve on the bench.

Thank you for the opportunity to offer these thoughts on the nomination of Sara Hill to serve as a District Court Judge. Sara would be a powerful and historic addition to the bench and I respectfully and without qualification encourage the Committee to favorably pass her nomination on to the full Senate.

Sincerely,



Lloyd B. Miller

The Leadership Conference
on Civil and Human Rights

1620 L Street, NW
Suite 1100
Washington, DC
20036
202.466.3311 voice
202.466.3435 fax
www.civilrights.org



November 14, 2023

**SUPPORT THE CONFIRMATION OF SARA HILL TO THE U.S. DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 240 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, we write to express our strong support for the confirmation of Sara Hill to the U.S. District Court for the Northern District of Oklahoma. The Leadership Conference intends to include your position on the confirmation of Ms. Hill in our voting record for the 118th Congress.

Ms. Hill will be a great addition to the federal bench. Currently, she is the principal for Hill Law, PLLC, where she works with the attorney general of the Cherokee Nation on various legal matters. Ms. Hill also currently serves as an at-large voting member of the U.S. Sentencing Commission's Tribal Issues Advisory Group. Prior to this, she held several positions within the Cherokee Nation, including attorney general, secretary of natural resources, deputy attorney general, and assistant attorney general. She also spent a year as special assistant to the United States Attorney for the Northern District of Oklahoma. Ms. Hill is a graduate of Northeastern State University and the University of Tulsa College of Law. Her experience and exceptional career would be a tremendous asset to the Northern District of Oklahoma.

Ms. Hill's entire career has been spent in service of the Cherokee Nation, and her depth and breadth of experience in Indian law is unique and greatly needed on our federal courts. During her years as a prosecutor for the Cherokee Nation District Court, she focused mainly on child welfare proceedings and environmental litigation. In 2015, she was appointed to serve as the Cherokee Nation's secretary of natural resources, where she supervised the tribe's environmental litigation. In this role, she successfully brought suit against a uranium conversion facility after they failed to properly dispose of nearly 10,000 tons of radioactive material that threatened the contamination of the Illinois and Arkansas Rivers.¹

In 2019, Ms. Hill became the attorney general for the Cherokee Nation. Throughout her tenure, she oversaw all litigation to which the Cherokee Nation was a party, which included several important Indian law cases that went to the U.S. Supreme Court. Notable among them was the recent case, *Haaland v. Brackeen*, upholding the constitutionality of the Indian Child Welfare Act — a 1978 law enacted to address the alarmingly high rates of removal of Native American children from their tribes.² Additionally, Ms. Hill also played a crucial role in the legislative

¹ *Oklahoma and Cherokee Nation v. Sequoyah Fuels Corp.*, CV-2017-23 (Sequoyah Cnty. Dist. Ct. Dec. 6, 2018).

² *Haaland v. Brackeen*, 599 U.S. 255, 143 S. Ct. 1609, 216 L. Ed. 2d 254 (2023).

November 14, 2023
Page 2 of 2



drafting and lobbying for the eventual passage by the U.S. Congress of the Stigler Act Amendments of 2018, which removed language from a 1947 federal law that limited the ownership of allotted tribal land to those with at least one half blood quantum requirement of one of the Five Tribes.³ This requirement previously accelerated tribal land loss because those without the required blood status were unable to inherit the restricted land allotted to tribes.⁴ This expansive and impressive record protecting and defending the rights of tribal nations makes Ms. Hill eminently qualified for this position.

In addition to the professional experience that Ms. Hill would bring to this role, she would also bring important lived experiences to the federal bench. If confirmed, Ms. Hill — who is a Cherokee citizen — would be the first Native American woman to ever serve a lifetime appointment on any federal district court in Oklahoma.⁵ Further, she would be only the eighth Native American person to ever serve as an Article III judge in our nation's history.⁶ Public trust in the judiciary is vital to its function, and that trust is strengthened when the composition of our courts reflects the communities that they serve.⁷ This personal and professional diversity of experience also improves judicial decision-making.⁸ The confirmation of Ms. Hill is a necessary step towards ensuring that our federal courts reflect and represent the diversity of our nation.

Ms. Hill is an excellent choice for this position, and we strongly urge the Senate to confirm her to the Northern District of Oklahoma. If you would like to discuss this matter further, please contact Lena Zwarensteyn, senior director of the fair courts program, at (202) 466-3311. Thank you for your consideration.

Sincerely,

Maya Wiley
President & CEO

Jesselyn McCurdy
Executive Vice President of Government Affairs

³ Stigler Act Amendments of 2018, PL 115–399 (December 31, 2018).

⁴ Melissa Scavelli, *Stigler Act Amendments signed into law, Cherokee nation celebrates*, KOKH (January 3, 2019).

⁵ *Biographical Directory of Article III Federal Judges, 1789-present*, FEDERAL JUDICIAL CENTER (Accessed November 2023).

⁶ *Id.*

⁷ Maya Sen, *Diversity, Qualifications, and Ideology: How Female and Minority Judges Have Changed, or Not Changed, Over Time*, 2017 WIS. L. REV. 367 (2017).

⁸ Kate Berry, *Building a Diverse Bench: Selecting Federal Magistrate and Bankruptcy Judges*, BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW AND AMERICAN BAR ASSOCIATION JUDICIAL DIVISION (2017).

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Denise.Cardman@Americanbar.org



Please reply to:
Hon. Ann Claire Williams (Ret.)
Jones Day
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Chicago, Illinois 60606
acwilliams@jonesday.com

November 14, 2023

Via Email

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Via Email

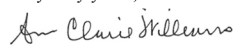
The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: Nomination of Sara E. Hill to the United States District Court for the Northern District of Oklahoma

Dear Chairman Durbin and Ranking Member Graham:

The American Bar Association's Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Sara E. Hill, who has been nominated by the President to the United States District Court for the Northern District of Oklahoma. As you know, the Standing Committee confines its evaluation to the qualities of integrity, professional competence, and judicial temperament. The Standing Committee is of the unanimous opinion that Ms. Hill is **"Qualified"** to serve on the United States District Court for the Northern District of Oklahoma. The Standing Committee's rating means that, under our guidelines, Ms. Hill satisfies the Standing Committee's very high standards with respect to integrity, professional competence, and judicial temperament and is qualified to perform all the duties and responsibilities required of a federal judge. One member of the Standing Committee abstained from voting.

Very truly yours,


Hon. Ann Claire Williams (Ret.)
Chair, Standing Committee
on the Federal Judiciary

cc: Stuart F. Delery, Assistant to the President and Counsel
to the President (*via email*)
Lola A. Kingo, Chief Nominations Counsel, Office of Legal Policy,
U.S. Department of Justice (*via email*)
Sara E. Hill (*via email*)
ABA Standing Committee on the Federal Judiciary (*via email*)
Denise A. Cardman, ABA Standing Committee on the Federal Judiciary,
Staff Counsel (*via email*)

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Ramona Villagomez Manglona (also known as "Mona V. Manglona")
(Formerly: Ramona Emma Pangelinan Villagomez)

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

Territorial District Judge for the United States
District Court for the Northern Mariana Islands

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

United States District Court for the Northern Mariana Islands
United States Courthouse
1671 Gualo Rai Road
P.O. Box 500687
Saipan, Northern Mariana Islands 96950

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

1967; Saipan, Northern Mariana Islands

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

1994 – 1996, University of New Mexico School of Law; J.D., 1996

1985 – 1990, University of California at Berkeley; B.A., 1990

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

2011 – present

United States District Court for the Northern Mariana Islands
United States Courthouse
1671 Gualo Rai Road
P.O. Box 500687
Saipan, Northern Mariana Islands 96950
Chief District Judge

2003 – 2011
Superior Court, Commonwealth of the Northern Mariana Islands
House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe
P.O. Box 500307
Saipan, Northern Mariana Islands 96950
Associate Judge

2004 – 2008
Guam Supreme Court and Guam Superior Court
Guam Judicial Center
120 West O'Brien Drive
Hagatna, Guam 96910
Justice Pro Tempore & Judge Pro Tempore

1998 – 2003
CNMI Office of the Attorney General
Juan A. Sablan Building, Capitol Hill
P.O. Box 10007
Saipan, Northern Mariana Islands 96950
Attorney General (2002 – 2003)
Deputy Attorney General (2002)
Assistant Attorney General, Civil Division (2001 – 2002)
Assistant Attorney General, Criminal Division (1998 – 2001)

1997 – 1998
Superior Court, Commonwealth of the Northern Mariana Islands
House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe
P.O. Box 500307
Saipan, Northern Mariana Islands 96950
Law Clerk

Fall 1996
United States District Court
District of New Mexico
500 Gold Avenue, Southwest
Albuquerque, New Mexico 87102
Judicial Extern to the Honorable C. Leroy Hansen

Summer 1996

University of New Mexico School of Law
1117 Stanford Drive Northeast
Albuquerque, New Mexico 87131
Research Assistant to Professor Sherri Burr

Summer 1995
CNMI Third Constitutional Convention
CNMI Legislative Building
Capitol Hill
Saipan, Northern Mariana Islands 96950
Law Intern

1993 – 1994
Law Office of John A. Manglona (dissolved)
Saipan, Northern Mariana Islands 96950
Office Manager (part-time)

1993 – 1994
M.S. Villagomez, Inc.
P.O. Box 500007
Saipan, Northern Mariana Islands 96950
President

1990 – 1993
M.S. Villagomez Enterprises
P.O. Box 500007
Saipan, Northern Mariana Islands 96950
President

Other Affiliations (uncompensated except as noted)

2018 – present
Mansvilla Properties, LLC
P.O. Box 500007
Saipan, Northern Mariana Islands 96950
Member (2020 – present)
Managing Member (2018 – 2020)

2008 – 2019
Manuel S. and Luise P. Villagomez Family Trust (dissolved)
P.O. Box 500007
Saipan, Northern Mariana Islands 96950
Co-trustee (received nominal stipend)

1993 – 2001
Pacific Sky Travel Services, Inc.

P.O. Box 500774
Saipan, Northern Mariana Islands 96950
Vice-President (1993 – 2001)
Board Member (1993 – 1994)

1991 – 1997
Saipan Cattle Company
(Dissolved in 1998)
Saipan, Northern Mariana Islands 96950
Director

1991 – 1994
CNMI Library Council
Joeten-Kiyu Public Library
P.O. Box 501092
Saipan, Northern Mariana Islands 96950
Chairperson (1994)
Secretary (1991)

1990 – 1994
San Roque Beach Development Corporation
P.O. Box 500007
Saipan, Northern Mariana Islands 96950
Director

1990 – 1991
Friends of the Public Library
Saipan, Northern Mariana Islands 96950
Member

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

I have not served in the military. I have not registered for selective service, as I was not eligible to do so.

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

Northern Marianas Commonwealth Legislature, House Resolution No. 22-8, HS1 (2021)

Northern Marianas Commonwealth Legislature, Senate Resolution No. 22-08 (2021)

USA Today Women of the Century, U.S. Territories (2020)

2019 Director's Award for Extraordinary Actions, Administrative Office of the United States Courts (2019)

Northern Marianas Commonwealth Legislature, Senate Joint Resolution No. 17-08 (2011)

Northern Marianas Commonwealth Legislature, House Resolution No. 17-64 (2011)

Northern Marianas Commonwealth Legislature, House Resolution No. 17-39 (2011)

University of New Mexico School of Law – Dean's List (1996), Honor Roll (1995)

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

American Bar Association (2002 – 2006)

Advanced Science and Technology Adjudication Resource Center (2006 – 2011)

Conference of Chief Bankruptcy Judges (2011 – present)

Conference of Chief District Judges (2011 – present)

Criminal Justice Information System (CJIS) Network, CNMI Judiciary
Chairperson (2006 – 2011)

Federal Judges Association (2011 – present)

International Association of Women Judges (2014 – present)

Judiciary of Guam Committee on Judicial Disciplinary Enforcement (2007 – 2011)

National Asian Pacific American Bar Association (2020 – present)

National Association of Women Judges (2020 – present)

National Resource Judge Program
Fellow (2009 – 2011)

New Mexico Bar Association (1997, presently on inactive status)

Ninth Circuit Judicial Council

Observer Member as Chair of the Conference of Chief District Judges (2016 – 2017)

Ninth Circuit Pacific Islands Committee (2011 – present)

Northern Marianas Bar Examination
Grader (2003 – 2011)

Northern Mariana Islands Bar Association
President (2001 – 2003)
Treasurer (2000 – 2001)
Director (1999 – 2000)

Northern Mariana Islands Court Rules Committee on the Commonwealth Rules of
Juvenile Delinquency Procedures and Juvenile Practice
Chairperson (2002 – 2003)

Northern Mariana Islands Criminal Justice Information System Network
Chairperson (2006 – 2011)

Northern Mariana Islands Superior Court Judiciary Case Management System Selection
Committee
Chairperson (2006 – 2007)

Northern Mariana Islands Traffic Records Coordinating Committee
Chairperson (2008 – 2011)

Pacific Judicial Council (2011 – present)
Member, Executive Board (2011 – present)

10. Bar and Court Admission:

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

New Mexico, 1997
Northern Mariana Islands, 1997

There have been no lapses in membership. My membership in the Northern Mariana Islands has been inactive since 2003 when I became a Superior Court judge. I am currently in inactive status in both jurisdictions based on my position as a judge.

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

special admission to practice.

United States Court of Appeals for the Ninth Circuit, 2002
United States District Court for the Northern Mariana Islands, 2001

There have been no lapses in membership.

11. **Memberships:**

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

Center for Civic Education "We the People: The Citizen and the Constitution"
Program in the Northern Mariana Islands
Volunteer coach (2009 – 2012)

CNMI Library Council
Chairwoman (1994)
Member (1991 – 1994)

Friends of the Public Library, Saipan (1990 – 1991)

Manuel S. and Luise P. Villagomez Family Trust
Co-Trustee (2008 – 2019) (dissolved)

Northern Mariana Islands High School Mock Trial Program
Volunteer attorney coach, juror, presiding judge (2000 – 2009, 2017, 2021, 2023)

Saipan Cattle Company
Board member (1991 – 1997)

Saipan Chamber of Commerce, Education & Economic Development Committee
Member (1990 – 1994)

Saipan Community School Parents Association
President (1997 – 1998)

Western Pacific Region National Forensic League
Volunteer judge, coach (2005 – 2009)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct

states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates based on race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated based on race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

As the Chief Judge of the District Court for the Northern Mariana Islands, my responsibilities include approving press releases, letters, memoranda, and announcements issued by the court. Copies of all available relevant materials are supplied.

Winter 2021: Pacific Islands Committee Newsletter, article on Acting Associate Justice Elvis R. Pila Patea, High Court of American Samoa, Pago Pago, Tutuil. Copy supplied.

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

As the Chief Judge of the District Court for the Northern Mariana Islands, I contribute to the preparation of the court's annual reports. Copies of the reports for years 2013 to 2022 are supplied.

September 22, 2009: CNMI Judiciary proclamation reaffirming support for CNMI and Guam soldiers under ESGR. Copy supplied.

April 2003: worked with House legal counsel to revise HB 13-252, a financing plan for the Prison Project, which ultimately passed the legislature as Public Law 13-56. Copy of the legislation supplied.

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

February 22, 2021: Final Resolution 10C, ABA House of Delegates. Copy supplied.

February 25, 2020: Letter from James C. Duff, Director, Administrative Office of the U.S. Courts to Honorable Michael F. Q. San Nicolas, U.S. Representative for Guam. Copy supplied.

August 13, 2013: Letter from Loretta A. Preska, Chief Judge, U.S. District Court for the Southern District of New York, and 86 Chief Judges, U.S. District Courts, to Joseph R. Biden, Jr., President, U.S. Senate. Copy supplied.

July 31, 2012: Letter from Frances M. Tydingco-Gatewood, Chief Judge, District Court of Guam, and 14 Chief Judges, U.S. District Courts, to Ronald B. Leighton, Judge, U.S. District Court for the Western District of Washington. Copy supplied.

March 16, 2011: Confirmation Hearing on Federal Appointments before the Committee on the Judiciary, United States Senate, 112th Congress. I testified as a nominee to be a judge for the District Court for the Northern Mariana Islands. Transcript supplied.

May 30, 2003: CNMI Senate Public Hearing. Made statement at hearing for my appointment to the position of Associate Judge of the Commonwealth Superior Court. Copy supplied.

April 29, 2003: Signatory to letter from members of National Association of Attorneys General to Senators John McCain and Fritz Hollings and to Representatives W.J. Tauzin and John Dingell re: S. 877, CAN-SPAM Act of 2003. Copy supplied.

April 9, 2003: Northern Mariana Islands Senate Committee on Resources, Economic Development and Programs, testimony as CNMI Attorney General in support of legislation regarding CNMI's settlement agreement with Marine Revitalization Corporation regarding a submerged lands lease agreement. I am unable to obtain a transcript or recording.

November 8, 2002: CNMI Senate Public Hearing. Made statement at hearing for my appointment to the position of attorney general of the CNMI. Copy supplied.

November 5, 2002: Northern Mariana Islands Attorney General Legal Opinion No. 02-014 to Governor re: authority to borrow funds for the limited purpose of paying rebates and refunds. Copy supplied.

October 29, 2002: CNMI Bar Association, letter written as CNMI Bar President to the Chief Justice of the CNMI Supreme Court, regarding a Guam public law and the NMI Bar Association's opposition to the adoption of a reciprocity rule to effectuate the Guam statute. Copy supplied.

September 24, 2002: Northern Mariana Islands Attorney General Legal Opinion No. 02-013 to Director of Personnel, Office of Personnel Management re: rehiring of individuals who have retired and received a 30% bonus under Commonwealth law. Copy supplied.

September 10, 2002: Northern Mariana Islands Attorney General Legal Opinion No. 02-12 to Commonwealth Utilities Corporation legal counsel re: CUC Board members' entitlement to compensation for attendance at committee meetings. Copy supplied.

August 7, 2002: Northern Mariana Islands Attorney General Legal Opinion No. 02-09 to Secretary of Department of Commerce re: propriety of insurance companies denying third party claims. Copy supplied.

July 2, 2002: Northern Mariana Islands Attorney General Legal Opinion No. 02-08 to Director of Personnel, Office of Personnel Management re: employees of 8th Rota Municipal Council. Copy supplied.

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

In addition to the list below, I frequently meet with tour groups during their visits to the court and I typically answer a few general questions about my work and career. I have not kept records of the dates of such events. I have no notes, transcript, or recordings. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

2023: Presiding Judge, Naturalization Ceremonies, U.S. District Court for the NMI. I presided over ceremonies and administered the oath of allegiance, and gave welcome remarks at naturalization ceremonies held on February 2, 2023,

March 27, 2023, May 1, 2023, June 5, 2023, February 22, 2022, March 21, 2022, April 18, 2022, May 23, 2022, August 22, 2022, September 26, 2022, October 17, 2022, November 07, 2022, May 24, 2021, August 20, 2021, September 29, 2021, October 12, 2021, December 22, 2021, January 22, 2020, February 20, 2020, July 28, 2020, January 22, 2019, February 21, 2019, March 21, 2019, May 1, 2019, June 12, 2019, July 3, 2019, August 1, 2019, September 17, 2019, October 24, 2019, November 13, 2019, January 12, 2018, February 14, 2018, June 1, 2018, July 3, 2018, September 14, 2018, November 9, 2018, March 20, 2017, March 22, 2017, July 3, 2017, September 18, 2017, November 9, 2017, July 1, 2016, September 19, 2016, May 26, 2015, July 2, 2015, September 17, 2015, December 9, 2015, January 21, 2014, March 21, 2014, November 14, 2014, February 19, 2013, April 22, 2013, June 14, 2013, September 3, 2013, November 15, 2013, March 23, 2012, May 7, 2012, July 5, 2012, September 17, 2012, November 13, 2012, September 2, 2011, October 28, 2011, and December 16, 2011. Remarks supplied where available, and representative press coverage supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

June 9, 2023: Speaker, 2023 Ninth Circuit Civics Contest and Law Day Photo Contest Award Ceremony, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

May 20, 2023: Celebrity Reader, Joeten-Kiyu Public Library Read Aloud program, Joeten-Kiyu Public Library, Susupe, Saipan, Northern Mariana Islands. I read a book to elementary school students. I have no notes, transcript, or recording. The address for the library is 2745 Insatto Street, Saipan, Northern Mariana Islands 96950.

April 21, 2023: Speaker, Law Week Proclamation Ceremony, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

March 31, 2023: Panelist, Women's History Month Meet & Mingle, Learning from the Ladies in the Law, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Video supplied.

February 17, 2023: Mock Trial Judge, 2023 CNMI High School Mock Trial, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Video available at <https://www.facebook.com/100016887306713/videos/1450944972311963>.

January 6, 2023: Presenter, The Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 9, 2022: Speaker, 2022 Red Ribbon Gate/Wall Contest award ceremony, U.S. District Court, Gualo Rai, Saipan, Northern Mariana Islands. Presentation supplied.

October 2022: Presenter, Red Ribbon Outreach. Presentation at Koblerville Elementary School; Da'ok Academy (October 27, 2022); and Dandan Middle School (October 28, 2022), all on the island of Saipan. I spoke to students about the National Red Ribbon campaign to raise awareness of the negative effects of drugs, as well as educating the community about how and where to obtain help to recover from drug addiction. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

September 17, 2022: Speaker and Presenter, 2022 Annual NMI District Conference "Keeping You Safe Since 1978," Kensington Hotel, As Matuis, Saipan, Northern Mariana Islands. I gave welcome remarks and introductions, and recognized the attendance of various jurists from the Oceania Region, who were previously recognized at the prior day's Ribbon Cutting Ceremony. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

September 16, 2022: Speaker, Ribbon Cutting Ceremony of the United States Courthouse, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

June 10, 2022: Speaker, 2022 Ninth Circuit Civics Contest and Law Day Photo Contest Award Ceremony, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

May 14, 2022 and May 21, 2022: Celebrity Reader, Joeten-Kiyu Public Library Read Aloud program, Joeten-Kiyu Public Library, Susupe, Saipan, Northern Mariana Islands. I read to elementary school students. I have no notes, transcript, or recording. The address for the library is 2745 Insatto Street, Saipan, Northern Mariana Islands 96950.

September 30, 2021: Speaker, 2021 POWER Act video, "The Power of Pro Bono Services in the CNMI." Remarks supplied.

September 17, 2021: Speaker, Welcome Remarks, "Marijuana Hits the Shores of Guam and the CNMI," (virtual). Video available at <https://fb.watch/myHXhqOvD9>.

July 2, 2021: Speaker, Employment, COVID-19, and Cannabis Conference, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks and introductions. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

June 1, 2021: Speaker, 2021 Ninth Circuit Civics Contest Award Ceremony, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

January 7, 2021: Presenter, The Ninth Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 19, 2020, October 30, 2020, and September 24, 2020: Speaker, First Annual Virtual Bankruptcy Seminar Series (three part), virtual. I gave welcome remarks and introductions. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

September 23, 2020: Speaker, 2020 POWER Act Virtual Seminar, "Justice and the Challenges of COVID-19," U.S. District Court, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

July 27, 2020: Speaker, Soft Opening of United States Courthouse, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

October 26, 2019: Speaker, NMI Girl Scouts Justice Badge program, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Presentation supplied.

October 2019: Presenter, Red Ribbon Outreach, Presentations at Da'ok Academy (October 11, 2019); Kagman High School (October 16, 2019); Dandan Middle School (October 17, 2019); Kagman High School (October 25, 2019); and Hopwood Middle School (October 28, 2019), all located on the island of Saipan, Northern Mariana Islands. I spoke to students about the National Red Ribbon campaign to raise awareness of the negative effects of drugs, as well as educating the community about how and where to obtain help to recover from drug addiction. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

June 21, 2019: Speaker, The POWER Act and Pro Bono Activities in the CNMI, U.S. District Court for the NMI, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

June 13, 2019: Keynote Speaker, Da'ok Academy Commencement Ceremony, Saipan, Northern Mariana Islands. I gave the keynote address. I have no notes, transcript, or recording. The address for Da'ok Academy is NMTI Building, Tanapag, Saipan, Northern Mariana Islands 96950.

May 13, 2019: Speaker, 2019 Ninth Circuit Civics Contest Award Ceremony, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

May 11, 2019: Speaker, Intellectual Property CLE presentation by U.S. Patent Trade Officer Peter Fowler, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks and introductions. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

March 8, 2019: Mock Trial Judge, 2019 CNMI High School Mock Trial, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. I presided over the championship round. I have no notes, transcript, or recording. Mock Trial is sponsored by the Commonwealth of the Northern Mariana Islands Judiciary. The address for the CNMI Judiciary is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

January 3, 2019: Presenter, The Eighth Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

October 2018: Presenter, Red Ribbon Outreach, Presentations at Department of Corrections (October 10, 2018); Tanapag Middle School (October 12, 2018); Dandan Middle School (October 19, 2018); Francisco M. Sablan Middle School (October 22, 2018); Hopwood Middle School (October 23, 2018); Kagman High School (October 26, 2019); and Saipan Community School (October 30, 2018), all located on the island of Saipan, Northern Mariana Islands. I spoke to students about the National Red Ribbon campaign to raise awareness of the negative effects of drugs, as well as educating the community about what steps to take to recover from drug addiction. I have no notes, transcript, or recording. Proclamation signed on October 4, 2018, Saipan Southern High School, Koblerville, Saipan, Northern Mariana Islands. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

September 27, 2018: Speaker, Youth Takeover Day, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks and an introduction to the federal judiciary. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

July 13, 2018: Keynote Speaker, 18th Annual Proclamation Signing to Recognize Probation & Parole Supervision Week 2018, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Remarks supplied.

July 6, 2018: Speaker, U.S. Constitutional Rights in the Territories and the CNMI with Honorable Gustavo A. Gelpi, American Memorial Park, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks and an introduction. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

March 10, 2018: Speaker, 2018 Annual NMI District Conference "Doing Business in Today's CNMI," Susupe, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

December 7, 2017: Speaker, United States Courthouse Ground-Breaking Ceremony, Gualo Rai, Saipan, Northern Mariana Islands. Remarks supplied.

December 2, 2017: Presenter, CNMI Mock Trial Academy, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 16, 2017: Guest Speaker, Introduction to Criminal Justice class, Northern Marianas College, Fina Sisu, Saipan, Northern Mariana Islands. Presentation supplied.

November 11, 2017: Keynote Speaker, Commemoration of Veterans Day at American Memorial Park, Garapan, Saipan, Northern Mariana Islands. Remarks supplied.

June 29, 2017: Presenter, Totto Club Summer Camp "Meet the Feds" presentation and meet and greet, Dandan Middle School, Dandan, Saipan, Northern Mariana Islands. Presentation supplied.

May 15, 2017: Speaker, 2017 Ninth Circuit Civics Contest Award Ceremony, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording, but press coverage is supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

March 1 – 3, 2017: Presenter, USPTO Global IP Academy with the Center for Technical Judiciary Education and Training, Supreme Court of the Republic of Indonesia, and U.S. Embassy Jakarta, Jakarta, Indonesia. Presentation supplied.

February 11, 2017: Speaker, 2017 Annual NMI District Conference "Law: Buoy or Anchor? Cultural and Ethical Currents," Susupe, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

January 6, 2017: Presenter, The Seventh Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

October 2016: Presenter, Red Ribbon Outreach. Presentations at ChaCha Oceanview Middle School (October 18, 2016); Alternative Education High School (October 18, 2016); Saipan Southern High School (October 28, 2016); and Francisco M. Sablan Middle School (October 31, 2016), all located on the island of Saipan, Northern Mariana Islands. I spoke to students about the National Red Ribbon campaign to raise awareness of the negative effects of drugs, as well as educating the community about what steps to take to recover from drug addiction. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

October 4, 2016: Presenter, 2016 CNMI Drug Court Stakeholders Presentation, Garapan, Saipan, Northern Mariana Islands. Presentation supplied.

August 23 – 25, 2016: Presenter, ASEAN and USPTO Global IP Academy, “Colloquium for Public Prosecutors and the Judiciary on the Enforcement of Intellectual Property Rights” program, Kuala Lumpur, Malaysia. Presentation supplied.

August 13 – 15, 2016: Speaker, National Institute for Trial Advocacy program “Anatomy of a Civil/Criminal Trial Training,” U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks and introductions. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

May 25, 2016: Presenter, Judges in the Classroom Program, Marianas High School, Susupe, Saipan, Northern Mariana Islands. I spoke on the significance of Law Day. I have no notes, transcript, or recording. The address of Marianas High School address is Bwaay Lane, P.O. Box 500207, Saipan, Northern Mariana Islands 96950.

May 13, 2016: Panelist, Professionalism Symposium hosted by the CNMI Bar Association, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. I discussed professionalism and ethics with newly sworn attorneys. I have no notes, transcript, or recording. The address of the CNMI Bar Association is Courtney’s Plaza, Route 30 Chalan Kanoa, P.O. Box 504539, Saipan, Northern Mariana Islands 96950.

May 12, 2016: Speaker, 2016 Ninth Circuit Civics Contest Award Ceremony, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording, but press

coverage is supplied. The address for the Court is 1671 Gualo Rai Road, Saipan, Northern Mariana Islands 96950.

March 18, 2016: Presenter, Judges in the Classroom program at Tanapag Middle School, Tanapag, Saipan, Northern Mariana Islands. Presentation supplied.

February 6, 2016: Speaker, 2016 Annual NMI District Conference “Anti-Money Laundering: Follow the Money,” Susupe, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

September 26 – 28, 2015: Presenter, ASEAN and USPTO Global IP Academy, “Advanced Judicial Seminar on Criminal Adjudication and Enforcement of Intellectual Property,” Hua Hin, Thailand. Presentation supplied.

June 19, 2015: Panelist, Workforce Development Training, Susupe, Saipan, Northern Mariana Islands. Panel presentation on “Reentry Efforts in the NMI Federal Court.” Presentation supplied.

April 27, 2015: Presenter, Judges in the Classroom program, AP Civics, Dr. Algier, Marianas High School, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

February 20, 2015: Speaker, Annual District Conference “Warriors or Lawyers? Ethics and Professionalism,” Susupe, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

January 8, 2015: Presenter, The Sixth Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 3 – 7, 2014: Presenter, 16th FSM Judicial Conference, Chuuk, Federated States of Micronesia. Presentation supplied.

October 21 – 22, 2014: Presenter, ASEAN Secretariat and USPTO Global IP Academy, “Roundtable for the Judiciary on Intellectual and Property Rights Issues and Enforcement,” Manila, Philippines. Presentation supplied.

August 30, 2014: Speaker, Annual NMI District Conference “Big Data, Privacy, and Information Security,” Susupe, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

July 21 – 23, 2014: Presenter, ASEAN Secretariat and USPTO Global IP Academy, with support from the U.S. Department of State International Office, “Workshop for Judges and Public Prosecutors on Intellectual Property Enforcement,” Phnom Penh, Cambodia. Presentation supplied.

April 11, 2014: Presenter, Judges in the Classroom program at Saipan Southern High School, Koblerville, Saipan, Northern Mariana Islands. Presentation supplied.

August 17, 2013: Speaker, 2013 Annual NMI District Conference “Taking on the Feds and Privacy, Technology and the Law,” Garapan, Saipan, Northern Mariana Islands. I gave welcome remarks. I have no notes, transcript, or recording. The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

June 11, 2013: Speaker and Oath of Office, Judicial Investiture Ceremony for Honorable Heather L. Kennedy, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Remarks supplied.

May 23, 2013: Presenter, Judges in the Classroom program, William S. Reyes Elementary School, Chalan Kanoa, Saipan, Northern Mariana Islands. I presented about the basics of the legal system to fifth grade students. I have no notes, transcript, or recording. The address of William S. Reyes Elementary School is Juan Tagabuel Street, Chalan Kanoa, Saipan, Northern Mariana Islands 96950.

April 22, 2013: Presenter, Current Issues course, Northern Marianas College, Fina Sisu, Saipan, Northern Mariana Islands. Presentation supplied.

April 16, 2013: Celebrity Reader, Young Author’s Book Fair, Gregorio T. Camacho Elementary School, San Roque, Saipan, Northern Mariana Islands. I read a children’s book to the students in attendance. I have no notes, transcript, or recording. The address for Gregorio T. Camacho Elementary School is Mamate Loop, San Roque, Saipan, Northern Mariana Islands 96950.

March 25 – 27, 2013: Presenter, ASEAN Secretariat and USPTO Global IP Academy, “Roundtable for the Judiciary on Intellectual Property Rights Issues and Enforcement / Advanced Judicial Seminar on Criminal Adjudication and Enforcement of Intellectual Property,” Bangkok, Thailand. Presentation supplied.

February 13, 2013: Presenter, iPad training for Judges and Justices, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

January 30, 2013: Oath of Office, Investiture of Gregorio Kilili Camacho Sablan, Member of the 113th Congress, United States House of Representatives, Marianas

High School, Susupe, Saipan, Northern Mariana Islands. I administered the oath of office. I have no notes, transcript, or recording, but press coverage is supplied. The address for Congressman Sablan's Office is 2745 Insatto Street, Saipan, Northern Mariana Islands 96950.

January 10, 2013: Presenter, The Fifth Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 14, 2012: Presenter, District Court of Guam, Hagatna, Guam. I conducted iPad training and presentation for court staff. I have no notes, transcript, or recording. The address for the U.S. District Court of Guam is Fourth Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagatna, Guam 96910.

October 31, 2012: Speaker, Portrait Unveiling Ceremony, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Transcript supplied.

October 5, 2012: Keynote Speaker, Attorney Admissions Ceremony, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Remarks supplied.

September 24 – 28, 2012: Presenter, Pacific Judicial Council, "Going Paperless, New Ways to Work Using Technology." Presentation supplied.

July 20, 2012: Presenter, Upward Bound Program, Northern Marianas College, Fina Sisu, Saipan, Northern Mariana Islands. Gave welcome remarks and presented on "Understanding the Federal Courts." I have no notes, transcript, or recording. The address for the college is Fina Sisu Lane, Saipan, Northern Mariana Islands 96950.

July 16, 2012: Speaker, District of Guam and District of the NMI Conference, "A Conversation with U.S. Attorney General Eric H. Holder, Jr.," District Court of Guam, Hagatna, Guam. I gave welcome remarks. I have no notes, transcript, or recording. The address for the U.S. District Court of Guam is Fourth Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagatna, Guam 96910.

May 24, 2012: Commencement Speaker, Saipan Community School, Susupe, Saipan, Northern Mariana Islands. I gave the keynote address. Remarks supplied.

May 11, 2012: Panelist, Public School System Close Up Program, Saipan, Northern Mariana Islands. Presentation supplied.

May 7, 2012: Speaker, Law Day Activities, Take Our Daughters, and Sons to Work Day, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Gave welcome remarks and meet and greet with daughters and sons of court staff and other federal agencies. I have no notes, transcript, or recording.

The address for the Court is 1671 Gualo Rai Road, Gualo Rai, Saipan, Northern Mariana Islands 96950.

April 26, 2012: Speaker, Attorney Admission and Law Day Proclamation Signing Ceremony "No Courts, No Justice, No Freedom," House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Remarks supplied.

January 28 -- 29, 2012: Speaker, 2012 Annual NMI District Conference, Hafadai Beach Hotel and U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Remarks supplied.

October 3, 2011: Speaker and Oath of Office, 2011 STUCO Inauguration at Oleai Elementary School, Oleai, Saipan, Northern Mariana Islands. I gave the keynote address and swore-in new officers. I have no notes, transcript, or recording. The address for the school is Route 313, Oleai, Saipan, Northern Mariana Islands 96950.

August 27, 2011: Speaker, Investiture of Ramona V. Manglona, U.S. District Court for the NMI, Garapan, Saipan, Northern Mariana Islands. Remarks and press coverage supplied.

January 7, 2010: Presenter, The Fourth Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

October 27 -- 29, 2009: Presenter and Panelist, Pacific Judicial Council Conference, Garapan, Saipan, Northern Mariana Islands. Panelist on Handling Pro Se Litigants in Domestic Violence Cases, panelist on Courts as Cultural Mediators in Domestic Violence, and presenter on Island Judiciary Presentation: Northern Mariana Islands Superior Court. Presentation supplied for the Island Judiciary, and press coverage supplied on the mediation.

May 30, 2009: Commencement Speaker, Mount Carmel High School, Chalan Kanoa, Saipan, Northern Mariana Islands. Remarks supplied.

November 24, 2008: Presenter, Criminal Justice Planning Agency Supervisory Council Meeting, Saipan, Northern Mariana Islands. Presentation supplied.

November 7, 2008: Presenter, Marianas Baptist Academy civics class, San Vicente, Saipan, Northern Mariana Islands. Presentation supplied.

October 16, 2008: Presenter, Saipan Society for Human Resources Management Meeting, Saipan, Northern Mariana Islands. Presentation supplied.

June 3, 2008: Commencement Speaker, Kagman High School, Kagman, Saipan, Northern Mariana Islands. Remarks supplied.

May 30, 2008: Commencement Speaker, Marianas Baptist Academy, Multi-Purpose Center, Susupe, Saipan, Northern Mariana Islands. Remarks supplied.

January 10, 2008: Presenter, The Third Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 4, 2007: San Vicente Elementary School, informal campaigning for retention as judge at polling location. I have no notes, transcript, or recording, but press coverage is supplied. The school address is Isa Drive, Saipan, Northern Mariana Islands 96950.

October 20, 2007: Oath of Office, 10th Youth Congress, Saipan. Administered the Oath of Office, Saipan, Northern Mariana Islands. I have no notes, transcript, or recording, but press coverage is supplied. The Youth Congress address is Capitol Hill, P.O. Box 500586, Saipan, Northern Mariana Islands 96950.

January 12, 2006: Oath of Office, Saipan Chamber of Commerce, Fiesta Resort, Garapan, Saipan, Northern Mariana Islands. Administered Oath of Office to new officers. I have no notes, transcript, or recording, but press coverage is supplied. The Saipan Chamber of Commerce address is Marianas Business Plaza, Suite 201-A, Saipan, Northern Mariana Islands 96950.

January 5, 2006: Presenter, The Second Law and the Freshman Legislator Program, House of Justice/Guma Hustisia/Imwaal Aweewe, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

February 17, 2005: Guest Speaker, CNMI Bar Association, Saipan, Northern Mariana Islands. Guest speaker on the statistics of Superior Court and E-Filing. I have no notes, transcript, or recording. The address of the CNMI Bar Association is Courtney's Plaza, Route 30 Chalan Kanoa, P.O. Box 504539, Saipan, Northern Mariana Islands 96950.

December 3, 2004: Presenter, Domestic Violence Conference, Superior Court of the Commonwealth of the Northern Mariana Islands, Susupe, Saipan, Northern Mariana Islands. Presentation supplied.

November 5, 2004: Presenter, Tinian High School, San Jose, Tinian. Made community outreach presentation, I have no notes, transcript, or recording. The address of the school is Canal Street, P.O. Box 400, Tinian, Northern Mariana Islands 96952.

July 2004: Guest Lecturer, Justice Teaching Institute, Supreme Court of the Commonwealth of the Northern Mariana Islands, Susupe, Saipan, Northern Mariana Islands. Guest lecturer on CNMI juvenile laws and procedures. I have no notes, transcript, or recording. The Institute is sponsored by the Supreme Court of the Commonwealth of the Northern Mariana Islands whose address is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

June 4, 2004: Commencement Speaker, Saipan Southern High School, Koblerville, Saipan, Northern Mariana Islands. Remarks supplied.

March 29, 2004: Speaker, Kagman Elementary School, Kagman, Saipan, Northern Mariana Islands. Remarks supplied.

March 18, 2004: Speaker, CNMI Women's Affairs Office, Pacific Islands Club Resort, San Antonio, Saipan, Northern Mariana Islands. Inspirational speaker at 2004 Women's History Month meeting; spoke on "Women Inspiring Hope & Possibility." I have no notes, transcript, or recording, but press coverage is supplied. The WAO is part of the Governor's Office whose address is Juan A. Sablan Memorial Building, Capitol Hill, Caller Box 10007, Saipan, Northern Mariana Islands 96950.

March 6, 2004: Speaker, CNMI International Women's Day Celebration, Mina Chum Atdao Pavilion, Oleai, Saipan, Northern Mariana Islands. Remarks supplied.

January 8, 2004: Speaker, Ribbon Cutting Ceremony, Kagman Juvenile Detention and Correctional Facility, Kagman, Saipan, Northern Mariana Islands. Remarks supplied.

November 21, 2003: Speaker, Mount Carmel High School, Chalan Kanoa, Saipan, Northern Mariana Islands. Remarks supplied.

June 20, 2003: Speaker, Judicial Investiture Ceremony as Associate Judge of the Commonwealth Superior Court, Supreme Court of the Commonwealth of the Northern Mariana Islands, Saipan, Northern Mariana Islands. Remarks and press coverage supplied.

June 13, 2003: Keynote Speaker, Hopwood Junior High School Promotion Ceremony, Afetna, Saipan, Northern Mariana Islands. Remarks supplied.

May 2, 2003: Speaker, 20th Annual Attorney General's Cup Speech Competition, Supreme Court of the Commonwealth of the Northern Mariana Islands, Saipan, NMI. Gave opening remarks as Attorney General. I have no notes, transcript or recording.

April 17, 2003: Panelist, CNMI Juvenile Justice Task Force's Juvenile Justice Training Conference, Saipan Diamond Hotel, Susupe, Saipan, Northern Mariana Islands. I addressed youth issues, domestic violence, and juvenile offenses. I have no notes, transcript, or recording, but press coverage is supplied. The Task Force is part of the Criminal Justice Planning Agency whose address is 1315 Anatahan Drive, Saipan, Northern Mariana Islands 96950.

October 7, 2002: Speaker, CNMI Attorney Admission Ceremony, Supreme Court of the Commonwealth of the Northern Mariana Islands, Saipan, Northern Mariana Islands. Remarks supplied.

July 30, 2002: Presenter, Justice Teaching Institute Conference, Saipan, Northern Mariana Islands. Presented on Juvenile Justice. I have no notes, transcript, or recording. The Institute is sponsored by the Supreme Court of the Commonwealth of the Northern Mariana Islands whose address is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

March 16, 2002: Mock Trial Judge, CNMI High School Mock Trial Championship, Supreme Court of the Commonwealth of the Northern Mariana Islands, Saipan, Northern Mariana Islands. I have no notes, transcript, or recording, but press coverage is supplied. Mock Trial is sponsored by the Commonwealth of the Northern Mariana Islands Judiciary. The address for the CNMI Judiciary is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

2002: Speaker, "History of CNMI's Women: Herstory," sponsored by the CNMI Women's Affairs Office, Saipan, Northern Mariana Islands. I discussed how I became the fourth NMI descent woman to be licensed as an attorney in the CNMI. I have no notes, transcript, or recording. The Women's Affairs Office is part of the Governor's Office whose address is Juan A. Sablan Memorial Building, Capitol Hill, Saipan, Northern Mariana Islands 96950.

May 25, 2001: Commencement Speaker, Marianas Baptist Academy, Multi-Purpose Center, Susupe, Saipan, Northern Mariana Islands. I gave the keynote address. I have no notes, transcript, or recording. The address of the Academy is Chala Monsignor Guerrero, Route 31, Saipan, Northern Mariana Islands 96950.

May 2001 (specific date unknown): Presenter, Hopwood Junior High School, Afetna, Saipan, Northern Mariana Islands. This was a community outreach presentation for Law Day. I have no notes, transcript, or recording. The address of the school is Beach Road, Afetna, Saipan, Northern Mariana Islands 96950.

March 31, 2001: Mock Trial Judge, CNMI High School Mock Trial Championship, Saipan, Northern Mariana Islands. I have no notes, transcript, or recording, but press coverage is supplied. Mock Trial is sponsored by the Commonwealth of the Northern Mariana Islands Judiciary. The address for the CNMI Judiciary is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

1999 (specific date unknown): Guest Lecturer, Northern Mariana Islands Police Academy, Northern Marianas College, Fina Sisu, Saipan, Northern Mariana Islands. I was a guest lecturer on criminal laws covering traffic laws and juvenile delinquency. I have no notes, transcript, or recording. The address of the police academy is Caller Box 10007, Saipan, Northern Mariana Islands 96950.

February 3 – 4, 1998: Speaker, Family Court Symposium, Saipan, Northern Mariana Islands. I have no notes, transcript, or recording. The Family Court Division of the Superior Court of the Commonwealth of the Northern Mariana Islands sponsored the event, and its address is 765 Tekken Street, Saipan, Northern Mariana Islands 96950.

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

Press Releases

November 21, 2020: Press release regarding the passing of Honorable Alfred Laureta, first District Judge for the U.S. District Court for the Northern Mariana Islands. Copy supplied.

2020 (specific date unknown): Press release announcing District Courts of Guam and the Northern Mariana Islands Bankruptcy Seminar Series. Copy supplied (reprinted in multiple outlets).

January 18, 2019: Press release regarding the continuity of operations during partial government shutdown. Copy supplied.

Television & Radio Interviews

United States Courts, *Chief Judge Manglona: A Trailblazer for Women in the Law*, March 10, 2022. Video available at <https://www.youtube.com/watch?v=KfzruP9xul4>.

Television station, KSPN2, July 28, 2011 – interviewed regarding my background, values, and work ethic. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station, KSPN2, July 27, 2011 – interviewed regarding future responsibilities as a district judge. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station KSPN2, March 14, 2007 – interviewed during International Women’s Month regarding my role as the only sitting female jurist in the Northern Mariana Islands. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station KSPN2, May 30, 2003 – interviewed after the CNMI Senate confirmed my judicial appointment to the Superior Court of the Northern Mariana Islands. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station KSPN2, May 20, 2003 – brief statement made to press after the Governor’s announcement of his two judicial nominations to the Superior Court. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station KMCV (now KSPN2) (approximately 2003) – interview regarding the issue of an elected attorney general for the Northern Mariana Islands. I have no recording or transcript of this interview, an excerpt of which was televised on the news.

Television station KMVC (now KSPN2), November 5, 2002 – brief statement made to press after I was selected by the Governor to be the next Attorney General of the Northern Mariana Islands. I am providing copies of the recording of the portion of this interview that was televised on the news.

Television station KMVC (now KSPN2) (on or about 1998) – interviewed by talk show host regarding traffic laws in the CNMI. I have no recording or transcript of this interview, excerpts of which were televised on the news.

Newspaper Interviews

There are two main local print newspapers published on the island of Saipan, the Saipan Tribune and the Marianas Variety. The following articles are mainly from the Saipan Tribune because it has online archives, whereas Marianas Variety lost its archives during a transfer of their website. Past articles in the Marianas Variety are available only through a manual search with precise dates. The following contains a list of articles that were found by using the Saipan Tribune dates. Despite my search, there may be other interviews I have been unable to identify, find, or remember.

Migueld, *New Federal Courthouse Holds “Soft Opening,”* MARIANAS VARIETY, July 27, 2020. Copy supplied.

Ferdie De La Torre, *Give free legal service to domestic violence survivors,* SAIPAN TRIB., June 25, 2019. Copy supplied.

Bea Cabrera, *A Black Robe for an Armor*, SAIPAN TRIB., Mar. 26, 2019. Copy supplied.

MIL-OSI USA: *Courts Endure Rough Storm Season*, Dec. 20, 2018. Copy supplied.

Quoted in article on New Dawn Tech web site, Oct. 28, 2009. Copy supplied.

Ferdie de la Torre, *Justice Manglona Given Top Marks*, SAIPAN TRIB., Oct. 26, 2007. Copy supplied.

Marconi Calindas, *Manglona, Chavez Shine in Int'l Debate*, SAIPAN TRIB., May 1, 2007. Copy supplied.

Ulysses Torres Sabuco, *NMI Judiciary Prepares for 2004*, MARIANAS VARIETY, June 4, 2003. Copy supplied.

Marian A. Maraya, *Will the Next AG Be Pam Brown*, SAIPAN TRIB., June 1, 2003. Copy supplied.

Marian A. Maraya, *Manglona, Govendo Confirmed as Judge*, SAIPAN TRIB., May 31, 2003. Copy supplied.

Ulysses Torres Sabuco, *Immigration Now Under AGO*, MARIANAS VARIETY, May 14, 2003. Copy supplied.

Jayvee L. Vallejera, *Registrar of Corporations to Be Transferred*, SAIPAN TRIB., May 13, 2003. Copy supplied.

Jayvee L. Vallejera, *Labor, Immigration Now Fully Separate*, SAIPAN TRIB., May 13, 2003. Copy supplied.

John Ravelo, *NMI Gets \$435k from Tobacco Firms*, SAIPAN TRIB., Apr. 21, 2003. Copy supplied.

Marian A. Maraya, *AG Touts Need to Protect Consumers*, SAIPAN TRIB., Apr. 18, 2003. Copy supplied.

Ulysses Torres Sabuco, *NMI Bans Entry of Visitors from SARS Hotspots*, MARIANAS VARIETY, Apr. 18, 2003. Copy supplied.

John Ravelo, *NMI States File Position on Tobacco Bond Appeal*, SAIPAN TRIB., Apr. 10, 2003. Copy supplied.

Marian A. Maraya, *House Initiative Calls for Elected AG*, SAIPAN TRIB., Mar. 20, 2003. Copy supplied.

Jojo Dass, *Manglona: Gov't Lawsuit vs. Verizon "Activated,"* MARIANAS VARIETY, Mar. 20, 2003. Copy supplied.

Jojo Dass, *Torres Says NMI Should Have Elected AG,* MARIANAS VARIETY, Mar. 20, 2003. Copy supplied.

Staff, *Suspects in CNMI's First Ever Bank Robber Nabbed,* UNITED NEWS OF BANGLADESH, Feb. 13, 2003. Copy supplied.

Staff, *Manglona May Opt to Be Judge,* SAIPAN TRIB., Jan. 22, 2003. Copy supplied.

Ulysses Torres Sabuco, *Manibusan to Retire; Manglona Considered as Replacement,* MARIANAS VARIETY, Jan. 21, 2003. Copy supplied.

Marian A. Maraya, *AG Designate Introduced to Cabinet,* SAIPAN TRIB., Nov. 6, 2002. Copy supplied.

Ulysses Torres Sabuco, *Sachs Named Deputy AG; Lynch Chief Prosecutor Again,* MARIANAS VARIETY, Nov. 6, 2002. Copy supplied.

Ulysses Torres Sabuco, *Manglona Is Next AG,* MARIANAS VARIETY, Nov. 1, 2002. Copy supplied.

Jayvee L. Vallejera, *When There's Nobody Else to Blame, Media's Always There,* SAIPAN TRIB., Sept. 13, 2002. Copy supplied.

Ulysses Torres Sabuco, *Manglona: Lemons Resigned Over Media Comments,* MARIANAS VARIETY, Sept. 13, 2002. Copy supplied.

Jayvee L. Vallejera, *No Shortlist Yet on New AG,* SAIPAN TRIB., Aug. 28, 2002. Copy supplied.

Jayvee L. Vallejera, *Deputy AG Supports Elected AG Proposal,* SAIPAN TRIB., Aug. 28, 2002. Copy supplied.

Ulysses Torres Sabuco, *Lemons Threatens to Resign,* MARIANAS VARIETY, Aug. 28, 2002. Copy supplied.

Ulysses Torres Sabuco, *Peterson Resigns From AGO,* MARIANAS VARIETY, Aug. 27, 2002. Copy supplied.

Jayvee L. Vallejera, *Attorney General Quits,* SAIPAN TRIB., Aug. 24, 2002. Copy supplied.

Marian A. Maraya, *Bar Association Swears in New Officers*, SAIPAN TRIB., Mar.16, 2001. Copy supplied.

Staff, *Autopsy Shows Infant 'Harmed' by Babysitter*, SAIPAN TRIB., Nov. 17, 2000. Copy supplied.

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

From May 2003 to July 2011, I served as an Associate Judge of the Northern Mariana Islands Superior Court. I passed a retention election in November 2007 to serve another six-year term beginning May 2009. The Superior Court has general jurisdiction over all civil cases (including small claims and probate actions) and criminal cases (including traffic and juvenile).

From 2004 to 2008, after beginning my service with the Superior Court, I was a Justice *Pro Tem* of the Guam Supreme Court. In this capacity, I was appointed on a case by case basis by the Chief Justice of the Guam Supreme Court to sit on a panel. Cases argued before and decided by me included criminal, probate, and divorce cases.

Similarly, from 2004 to 2008, I also served as a Judge *Pro Tem* of the Guam Superior Court. I was appointed on a case by case basis by the Chief Justice of the Guam Supreme Court and presided over three cases pertaining to the issue of judicial disqualification.

I currently serve as a district judge of the District Court for the Northern Mariana Islands, to which I was nominated by President Barack Obama on January 26, 2011, and was confirmed by the Senate. I took the oath of office on July 30, 2011, to serve a term of ten years and until a successor is chosen and qualified. As the sole active district judge for the district, I perform the work of a district judge, magistrate judge, and bankruptcy judge.

Since 2011, shortly after I began my term as a district judge, the Chief Judge of the Ninth Circuit annually designates me as a designated judge to preside over cases in the District Court of Guam. I perform the duties of a district judge, magistrate judge, and bankruptcy judge in that district when needed due to a scheduling or substantive conflict of the Chief Judge and/or the magistrate judge of the District of Guam.

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

I have presided over 185 cases to verdict. One hundred fifty cases were criminal, civil, traffic, and small claims cases that went to trial as a Superior Court Judge. The other 35 cases were bench and jury trials that I presided over as a district judge for the districts of the Northern Mariana Islands and Guam.

- i. Of these cases, approximately what percent were:

jury trials:	21%
bench trials:	79%

- ii. Of these cases, approximately what percent were:

civil proceedings:	63%
criminal proceedings:	37%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list of opinions.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *United States v. Smith*, No. 1:17-CR-00020, 2022 WL 2103063 (D. Guam June 3, 2022), 2022 WL 3699527 (D. Guam Aug. 26, 2022).

I presided by designation in this Guam criminal case involving Mr. Smith, a former legal counsel for Guam Housing and Urban Renewal Authority (“GHURA”), a public housing authority, and his friend, Mr. Wong. GHURA administered the U.S. Department of Housing and Urban Development (“HUD”) rental assistance program under Section 8 of the United States Housing Act of 1937. The two defendants were charged with multiple counts of wire fraud, money laundering, and related charges based on a scheme in which Mr. Smith would receive housing assistance payments (“HAP”) as a Section 8 Program landlord while serving as GHURA legal counsel despite the conflict of interest prohibition under the HUD regulations. The HAP payments were deposited in different bank accounts held by Mr. Smith, and/or Mr. Wong, with all proceeds going to Mr. Smith. The indictment was filed when Mr. Smith’s brother-in-law was the sitting Governor of Guam. The first jury trial against the two defendants took weeks to empanel a jury due to the widely known attorneys involved and the over 100 potential named witnesses. After the presentation of evidence began, I declared a mistrial based on a conflict of interest between Mr. Smith and his criminal defense attorney, Mr. Lujan, GHURA’s former legal counsel who preceded Mr. Smith and was also a Section 8 landlord. The parties appealed my decision to declare a mistrial, among other issues, to the Ninth Circuit, which delayed the resumption of a new trial. The Ninth Circuit affirmed my decisions, and remanded the case. The indictment was subsequently amended with a dismissal of the charges against Mr. Wong due to his death. After a seven-week

jury trial conducted in 2021, the jury found Mr. Smith guilty of conspiracy to commit wire fraud and money laundering, theft of government property, and multiple counts of wire fraud, money laundering, and laundering of monetary instruments. I later granted Mr. Smith's motion for judgment of acquittal on all counts based upon Ninth Circuit and U.S. Supreme Court caselaw. The government's appeal is currently pending.

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2. *In re: Hillbroom Litigation*, No. 1:10-CV-00009 (*consolidation of Hillbroom v. Lujan*, No. 1:10-CV-00009 and *Hillbroom v. Israel*, No. 1:10-cv-00031), 2012 WL 2168303 (D. N. Mar. I. Jan. 26, 2012), 2012 WL 2168294 (D. N. Mar. I. Jan. 26, 2012), 992 F. Supp. 2d 1072 (D. N. Mar. I. 2012), *judgment entered*, No. 1-10-CV-00031, 2012 WL 2550480 (D. N. Mar. I. Apr. 5, 2012), and *rev'd and remanded*, 566 F. App'x 564 (9th Cir. 2014), 566 F. App'x 564 (D. N. Mar. I. Mar. 28, 2014), 2015 WL 4505782 (D. N. Mar. I. July 24, 2015), 2020 WL 6572669 (D. N. Mar. I. Oct. 26, 2020), 2022 WL 1685020 (D. N. Mar. I. May 26, 2022).

In May 1995, Mr. Hillbroom's father, Mr. Larry Hillblom, the co-founder and former co-owner of DHL Worldwide Express, died in an airplane crash north of Saipan, leaving behind pretermitted children and an estate valued at approximately \$550 million. Plaintiff Mr. Hillbroom, a pretermitted heir, initiated these two consolidated civil actions in 2010 against his lawyers, Defendants Mr. Israel and Mr. Lujan, as well as the trustee for his estate, Defendant Mr. Waibel. Mr. Hillbroom alleged that Defendants fraudulently increased the attorneys' contingency fee in Mr. Hillbroom's recovery of approximately \$100 million from his father's estate—from 38% to 56%. There were numerous motions filed, an unsuccessful appeal to the Ninth Circuit, voluminous discovery filings in support of motions for summary judgment and motions in limine, and a lengthy, but unsuccessful, private mediation attempt. During the pendency of the case, Mr. Hillbroom was convicted and sentenced in a Republic of Palau court for drug charges. While seeking drug counseling in the United States as a part of his suspended sentence, Mr. Hillbroom was charged, convicted, and sentenced for federal drug charges in the U.S. District Court for the District of Idaho. After over a decade of contentious litigation, all the parties settled their claims.

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3. *Tianming Wang v. Gold Mantis Constr. Decoration, LLC*, No. 1:18-CV-00030, 2021 WL 2065398 (D. N. Mar. I. May 24, 2021).

Seven Chinese nationals brought an action against their employer, the general contractor, and the owner of a casino resort project for a claim of forced labor under the Trafficking Victims Protection Reauthorization Act (“TVPRA”), forced labor under the CNMI Anti-Trafficking Act, negligence, and liability for employees of subcontractor. Plaintiffs complained of horrendous working conditions, including wage rates below the minimum wage, 24-hour work shifts, severe burns, and death threats. Plaintiffs alleged Defendants arranged for Plaintiffs to enter the Northern Marianas as tourists, circumventing lawful temporary work visa requirements. Defendants also threatened to repatriate Plaintiffs to China whenever they complained of work conditions. Plaintiffs settled and dismissed the claims against the employer and general contractor. I entered default judgment against the casino owner as a sanction pursuant to Federal Rule of Civil Procedure 37 for repeated violations of discovery orders, and awarded Plaintiffs \$5,430,596, plus post-judgment interest and attorneys’ fees. The casino owner appealed my decisions to the Ninth Circuit, and, during the appeal, the parties reached a settlement. When the casino owner breached the settlement agreement, I entered orders enforcing it, including dismissal of the appeal and forfeiture of the bond posted. Plaintiffs then pursued writs of execution and asserted claims in a limited receivership. The casino owner subsequently paid the remaining balance of the judgment.

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4. *Tinian Women Assoc. v. U.S. Dep't of the Navy*, No. 1:16-CV-00022, 2017 WL 4564188 (D. N. Mar. I. Oct. 13, 2017), *aff'd*, 976 F.3d 832 (9th Cir. 2020), 2018 WL 4189632 (D. N. Mar. I. Aug. 31, 2018).

Environmental groups brought a civil action alleging environmental reviews conducted by the Department of the Navy did not comply with the National Environmental Policy Act ("NEPA"). The reviews involved the Navy's plans to relocate troops from Okinawa, Japan to Guam and construct training facilities in the Northern Mariana Islands. I granted the Navy's motion to dismiss the claim that it failed to consider relocation alternatives, and entered summary judgment on the Navy's procedural NEPA claim. On appeal, the Ninth Circuit affirmed my decision.

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5. *United States v. H.K. Entm't (Overseas) Invs., Ltd. d/b/a Tinian Dynasty Hotel and Casino*, No. 1:13-CR-00002, 2015 WL 3463012 (D. N. Mar. I. June 1, 2015).

Defendant Hong Kong Entertainment d/b/a Tinian Dynasty Hotel and Casino ("Casino") was charged with 158 counts of willful and egregious violations of the Bank Secrecy Act. I denied the Casino's multiple pretrial motions, including motions to compel, to dismiss for lack of jurisdiction, to suppress evidence, and in limine. On the eve of trial, the parties reached a plea agreement. As part of the First Amended Non Prosecution Agreement, the Casino agreed to forfeit over \$3 million. In addition, pursuant to this Agreement, the U.S. Treasury Financial Crimes Enforcement Network ("FinCEN") was able to obtain a \$75 million civil money penalty against the Casino.

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6. *Jung Ja Kim v. Quichocho*, No. 1:09-CV-00046, ECF No. 203 (D. N. Mar. I. Apr. 3, 2014), 2014 WL 12709684 (D. N. Mar. I. Dec. 15, 2014), 2015 WL 13357617 (D. N. Mar. I. Mar. 23, 2015).

Ms. Kim sued her former attorney Mr. Quichocho, his wife, his wife's company Karissa, LLC, and the law firm claiming multiple allegations of federal wire fraud and money laundering, which served as the predicate acts of Ms. Kim's three Racketeer Influenced and Corrupt Organizations Act ("RICO") counts, as well as state law claims for professional negligence, breach of fiduciary duty, breach of lease agreements, conversion, fraud, and constructive trust. Mr. and Mrs. Quichocho and the law firm counterclaimed for unpaid attorneys' fees, fraud, interference with marriage, and conversion. After a four-week jury trial, the jury returned a special verdict. I granted judgment in favor of Ms. Kim in an amount over \$2.5 million on all claims and judgment in favor of Mr. Quichocho and his law firm for the unpaid attorneys' fees claim only in the amount of \$48,221. Defendants filed an appeal but subsequently moved to dismiss the appeal.

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7. *United States v. Ayuyu*, No. 1:12-CR-00036 (D. N. Mar. I.); related to 1:12-CR-00039 (D. N. Mar. I.).

In the first criminal case, Mr. Ayuyu, a sitting CNMI senator, and his subordinate were charged with conspiracy to violate the Endangered Species Act ("ESA") and Lacey Act, violation of the ESA, and violation of the Lacey Act based on the importation of Mariana fruit bats to the island of Saipan. The subordinate Defendant pleaded guilty to conspiracy to violate the ESA and Lacey Act for which I sentenced him to 30 days imprisonment. During the grand jury's investigation of this first criminal case, the senator engaged in a series of acts to obstruct the investigation, which resulted in the second criminal case in which he was charged with several counts of attempting to prevent testimony of a witness, obstructing the due administration of justice, and attempting to remove or destroy seized property. In a Federal Rule of Criminal Procedure 11(c)(1)(C) plea agreement, which I accepted, the senator pleaded guilty to conspiracy to violate the ESA and Lacey Act in the first criminal case and conspiracy to obstruct an official proceeding in the second case. I sentenced him to 41 months imprisonment for conspiracy to obstruct an official proceeding to run concurrently with six months imprisonment for the first conspiracy.

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8. *Commonwealth v. Castillo*, Crim. No. 07-0148D (N. Mar. I. Commw. Super. Ct. Nov. 5, 2008). Opinion supplied.

Mr. Castillo was found guilty after a bench trial for domestic violence charges. I was assigned the case after the trial judge resigned from the bench before sentencing occurred. Prior to sentencing, Mr. Castillo moved to vacate his conviction on the grounds of double jeopardy. He claimed that about eight months prior to the criminal trial, he was tried in the family court before another judge in an order to show cause hearing for the same acts that were alleged by the prosecution as constituting the crimes he was charged and ultimately convicted. At the time I rendered a decision, the family court judge had taken the order to show cause matter under submission and had not made any findings nor imposed any sanctions. I ultimately denied the motion to vacate the conviction and concluded that the most serious charge of Stalking in the First Degree was not barred. Mr. Castillo alternatively argued the criminal case was improperly initiated by a sitting Superior Court judge. Although I agreed with Mr. Castillo that the family court judge's statements to him at the hearing violated the principles of decorum and temperance that the Judicial Canons seek to promote,

and that the judge's vitriol cast an appearance of impropriety upon the entire Superior Court and brought the judiciary into disrepute, I concluded that there was no evidence that Mr. Castillo was prosecuted as a result of the judge's "personal journey" to make sure Mr. Castillo leaves the CNMI. Because of the information I received in this case, I submitted a letter to the CNMI Chief Justice reporting what I believed were violations of the Judicial Canons. As a result of my letter, an investigation was conducted, and a disciplinary case was filed against the family court judge. After a trial, the CNMI Supreme Court found the judge violated the judicial canons and sanctioned him.

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9. *In re Extradition of Miura*, Crim. No. 08-0030C (N. Mar. I. Commw. Super. Ct. Sept. 15, 2008), *aff'd*, 2010 MP 12. Opinion supplied.

Dubbed "the OJ Simpson case of Japan," this was an extradition case of a Japanese citizen detained on the island of Saipan pursuant to a California arrest warrant for the 1985 murder of his wife while vacationing in Los Angeles, California. Mr. Miura filed a writ of habeas corpus to release him from the arrest warrant and concurrently fought the validity of the arrest warrant in a California Superior Court. I denied the writ, and authorized Mr. Miura's extradition to California. My decision was affirmed on appeal by the CNMI Supreme Court. Mr. Miura filed a writ of habeas corpus in the U.S. District Court for the Northern Mariana Islands, which was later withdrawn. Mr. Miura was subsequently extradited to California.

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10. *Tan v. Younis Art Studio, Inc.*, Civ. No. 01-0624, and *Fitial v. Younis Art Studio, Inc.*, Civ. No. 03-0116, consolidated cases (N. Mar. I. Commw. Super. Ct. Feb. 2, 2004), *aff'd*, 2007 MP 11. Opinion supplied.

Mr. Tan, a prominent businessman in the community, and Mr. Fitial, a local politician, filed separate suits against a local newspaper company for defamation. The newspaper company filed a third-party complaint for indemnification, contribution, and negligence against Mr. Torres, another local politician, who placed the newspaper ads containing his statements about Mr. Tan and Mr. Fitial. The case was significant because Mr. Fitial was running for governor. I granted summary judgment in favor of the newspaper company and against Mr. Tan and Mr. Fitial. The CNMI Supreme Court affirmed my decision.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case

1. *Gray v. Imperial Pac. Int'l (CNMI), LLC*, No. 1:19-CV-00008, 2023 WL 3714156 (D. N. Mar. I. May 30, 2023), *appeal docketed*, No. 23-15956 (9th Cir.).

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2. *Salas v. United States*, No. 1:22-CV-00008, 2022 WL 1696414 (D. N. Mar. I. Nov. 17, 2022), *appeal docketed*, No. 22-16936 (9th Cir.).

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3. *United States v. Smith*, No. 1:17-CR-00020, 2022 WL 3699527 (D. Guam Aug. 26, 2022), *appeal docketed*, 22-10353 (9th Cir.).

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4. *Nicholas v. Guam Healthcare Dev. Inc.*, No. 1:20-CV-00004, and *Dela Rosa v. Arafiles*, No. 1:20-cv-00015 (ECF Nos. 45, 33, respectively) (D. Guam Nov. 13, 2020). Opinions supplied.

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5. *Pangelinan v. United States*, No. 1:19-CV-00015, 2020 WL 1858403 (D. N. Mar. I. Apr. 10, 2020), *vacated and remanded*, 2022 WL 2793592 (9th Cir. 2022).

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6. *Radich v. Guerrero*, No. 1:14-CV-00020, 2016 WL 1212437 (D. N. Mar. I. Mar. 28, 2016).

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7. *Davis v. Commonwealth Election Comm'n*, No. 1:14-CV-00002, 2014 WL 2111065 (D. N. Mar. I. May 20, 2014), *aff'd*, 844 F.3d 1087 (9th Cir. 2016).

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8. *United States v. Xiaoying Tang*, No. 1:13-CR-00014-1, 2014 WL 12697321 (D. N. Mar. I. Mar. 25, 2014), *aff'd*, 839 F.3d 877, 663 F. App'x 563 (9th Cir. 2016), *cert. denied*, 138 S. Ct. 58 (2017).

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9. *Commonwealth v. Macabalo*, Crim. No. 06-0110 (N. Mar. I. Commw. Super. Ct. Dec. 27, 2007), *appeal dismissed per stipulation*, No. 2008-SCC-004-CRM (N.M.I. S. Ct. Aug. 31, 2010). Opinion supplied.

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10. *Judicial Council of Guam v. Dep't of Law, Gov't of Guam*, Civ. No. CV0766-04 (Guam Super. Ct. Oct. 14, 2004). Opinion supplied.

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- e. Provide a list of all cases in which certiorari was requested or granted.

Davis v. Commonwealth Election Comm'n, No. 1:14-CV-00002, 2014 WL 2111065 (D. N. Mar. I. May 20, 2014), *aff'd*, 844 F.3d 1087 (9th Cir. 2016), *cert. denied*, 138 S. Ct. 127 (2017).

United States v. Tang, No. 1:13-CR-00014, 2014 WL 12697321 (D. N. Mar. I. Mar. 25, 2014), *aff'd*, 839 F.3d 877 (9th Cir. 2016), *cert. denied*, 138 S. Ct. 58 (2017).

Atalig v. United States, No. 1:11-CV-00023, 2012 WL 2953049 (D. N. Mar. I. July 20, 2012), *aff'd*, 554 F. App'x 662 (9th Cir. 2014), *as amended on denial of reh'g and reh'g en banc* (May 16, 2014), *cert. denied*, 574 U.S. 934 (2014).

United States v. Ye, No. 1:12-CR-00009-2, 2012 WL 4506879 (D. N. Mar. I. Oct. 1, 2012), *aff'd*, 606 F. App'x 416 (9th Cir. 2015), *cert. denied*, 579 U.S. 903 (2016).

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Best Sunshine Int'l, Ltd. (BVI) v. Commonwealth Casino Comm'n, No. 1:22-CV-00007, 2022 WL 4448918 (D. N. Mar. I. Sept. 26, 2022) *rev'd and remanded*, 2023 WL 4234249 (9th Cir. June 28, 2023). Best Sunshine, a casino owner, sought a preliminary injunction against the Commonwealth Casino Commission enjoining the Commission from proceeding with license revocation proceedings against it and an order compelling the Commission to arbitrate. I granted the injunction and mandated the arbitration. The Ninth Circuit concluded that license revocation proceedings are not arbitrable disputes under the agreement. The matter was remanded for proceedings consistent with the Ninth Circuit's disposition.

United States v. Tydingco, No. 1:15-CR-00018-1, ECF Nos. 132, 133 (D. N. Mar. I. Dec. 16, 2016) *rev'd and remanded*, 909 F.3d 297 (9th Cir. 2018); ECF No. 241 (D. N. Mar. I. June 17, 2020), *rev'd and remanded*, 2022 WL 445527 (9th Cir. 2022). Mr. and Mrs. Tydingco were convicted of harboring an illegal alien and of aiding and abetting the harboring. I sentenced Mrs. Tydingco to 10 months imprisonment and Mr. Tydingco to 21 months imprisonment. They appealed claiming that there was insufficient evidence to support the convictions and that the jury instructions were erroneous. The Ninth Circuit found that (1) the instruction defining "harbor" was erroneous because it did not require the jury to find the Tydingcos intended to violate the law, and the error was not harmless; and (2) the instruction defining "reckless disregard" was plainly erroneous because it did not require the jury to find Mrs. Tydingco subjectively drew an inference that the alien was, in fact, an alien and was in the United States unlawfully. The Ninth Circuit reversed and remanded for a new trial. In her second trial, Mrs. Tydingco was convicted for harboring an illegal alien. I sentenced her to 90 days imprisonment. Mrs. Tydingco appealed again. The Ninth Circuit found I abused my discretion in admitting sham-marriage and witness-

tampering testimony from a witness because there was no evidence Mrs. Tydingco received, or expected to receive, any financial benefit for her role in the sham-marriage proposal or that Mrs. Tydingco knew that the alien she was charged with harboring was in the United States illegally. The Ninth Circuit held there was an abuse of discretion in admitting the witness's testimony that Mrs. Tydingco encouraged the witness to leave the jurisdiction so she would be unable to testify. The testimony suggests consciousness of guilt which depends on the underlying sham-marriage testimony that should not have been admitted anyway. The Ninth Circuit concluded the admission of the witness's testimony was not harmless and my limiting instruction permitting the jury to weigh the witness's testimony was erroneous because the jury should not have been able to give it any weight. The Ninth Circuit reversed and remanded. At her third jury trial, she was convicted for harboring an illegal alien. I sentenced her again to 90 days imprisonment. Mrs. Tydingco filed a third appeal regarding the third judgment, which is pending.

United States v. Macabalo, No. 1:16-CR-00003-1, ECF No. 17 (D. N. Mar. I. July 25, 2016), *aff'd in part and remanded*, 702 F. App'x 628 (9th Cir. 2017). Ms. Macabalo appealed her guilty plea conviction and sentence of 21 months for perjury. The Ninth Circuit dismissed the appeal because she waived her right to appeal. The Ninth Circuit's independent review found that there were no arguable grounds for relief on the appeal on the sentence except that the written judgment reflecting a 21-month custodial sentence was inconsistent with my oral pronouncement of a 20-month sentence. The sentence was affirmed but remanded with instructions to make the judgment consistent with the oral pronouncement.

United States v. Ada, No. 1:12-CR-00030-1, ECF No. 211 (D. N. Mar. I. Mar. 14, 2016), *aff'd in part, rev'd in part, and remanded*, 700 F. App'x 689 (9th Cir. 2017). Mr. Ada pleaded guilty to 46 counts of embezzlement, health care fraud, and money laundering. I sentenced him to three terms of imprisonment to run concurrently with the highest sentence of 151 months. Mr. Ada appealed my application of sentencing enhancements and departures, as well as the restitution award of \$699,484. The government conceded that the restitution award was excessive, so the Ninth Circuit remanded for recalculation, but otherwise affirmed the enhancements and departures. On remand, I ordered restitution of \$627,869.

United States v. Lin, No. 1:12-CR-000012-1, ECF No. 235 (D. N. Mar. I. Mar. 23, 2015), *rev'd, vacated, and remanded*, 841 F.3d 823 (9th Cir. 2016). Mr. Lin plead guilty of conspiracy to commit sex trafficking, and I imposed a sentence of 235 months. He appealed his sentence on several bases, including the calculation of his base offense level. The Ninth Circuit agreed with Mr. Lin and held that the mandatory minimum sentence, and thus the corresponding U.S. Sentencing Guideline provision, did not apply to conspiracy to commit sex trafficking. On remand, another judge imposed a sentence of 120 months.

United States v. Pangelinan, No. 1:13-CR-00013-1, ECF No. 75 (D. N. Mar. I. Oct. 15, 2014), *aff'd in part, rev'd in part, and remanded*, 656 F. App'x 382 (9th Cir. 2016). Mr. Pangelinan pleaded guilty to the offense of conspiracy to commit visa fraud and to defraud the United States. I sentenced him to six months imprisonment and ordered restitution of \$81,399. Mr. Pangelinan appealed, claiming that I erred in ordering him to pay restitution to 99 work visa applicants, the victims of his fraudulent acts. The Ninth Circuit affirmed that 99 aliens were victims of fraud and affirmed my reliance on circumstantial evidence to estimate the loss by the 99 aliens. The Ninth Circuit found that of the 99 victims, two suffered actual losses less than my estimate. The restitution order was vacated and remanded for the limited purpose of modifying the order to reflect the smaller losses suffered by the two victims. On remand, I ordered restitution in the amount of \$81,053.

Flores v. First Hawaiian Bank, No. 1:11-CV-0022, 2013 WL 12188155 (D. N. Mar. I. Nov. 8, 2013), *aff'd in part, rev'd in part, and remanded*, 642 F. App'x 696 (9th Cir. 2016). Mr. Flores, the administrator of Decedent's estate, appealed my grant of summary judgment in favor of Defendant Union Bank on the ground that the statute of limitations barred Mr. Flores' claims, as well as Defendant's award of attorney's fees. The Ninth Circuit affirmed my award of attorney's fees, but concluded that it was disputed whether Decedent made a demand that started the clock for the statute of limitations. The Ninth Circuit accordingly remanded for trial on the contract claims, which were not barred by the statute of limitations. At trial, a jury found in favor of the bank that there was no breach of contract.

In re Estate of Roberto, Civ. No. 98-983D (N. Mar. I. Commw. Super. Ct. Jan. 25, 2007), *aff'd in part, rev'd in part*, 2010 MP 7 (Torres, J., dissenting). In this probate action, another judge's decision was appealed to the CNMI Supreme Court. The appellate court (*Roberto I*) remanded the matter to the trial court for action on various estate assets. The decision was appealed to the U.S. Court of Appeals for the Ninth Circuit, and the U.S. Supreme Court denied the writ of certiorari. On remand, I issued the removal order to implement the mandate. On appeal, the *Roberto II* CNMI Supreme Court affirmed in part my removal order as to certain assets, and reversed in part as to two assets. It concluded that one asset requires a specific finding of fact, and the other a specific distribution of the asset that was commingled with other funds in an account. Opinion supplied.

APLUS Co., Ltd. v. Niizeki Int'l Saipan, Co., Ltd., Civ. No. 99-0532 (N. Mar. I. Commw. Super. Ct. May 25, 2004), *rev'd*, 2006 MP 13. Plaintiff APLUS Co. filed suit for unpaid loan of one billion yen secured by lease mortgages. A concurrent lawsuit was filed in Tokyo, Japan. I granted APLUS Co.'s motion for summary judgment based on an interpretation of the written agreement. The CNMI Supreme Court reversed my grant of summary judgment because of the dispute on the issue of third-party beneficiary in the agreement between APLUS Co. and Defendant Niizeki. After the remand, the parties settled, and the case was dismissed with prejudice. Opinion supplied.

Waibel v. Farber, Civ. No. 01-0236 (N. Mar. I. Commw. Super. Ct. Nov. 28, 2003), *aff'd on different grounds*, 2006 MP 15. Insurance company, St. Paul, moved for dismissal for lack of personal jurisdiction and, in the alternative, because the statute of limitations barred Mr. Lujan's claim. I concluded that personal jurisdiction was proper but found that Mr. Lujan's claim was indeed barred by the statute of limitations. On appeal, the CNMI Supreme Court concluded that there was no personal jurisdiction and, on this ground, affirmed the dismissal. Opinion supplied.

Stephanson v. Teregeyo, Civ. No. 01-0497 (N. Mar. I. Commw. Super. Ct. Mar. 16, 2004), *aff'd in part, rev'd in part*, 2008 MP 13. This was a contract dispute concerning the unique land alienation provision under the CNMI's Constitution, which restricts long term leasehold interests held by persons of non-NMI descent. Mr. Stephanson was the last assignee of a land interest from an initial lessee; Mr. Stephanson also had a separate and direct assignment agreement with lessor, in violation of the NMI's Constitution. I concluded that Mr. Stephanson validly held the first assigned leasehold interest but ruled that the separate assignment agreement violated the NMI's land alienation provisions. I also addressed the issue of attorney's fees under the lease agreement. The CNMI Supreme Court affirmed my decision on the assignments but reversed the award of attorney's fees to require inclusion of fees incurred in the appeal process. Opinion supplied.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the way those unpublished opinions are filed and/or stored.

None of my Commonwealth Superior Court opinions are published in print form in any official reporter, including the Commonwealth Reporter, Westlaw, or LEXIS. The last print form publication predates my joining the Superior Court in 2003. My published opinions, however, are available online at the Commonwealth Law Revision Commission's website.

Commonwealth law provides when an opinion must be published. 1 CMC § 3404. When a decision determines a substantial question of procedure or substantive law, it must be set forth in written opinions with reasons for the decision stated. The issuance of a published opinion for other reasons is discretionary. I estimate that I issued about 400 unpublished decisions, or 90% of all my decisions while a Superior Court judge. The decisions are frequently announced on the record from the bench, and the taped recordings of these rulings are stored. Parties obtain a transcript for appeals. A short-written order memorializing a given decision is also maintained. There were occasions when a decision was delivered from the bench, but was followed by a written decision with detailed analysis.

My unpublished opinions issued as a district judge are docketed in the court's electronic case management system files only. The opinions I issued as a district

judge are available on Westlaw and LEXIS as well as the court's electronic case management system.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Yarofalchuw v. Cabrera, No. 1:22-CV-00001, 2023 WL 5204490 (D. N. Mar. I. Aug. 14, 2023).

Mafnas v. Castro, No. 1:22-CV-00009, 2023 WL 2330691 (D. N. Mar. I. Mar. 3, 2023).

Salas v. United States, No. 1:22-CV-00008, 2022 WL 16964141 (D. N. Mar. I. Nov. 17, 2022), *appeal docketed*, No. 22-16936 (9th Cir. Dec. 19, 2022).

Manila v. Guerrero, No. 1:18-CV-00003, 2022 WL 4588848 (D. N. Mar. I. Sept. 29, 2022).

United States v. Morta, No. 1:21-CR-00024, 2022 WL 1447021 (D. Guam May 9, 2022).

TakeCare Ins. Co., Inc. v. Birn, No. 1:19-CV-00126, 2021 WL 2327051 (D. Guam Feb. 17, 2021).

Double A Corp. v. Babauta, No. 1:19-CV-00005, 2019 WL 6499216 (D. N. Mar. I. Dec. 3, 2019).

Imperial Pac. Int'l (CNMI), LLC v. Commonwealth Casino Comm'n, No. 1:19-CV-00014, 2019 WL 3557896 (D. N. Mar. I. Aug. 6, 2019).

Norita v. N. Mar. I. Dep't of Pub. Safety, No. 1:18-CV-00022, 2019 WL 150875 (D. N. Mar. I. Jan. 10, 2019).

Joseph v. Abrams, No. 1:14-CV-00005, 2018 WL 3545317 (D. Guam July 24, 2018).

WSTCO Quality Feed & Supply, LLC v. Ada, No. 17-CV-00127, 2018 WL 3244403 (D. Guam July 3, 2018).

Guerrero v. CNMI State Bd. of Educ., No. 1:18-CV-00006, 2018 WL 2437582 (D. N. Mar. I. May 30, 2018).

Sin Ho Nam v. Northern Mariana Islands, No. 17-CV-00021, 2017 WL 5998824 (D. N. Mar. I. Dec. 4, 2017).

Nosek v. Saipan Sea Ventures, Inc., No. 1:17-CV-00003, 2017 WL 7789272 (D. N. Mar. I. Nov. 3, 2017).

Tinian Women Ass'n v. U.S. Dep't of the Navy, No. 1:16-CV-00022, 2017 WL 4564188 (D. N. Mar. I. Oct. 13, 2017).

Lizama v. ANZ Guam, Inc., No. 1:16-CV-00010, 2017 WL 3446493 (D. N. Mar. I. Jan. 23, 2017).

Murphy v. Guerrero, No. 1:14-CV-00026, 2016 WL 5508998 (D. N. Mar. I. Sept. 28, 2016).

Christian v. Northern Mariana Islands, No. 1:14-CV-00010, 2016 WL 4004574 (D. N. Mar. I. July 7, 2016).

Guam Fed'n of Teachers v. Cruz, No. CV 1:15-CV-00003, 2016 WL 1383477 (D. Guam Apr. 7, 2016).

Radich v. Guerrero, No. 1:14-CV-00020, 2016 WL 1212437 (D. N. Mar. I. Mar. 28, 2016).

United States v. H.K. Ent. (Overseas) Invs., Ltd., No. 1:13-CR-00002, 2015 WL 3463012 (D. N. Mar. I. June 1, 2015).

Dean v. Pac. Bellwether, LLC, 996 F. Supp. 2d 1044 (D. N. Mar. I. 2014).

United States v. Tang, 1:13-CR-00014, 2014 WL 12697321 (D. N. Mar. I. Mar. 25, 2014), *aff'd*, 839 F.3d 877 (9th Cir. 2016).

Ai v. United States, No. 1:11-CV-00014, 2013 WL 11319828 (D. N. Mar. I. Aug. 20, 2013), *aff'd*, 809 F.3d 503 (9th Cir. 2015).

Rojo v. Kapileo-Igisaiar, No. 1:12-CV-00024, 2013 WL 3155803 (D. N. Mar. I. June 24, 2013).

Am. Pac. Textile, Inc. v. United States, No. 1:10-CV-00018, 2013 WL 1147540 (D. N. Mar. I. Mar. 19, 2013), *aff'd*, 627 F. App'x 648 (9th Cir. 2015).

August Healthcare Grp., LLC v. Manglona, No. 1:12-CV-00008, 2012 WL 5877582 (D. N. Mar. I. Nov. 21, 2012).

Atalig v. United States, No. 1:11-CV-00023, 2012 WL 2953049 (D. N. Mar. I. July 20, 2012), *aff'd*, 554 F. App'x 662 (9th Cir. 2014), *as amended on denial of reh'g and reh'g en banc* (May 16, 2014).

United States v. Weindl, 990 F. Supp. 2d 1099 (D. N. Mar. I. 2012).

Davis v. Commonwealth Election Comm'n, 990 F. Supp. 2d 1089 (D. N. Mar. I. 2012).

United States v. Funkgub, No. 1:12-CR-00001, 2012 WL 2117873 (D. N. Mar. I. June 4, 2012).

The following opinions were issued during my tenure as an Associate Judge at the Superior Court:

Commonwealth v. Aguon, Crim. No. 01-0063 (N. Mar. I. Commw. Super. Ct. Dec. 31, 2010). Opinion supplied.

Commonwealth v. Macabalo, Crim. No. 06-0110 (N. Mar. I. Commw. Super. Ct. Dec. 27, 2007); *appeal dismissed per stipulation*, No. 2008-SCC-004-CRM (N.M.I. S. Ct. Aug. 31, 2010). Opinion supplied in response to 13(d).

Pangelinan v. NMI Ret. Fund, Civ. No. 04-0578 (N. Mar. I. Commw. Super. Ct. Mar. 1, 2006), *aff'd*, 2009 MP 12 (Due process). Opinion supplied.

Commonwealth v. Faisao, Crim. No. 07-0107 (N. Mar. I. Commw. Super. Ct. Nov. 10, 2008). Opinion supplied.

Commonwealth v. Castillo, Crim. No. 07-0148 (N. Mar. I. Commw. Super. Ct. Nov. 5, 2008). Opinion supplied in response to 13(c).

Commonwealth v. Vaughn, Crim. No. 06-0222 (N. Mar. I. Commw. Super. Ct. June 11, 2007). Opinion supplied.

Tan v. Younis Art Studio, Inc., Civ. No. 01-0624 and *Fitia v. Younis Art Studio, Inc.*, Civ. No. 03-0116, consolidated cases (N. Mar. I. Commw. Super. Ct. Feb. 2, 2004), *aff'd*, 2007 MP 11. Opinion supplied in response to 13(c).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on any federal court of appeals.

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

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

Recusals in the District Court of the NMI are governed by 28 U.S.C. § 455 and the Code of Conduct for United States Judges. I recused myself in cases that involved close family members or where I have a close relationship with any of the parties, a litigant, or a potential witness. After recusal, the case is either reassigned to a district judge sitting by designation pursuant to 48 U.S.C. § 1821(b)(2), or if the parties in a civil action consent, is assigned to the magistrate judge. To the best of my knowledge, the following is the list of District Court of the NMI cases in which I either recused myself sua sponte or upon motion by a party.

As a district judge, a party requested my recusal in the following cases:

Zajradhara v. Atalig, No. 1:22-CV-00014 (D. N. Mar. I). Mr. Zajradhara, proceeding pro se, moved for recusal arguing that I permit non-U.S. citizens access to the courts and that my sentencing dispositions do not deter immigration offenders. This motion is still pending as his complaint has not passed screening.

The Government of the Lao People's Democratic Republic v. Baldwin, No. 1:22-CV-00011, No. 19 (D. N. Mar. I. Apr. 26, 2023). Petitioner moved for recusal under 28 U.S.C. § 455 relying on my self-recusal in a prior proceeding, 1:15-mc-00018. I granted the motion for recusal because the dispute spans the past years including the period of my prior self-recusal. Additionally, the two cases are related.

Zajradhara v. P.C. Bargain Corp., No. 1:21-CV-00021 (D. N. Mar. I. Mar. 31, 2023). Mr. Zajradhara ("Zaj"), proceeding pro se, moved for recusal arguing that I permit non-U.S. citizens access to the courts, that my sentencing dispositions do not deter immigration offenders, and that I was delaying disposition of his case because he had filed a new grievance against me, my spouse, and family friends. I denied recusal because (1) I do not have a third-degree relationship with the identified family friends and there is no indication they have any involvement in Mr. Zaj's case; (2) filing separate actions against me does not necessitate my recusal; (3) there are no laws or constitutional provisions against giving judicial access to non-U.S. citizens; (4) I have no authority to prosecute immigration offenses; and (5) I have discretion to sentence immigration offenders and Mr. Zaj's allegation of bias was unsubstantiated.

Zajradhara v. Cabrera, No. 1:21-CV-00022 (D. N. Mar. I.). Mr. Zajradhara (“Zaj”), proceeding pro se, moved for recusal arguing I permit non-U.S. citizens access to the courts and that my sentencing dispositions do not deter immigration offenders. I declined to recuse because his complaint failed screening and I subsequently dismissed the case as Mr. Zaj failed to diligently prosecute his case, namely, he failed to timely file an amended complaint.

United States v. Smith, No. 1:17-CR-00020 (D. Guam Nov. 10, 2021). Mr. Smith moved for recusal on the grounds that I concurrently preside over a related qui tam matter and Mr. Smith filed a motion challenging my authority to sit as a designated judge in the District Court of Guam. I denied recusal because I found the mere reference to me presiding over another proceeding in a judicial capacity without adequate facts of bias or prejudice is insufficient. I also found that Mr. Smith’s argument that a motion challenging my designation unavailing, speculative, and lack logical reasoning. Ample caselaw supports my holding that a party’s disagreement with my rulings is insufficient to warrant my recusal.

United States v. Atalig, No. 1:18-CR-00013 (D. N. Mar. I. Apr. 24, 2020). Defendants moved for recusal because a relative allegedly had a direct interest in the outcome of the case. After carefully reviewing my recusal obligations under 28 U.S.C. § 455, as well as applicable caselaw, I determined no proper basis exists for recusal and thus denied the motion.

SEALED In the Matter of the Search of, No. 1:19-MC-00042 related to 1:19-MC-00043 (D. N. Mar. I. Apr. 20, 2020). On a suggestion by Defendants, I recused myself pursuant to 28 U.S.C. § 455(a) because one of the targets on the warrant was involved with a financial transaction with my family’s company.

United States v. Lin, No. 1:12-CR-00012 (D. N. Mar. I. July 10, 2018). Defendant moved to disqualify me because the defense interviewed my brother during their private investigation. It was alleged my brother possibly had knowledge about facts related to the underlying criminal conspiracy. I therefore granted the recusal pursuant to 28 U.S.C. § 455(a).

Flores v. Concepcion, No. 1:15-CV-00010 (D. N. Mar. I. Apr. 25, 2016). Plaintiff moved for recusal on grounds that there is a reasonable question on my impartiality where my husband authored a decision in the NMI Supreme Court, which the parties argued would control the outcome in the federal court matter before me. I denied recusal because that Supreme Court decision was a different matter on unrelated issues to the case before me. I was not being called to uphold or undo the holding of the panel, which included my husband as an associate justice.

SEALED Disciplinary Matter, No. 1:13-MC-00004 (D. N. Mar. I. Dec. 14, 2015). Respondent reported that the Commonwealth Supreme Court presided over a matter involving him, which includes my husband as a justice of the Supreme Court deciding the

matter. I therefore recused pursuant to 28 U.S.C. § 455(a) to avoid the reasonable appearance of impartiality.

Minto v. Mafnas, No. 1:13-CV-0002 (D. N. Mar. I. May 2, 2013). Petitioner moved for recusal because to grant his petition for writ of habeas corpus, I would have to find that a CNMI Supreme Court panel that included my spouse ruled to the contrary to, and/or unreasonably applied, clearly established federal law, and/or upheld an unreasonable determination of the facts in the underlying state-matter. I therefore granted Petitioner's motion and recused myself based on 28 U.S.C. § 455(a).

United States v. Chen, No. 1:12-CR-00026 (D. N. Mar. I. Sept. 12, 2012). Defendant received discovery information from the Government not previously known to me but which as suggested by Defendant, arguably created an appearance that my impartiality might reasonably be questioned. The conflict of interest was based on receipts of rental payments by witnesses against Defendant to an entity to which I have close familial and financial ties. The individuals involved may be material witnesses. I therefore recused myself pursuant to 28 U.S.C. § 455(a).

Quitugua v. Micronesian Resort, Inc., No. 1:10-CV-00011 (D. N. Mar. I. Nov. 18, 2011). I recused myself in response to a suggestion by Defendant in its Initial Disclosure about the involvement of a third party in which my family trust had shares.

As a district judge, I recused myself sua sponte in the following cases:

Crisostomo v. Dep't of Corrs., No. 1:22-CV-00015 (D. N. Mar. I. Apr. 28, 2023). My spouse is a NMI Supreme Court justice who participated in the appellate proceedings of Petitioner's petition for writ of habeas corpus.

Commonwealth Ports Auth. v. Phoenix Servs., Inc., No. 1:23-CV-00005 (D. N. Mar. I. Apr. 10, 2023). My brother is a board member of Plaintiff.

Uddin v. Bhuiyan, dba Island Prot. Serv., No. 1:21-CV-00023 (D. N. Mar. I. Nov. 18, 2021). My nephew is an attorney for Defendant.

Hossen v. Bhuiyan, dba Island Prot. Serv., No. 1:21-CV-00017 (D. N. Mar. I. Aug. 11, 2021). My nephew is an attorney for Defendant.

Jones v. Axe Murderer Tours, LLC, No. 1:20-CV-00004 (D. N. Mar. I. Mar. 16, 2020). Defendant's principal member was my SCUBA instructor.

Kruid v. BankGuam Holding Co., No. 1:18-CV-00005 (D. N. Mar. I. Jan. 11, 2019). Defendant's counsel became involved in a separate litigation involving my family trust.

Qun v. Attao, No. 1:18-CV-00028 (D. N. Mar. I. Nov. 21, 2018). My husband sat on the CNMI Supreme Court panel that considered Petitioner's direct appeal.

Naraja v. Bank of Hawaii, No. 1:18-CV-00023 (D. N. Mar. I. Oct. 5, 2018). Plaintiff's spouse was presiding over litigation involving my family trust.

Orlando v. N. Mar. I. Dep't of Lands and Nat. Res. Div. of Fish and Wildlife, No. 1:18-CV-00015 (D. N. Mar. I. July 19, 2018). My first cousin is the director for Defendant.

Nishio v. Saipan Int'l Airport (Commonwealth Ports Auth.), No. 1:18-CV-00013 (D. N. Mar. I. Apr. 11, 2018). My brother is a board member for Defendant.

Rios v. Attao, No. 1:18-CV-00004 (D. N. Mar. I. Feb. 16, 2018). My husband sat on the CNMI Supreme Court panel that considered Petitioner's direct appeal.

Guanlao v. Zedde, No. 1:16-CV-00018 (D. N. Mar. I. Jan. 19, 2018). Petitioner Ms. Guanlao had a financial relationship with my family trust.

Angel Villa, LLC v. Zhao Jian Zhong, No. 1:17-CV-00008 (D. N. Mar. I. Dec. 22, 2017). Plaintiff's counsel became involved in a separate litigation involving my family trust. I recused pursuant to 28 U.S.C. § 455(a).

Star Marianas Air, Inc. v. Commonwealth Ports Auth., No. 1:17-CV-00012 (D. N. Mar. I. Nov. 15, 2017). My brother is a board member for Defendant.

Chopitea v. Imperial Pac. Int'l (CNMI), LLC, No. 1:17-CV-00020 (D. N. Mar. I. Nov. 2, 2017). Plaintiff's counsel became involved in a separate litigation involving my family trust.

Beijing Cap. Airlines Co., Ltd. v. Commonwealth Ports Auth., No. 1:17-CV-00009 (D. N. Mar. I. June 21, 2017). My brother is a board member for Defendant.

Tropical Gardens, Inc. v. Imperial Pac. Int'l (CNMI), LLC, No. 1:17-CV-00002 (D. N. Mar. I. Feb. 14, 2017). Plaintiff's counsel became involved in a separate litigation involving my family trust. I recused pursuant to 28 U.S.C. § 455(a).

Batukhtina v. Interpacific Resorts (Saipan) Corp., No. 1:16-CV-00031 (D. N. Mar. I. Dec. 28, 2016). Defendant's counsel became involved in a separate litigation involving my family trust.

Dona v. H.K. Entm't (Overseas) Inv., Ltd., No. 1:15-CV-00017 (D. N. Mar. I. Dec. 7, 2016). Defendant's counsel became involved in a separate litigation involving my family trust.

Yamamoto v. M/V/ Luta, O.N. 635750, No. 1:16-CV-00027 (D. N. Mar. I. Nov. 21, 2016). My brother is a board member of the intervenor in the case.

KSA Corp. v. An, No. No. 1:16-CV-00015 (D. N. Mar. I. Nov. 21, 2016). One of Plaintiff's counsel represented a party adverse to a member of my household. Shortly

after my order issued, and before the first case management conference was held, the basis for the conflict was removed with the substitution of counsel. I was reassigned the case and presided over the matter to its conclusion.

Fejeran v. Colvin, No. 1:16-CV-00016 (D. N. Mar. I. Oct. 19, 2016). Plaintiff's attorney represented a party in litigation against my husband.

Kin & Rit Inc. v. Saipan Shipping Co., No. 1:16-CV-00025 (D. N. Mar. I. Oct. 13, 2016). My family trust had a financial interest in a party to the proceeding.

Claston, LLC by and through Sunset Holdings, LLC v. United States, No. 1:08-CV-00048 consolidated with *Baldwin v. United States*, No. 1:09-CV-00033 (D. N. Mar. I. July 13, 2016). I presided over this \$6 million complex tax case involving Plaintiff Claston, LLC, and Plaintiff Mr. Baldwin, a controlling partner of Claston, LLC, who challenged the Internal Revenue Service's partnership tax determination. I issued evidentiary rulings and denied substantive motions. Before trial began, the parties reached a settlement agreement. This agreement required a time-consuming approval from the United States Office of Review of the Tax Division and calculations by IRS. During the three-year stay of the case, a tangential financial interest in a real estate transaction involving my family trust arose. I disclosed the potential conflict to the parties. When the parties' efforts to implement the agreement left two issues for the court to resolve, I self-recused.

United States v. Jucutan, No. 1:15-CR-00017 (D. N. Mar. I. Dec. 24, 2015). Defendant's private counsel represented a party in litigation against my husband.

The Government of the Lao People's Democratic Republic v. Bridge Cap. LLC, No. 1:15-MC-00018 (D. N. Mar. I. Nov. 13, 2015). One respondent had a financial interest in a third-party transaction in which I had a fiduciary financial interest.

Lu v. Star Marianas Air, Inc., No. 1:14-CV-00023 (D. N. Mar. I. Nov. 9, 2015). One of the attorneys represented my spouse in a separate matter.

SEALED Disciplinary Matter, No. 1:11-MC-00032 (D. N. Mar. I. July 31, 2015). The prosecuting attorney was representing my spouse in an unrelated matter.

Gu v. Tinian Transp. Mgmt. Sols., Inc., No. 1:15-CV-00004 (D. N. Mar. I. June 26, 2015). One of the attorneys was representing my spouse in a separate matter.

Song v. United States, No. 1:14-CV-00007 and 1:08-CR-00022 (D. N. Mar. I. June 4, 2015) (habeas case) and *United States v. Yong Ming Song*, 1:08-CR-00022, No. 86 (D. N. Mar. I.) (underlying criminal case). Petitioner/Defendant's attorney was retained by my husband in a personal matter during the pendency of the habeas case.

Stevens v. Commonwealth Utils. Corp., No. 1:14-CV-00015 (D. N. Mar. I. Apr. 29, 2015). Plaintiff's counsel filed a suit against my spouse.

Cuellar v. N. Marianas Coll., No. 1:14-CV-00022 (D. N. Mar. I. Jan. 13, 2015). A family member was a board member of Defendant entity.

Ramsey v. Muna, No. 1:14-CV-00021, (D. N. Mar. I. Dec. 1, 2014). One Defendant is my close relative.

Boeing Co. v. Leo A. Daly Co., No. 1:13-CV-00027 (D. N. Mar. I. May 15, 2014). I was represented in a personal matter by Plaintiffs' counsel.

United Micronesia Dev. Ass'n, Inc. v. Wickline, No. 1:14-CV-00003 (D. N. Mar. I. Mar. 6, 2014). I had a financial interest in Plaintiff entity through my family trust.

Commonwealth Ports Auth. V. Boeing Co., No. 1:13-CV-0010, No. 22 (D. N. Mar. I. Nov. 13, 2013). My brother became a board member (director) of Plaintiff entity.

Taisague v. Inos, No. 1:13-CV-00023 (D. N. Mar. I. Oct. 29, 2013). My spouse has a financial interest in the NMI Retirement Fund, which was a subject of the proceeding.

Commonwealth Ports Auth. V. Leo A. Daly Co., No. 1:12-CV-00005 (D. N. Mar. I. Aug. 27, 2013). My brother became a board member (director) of Plaintiff entity.

N. Mar. I. Ret. Fund v. Northern Mariana Islands, No. 1:13-CV-00006 (D. N. Mar. I. Mar. 29, 2013). My spouse has a financial interest in the NMI Retirement Fund.

Calberg v. Guam Indus. Servs. Dba Guam Shipyard, No. 1:14-CV-00002 (D. Guam Jan. 31, 2013). My nephew was employed as an associate attorney of Plaintiff.

Saito v. United Micronesia Dev. Ass'n, Inc., No. 1:10-CV-00027 (D. N. Mar. I. July 12, 2012). I had a financial interest in Defendant entity through my family trust.

Roe v. Fitiaf, No. 1:09-CV-00023 (D. N. Mar. I. Feb. 21, 2012). My spouse has a financial interest in the NMI Retirement Fund, the subject of the lawsuit.

Davis v. Commonwealth Election Comm'n, No. 1:12-CV-00001, (D. N. Mar. I. Jan. 20, 2012). I initially sua sponte recused myself on the grounds that one of the named Defendants is my brother-in-law. However, Plaintiff filed a dismissal against my brother-in-law, and therefore the conflict of interest was eliminated. I presided over the case until its completion.

United States v. Rota Coconut Vill. Hotel, 1:11-CV-00017 (D. N. Mar. I. Nov. 4, 2011). I have family members who are minority shareholders in Defendant Corporation.

N. Mar. I. Ret. Fund v. Northern Mariana Islands Government, No. 1:11-CV-00018 (D. N. Mar. I. Sept. 15, 2011). My spouse is a member of Plaintiff.

In the Northern Marianas Islands, the Code of Judicial Conduct and Section 3308 of Title

I of the Commonwealth Code govern the disqualification of judges. Section 3308 substantially mirrors the federal statute at 28 U.S.C. § 455. Procedurally, once a formal motion to disqualify is filed in an action, the judge presiding must cease all actions and another judge is assigned to hear and decide the motion without the opportunity for the subject judge to decide the matter first, or to answer to the allegation.

Once a case was assigned to me, I reviewed the file and determined if I was subject to either a mandatory basis or a waivable basis for disqualification. If I found a mandatory basis, I entered a self-recusal order, and the case was sent back to the presiding judge for reassignment. If there was a basis for disqualification that could be waived by the parties, I scheduled a status conference hearing to discuss the issue with the parties and have a waiver entered on the record. I recused myself sua sponte in matters that involved individuals who have a close relationship with me but do not fall under the mandatory recusal statutory basis, without taking any action to remove the apparent or asserted conflict of interest or to cure any other grounds for recusal, because of the closeness of the relationship.

When I first became a judge, the other Superior Court judges and I agreed that I would not handle any of the criminal cases that were filed while I was Attorney General pursuant to the mandatory provisions of the statute. In exchange, I was assigned more civil cases and an equal share of newly-filed criminal cases. Furthermore, I recused myself from handling a case remanded by the CNMI Supreme Court, in which my husband, a sitting justice, served on the appellate panel.

During my eight years on the Superior Court, out of the approximately 8,000 cases, I handled, I recused myself from 55 cases.

A litigant or party requested recusal in the following matters:

Tan v. Younis Art Studio, Inc., Civ. No. 01-0624, and *Fital v. Younis Art Studio, Inc.*, Civ. No. 03-0116, consolidated cases (N. Mar. I. Commw. Super. Ct. Feb. 2, 2004), *aff'd*, 2007 MP 11. Initially, the parties informally and jointly sought my disqualification because the third-party defendant, a congressman, alleged that in my former capacity as Attorney General, he engaged me in various communications in his official capacity that I may have perceived as being offensive. In a written response, I denied the parties' informal request for disqualification. I asserted that all communications were handled in a professional capacity and no basis existed to conclude that there was any personal bias or prejudice that would affect my ability to remain impartial. When the motion for disqualification was subsequently filed, another judge heard the motion and denied it. I handled the cases thereafter, and issued a ruling which was appealed. The CNMI Supreme Court affirmed my decision. The disqualification issue was not appealed. I recused sua sponte in the following matters based on the appearance of impartiality per 1 CMC § 3308(a):

Commonwealth v. Fleming, Traff. No. 10-01564 (N. Mar. I. Commw. Super. Ct. Oct. 21, 2010). In this traffic case, Defendant was my daughter's close friend.

Commonwealth v. Sablan, Crim. No. 09-0186C (N. Mar. I. Commw. Super. Ct. Nov. 27, 2009). Defendant is my husband's uncle.

Manglona v. Cepeda, Civ. No. 08-0075C (N. Mar. I. Commw. Super. Ct. Sept. 9, 2009). Plaintiff is a close uncle of my husband.

Hwang v. Woo Young Lee and E. Hope Corp., Civ. No. 08-0007E (N. Mar. I. Commw. Super. Ct. Aug. 24, 2009). Defendant's son is a very close friend of my son.

Commonwealth v. Furey, Traff. No. 07-00348 (N. Mar. I. Commw. Super. Ct. Nov. 5, 2008). Defendant is married to a close, longtime family friend.

Commonwealth v. Ada, Civ. No. 08-0261 (N. Mar. I. Commw. Super. Ct. Oct. 1, 2008). Defendant is a close, longtime family friend.

Guerrero v. Islam, Civ. No. 08-0222 (N. Mar. I. Commw. Super. Ct. June 16, 2008). Plaintiff is a close personal friend.

Estate of Ponciano Rasa, Civ. No. 08-0049 (N. Mar. I. Commw. Super. Ct. June 13, 2008). Decedent's wife is my first cousin.

Ada v. Nakamoto, Civ. No. 08-0029 (N. Mar. I. Commw. Super. Ct. June 13, 2008). Plaintiff is a close, longtime personal friend.

Bank of Saipan v. Attao, Small Claims No. 07-0996 (N. Mar. I. Commw. Super. Ct. June 12, 2008). Defendant is a personal friend.

Quimsing v. Mesa, Small Claims No. 07-0430 (N.MJ. Super. Ct. June 10, 2008). Defendant is a close first cousin of my husband.

Commonwealth Treasury v. Niro, Small Claims N. 08-0133 (N. Mar. I. Commw. Super. Ct. June 6, 2008). Defendant is my first cousin.

Commonwealth Treasury v. Torres, Small Claims No. 08-0114 (N. Mar. I. Commw. Super. Ct. June 6, 2008). Defendant is a close niece.

Sister Remedios Early Childhood Dev. Ctr. v. Santos, Small Claims No. 07-0922 (N. Mar. I. Commw. Super. Ct. June 4, 2008). Defendant is an old childhood friend.

Friendly Fin. Co., Inc. v. Yobech, Small Claims No. 06-1096 (N. Mar. I. Commw. Super. Ct. June 4, 2008). Defendant is a childhood friend.

Fleming v. Castro, Civ. No. 07-0405T (N. Mar. I. Commw. Super. Ct. Nov. 12, 2007). Defendant is my sister-in-law's mother.

NMC Bookstore v. Manglona, Small Claims No. 07-0318 (N. Mar. I. Commw. Super. Ct. Oct. 18, 2007). Defendant is a close niece.

Tooth Works v. Ayuyu, Small Claims No. 06-1159 (N. Mar. I. Commw. Super. Ct. Sept. 25, 2007). Defendant is a close personal and family friend.

UPCA v. Guerrero, Small Claims No. 06-0556 (N. Mar. I. Commw. Super. Ct. Aug. 22, 2007). Defendant is a childhood friend.

Commonwealth v. Camacho, Crim. No. 07-0053C (N. Mar. I. Commw. Super. Ct. July 25, 2007). Defendant is married to my first cousin.

Fusco v. Matsumoto, Civ. No. 06-0080 (N. Mar. I. Commw. Super. Ct. June 4, 2007). Defendant is married to a close, first cousin of my husband.

Auto Glass Pro v. Iginioef, Small Claims No. 07-0069 (N. Mar. I. Commw. Super. Ct. Apr. 13, 2007). Defendant is a close niece.

In re Estate of Malite (on remand), Civ. No. 97-0369 (N. Mar. I. Commw. Super. Ct. Apr. 11, 2007). My husband was a member of the panel on appeal that decided the case and remanded the case to the trial court.

In re Estate of Sablan v. Sablan, Civ. No. 04-0250 (N. Mar. I. Commw. Super. Ct. Mar. 29, 2007). Defendant is my godsister.

Nat'l Collection Servs. Inc. v. Manzanares, Small Claims No. 06-0732 (N.M.L. Super. Ct. Mar. 28, 2007). Defendant is a close family friend.

TJ Enters. v. Manglona, Small Claims No. 06-0408 (N. Mar. I. Commw. Super. Ct. Mar. 8, 2007). Defendant is a close niece.

United Pac. Collections Agency v. Sanchez, Small Claims No. 06-0750 (N. Mar. I. Commw. Super. Ct. Feb. 27, 2007). Plaintiff's claim was for my regular car service provider.

Grand Mkt. v. Manglona dba Tosi Mobil Station, Small Claims No. 06-0854 (N. Mar. I. Commw. Super. Ct. Dec. 14, 2006). Defendant is a close uncle of my husband.

Heng Da Corp. v. Mendiola, Small Claims No. 06-0644 (N. Mar. I. Commw. Super. Ct. Dec. 4, 2006). Defendant is a longtime family friend.

UIU Micronesia v. Manglona, Civ. No. 06-0335C (N. Mar. I. Commw. Super. Ct. Sept. 5, 2006). Defendants are my husband's close uncle and aunt.

MPLT v. APLE 501, Civ. No. 06-0366C (N. Mar. I. Commw. Super. Ct. Aug. 31, 2006). A co-Defendant is a close first cousin of my husband.

Century Ins. v. Manglona dba UR Food Deli, Small Claims No. 06-0300 (N. Mar. I. Commw. Super. Ct. June 1, 2006). Defendant is a close aunt of my husband.

Joeten Motor Co., Inc. v. Camacho, Civ. No. 04-0303 (N. Mar. I. Commw. Super. Ct. Feb. 19, 2005). Defendant is a close family friend.

I recused sua sponte in the following matters on a mandatory basis per 1 CMC § 3308(b):

Songsong v. Property Mgmt., Inc., Civ. No. 10-0329C (N. Mar. I. Commw. Super. Ct. Dec. 27, 2010). One of the potential witnesses is my sister.

In re Estate of Roberto, Civ. No. 98-983D (N. Mar. I. Commw. Super. Ct. Dec. 7, 2010). I became a co-trustee of a family trust which has a long-term leasehold agreement with a claimant in the case.

Commonwealth v. Apas, Traff. No. 04-05064 (N. Mar. I. Commw. Super. Ct. Nov. 13, 2009). One of Plaintiff's witnesses is my brother.

Commonwealth v. Villagomez, Traff. No. 09-00314 (N. Mar. I. Commw. Super. Ct. Apr. 1, 2009). Defendant is my brother.

Marianas Ins. Co. v. Commonwealth Ports Auth., Civ. No. 01-0269D (N. Mar. I. Commw. Super. Ct. Sept. 8, 2008). My brother is a member of the Defendant's board of directors.

NMI Retirement Fund v. NMI Gov. Fital, Civ. No. 06-0367D (N. Mar. I. Commw. Super. Ct. Aug. 12, 2008). My brother had a pending civil action against Plaintiff that relates to the same basis of this action.

Commonwealth Dept. of Treasury v. Pac. Resort Dev., Inc., Small Claims No. 08-0277 (N. Mar. I. Commw. Super. Ct. May 15, 2008). Co-Defendant is my father.

Commonwealth v. Camacho, Crim. No. 07-0117C (N. Mar. I. Commw. Super. Ct. Sept. 6, 2007). The victim was my nephew.

UMDA v. G.E.T., Civ. No. 07-0152 (N. Mar. I. Commw. Super. Ct. May 21, 2007). My father was a shareholder of Plaintiff.

JCT Enters. v. Villagomez, Small Claims No. 94-1779 (N. Mar. I. Commw. Super. Ct. Apr. 26, 2007). One Defendant was my brother.

Isla Financial v. Villagomez, Small Claims No. 07-0028 (N. Mar. I. Commw. Super. Ct. Mar. 7, 2007). Defendant is my niece.

Bank of Saipan v. Fennell, Civ. No. 04-0449A (N.M.I. Super. Ct. Dec. 12, 2006). I was

involved in the underlying receivership case as a government attorney.

Pangelinan v. Guerrero, Small Claims No. 05-0965 and 4 consolidated cases (N. Mar. I. Commw. Super. Ct. Sept. 18, 2006). Defendant is a longtime, close personal friend.

Haugh v. CNMI Travel Agency, Small Claims No. 06-0390 (N. Mar. I. Commw. Super. Ct. Sept. 12, 2006). My sister was a witness to the matter.

New Shintani Corp. v. Manglona, Civ. No. 06-041 SR (N. Mar. I. Commw. Super. Ct. Sept. 5, 2006). Brother-in-law is a shareholder of Plaintiff.

Atalig v. OKP, Civ. No. 06-0119R (N. Mar. I. Commw. Super. Ct. Aug. 28, 2006). My brother-in-law was the resident director and potential witness of a co-Defendant corporation.

Torres Refrigeration v. Dela Cruz, Small Claims No. 06-0311 (N. Mar. I. Commw. Super. Ct. June 21, 2006). Defendant is my brother-in-law's sister.

Townhouse v. Pangelinan, Small Claims No. 06-0013 and 06-0081 (N. Mar. I. Commw. Super. Ct. Mar. 2, 2006). Defendant is my first cousin.

BankPacific v. Castro, Small Claims No. 05-0283 (N. Mar. I. Commw. Super. Ct. Jan. 4, 2006). Defendants are my sister-in-law's parents.

Teregeyo v. Iguel, Small Claims No. 05-897 (N. Mar. I. Commw. Super. Ct. Dec. 12, 2005). Plaintiff was my courtroom clerk.

JWS Airconditioning and Refrigeration, Ltd. v. PB Props., Civ. No. 04-0540C (N. Mar. I. Commw. Super. Ct. Oct. 31, 2005). Father-in-law owns Defendant corporation.

15. **Public Office, Political Activities and Affiliations:**

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

From 1991 to 1994, I served as a member of the CNMI Library Council. I was appointed by Governor Lorenzo I. Guerrero.

From 2002 to 2003, I served as Attorney General of the CNMI. I was appointed by Governor Juan N. Babauta.

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

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

In 1991, I served as the unpaid Treasurer for the Committee to Elect Thomas P. Villagomez to the CNMI House of Representatives. I received and dispensed funds for campaign expenses for the election of this candidate, my brother.

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

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

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk.

I served as a law clerk to the Honorable Virginia Sablan-Onerheim, CNMI Superior Court, from March 1997 to October 1997. Thereafter, from October 1997 to January 1998, I served as a law clerk to the Honorable Alexandro C. Castro, Presiding Judge of the CNMI Superior Court.

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

I have never been in private practice.

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

1998 – 2003
 CNMI Office of the Attorney General
 Juan A. Sablan Building, Capitol Hill
 P.O. Box 10007
 Saipan, MP 96590
 Attorney General (2002 – 2003)
 Deputy Attorney General (2002)
 Assistant Attorney General, Civil Division (2001 – 2002)
 Assistant Attorney General, Criminal Division (1998 – 2001)

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

I never served as a mediator or arbitrator.

b. Describe:

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

I have never engaged in the private practice of law. All my legal practice has been in public service for the Commonwealth of the Northern Mariana Islands. As Attorney General, I supervised all the government attorneys, investigation unit, and support staff, and provided legal advice to the Governor, Lt. Governor, and department heads until I joined the NMI Judiciary in 2003. In 2011, I was nominated and confirmed as a federal district judge.

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

After my judicial clerkships, I became a prosecutor and handled traffic, juvenile, misdemeanor and felony criminal cases. I prosecuted all my cases at the trial and appellate levels.

I transferred from the Criminal Division to the Civil Division of the CNMI Attorney General's Office, and became a litigator as well as legal counsel for various government agencies.

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

About 90 percent of my practice was as a prosecutor, and 10 percent was as a civil litigator. I appeared in court frequently.

- i. Indicate the percentage of your practice in:

1. federal courts:	00.1%
2. state courts of record:	95.9%
3. other courts:	0%
4. administrative agencies:	4%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	10%
2. criminal proceedings:	90%

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

counsel.

I tried two civil jury trials in U.S. District Court for the NMI, one as chief counsel, and the other as associate counsel. I tried five criminal jury trials in NMI Superior Court, serving as sole counsel in two cases, chief counsel in one case, and associate counsel in two cases.

I tried approximately 50 bench trials in traffic court and misdemeanor criminal cases as sole counsel.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 10% |
| 2. non-jury: | 90% |

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

I did not practice before the Supreme Court of the United States.

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

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

- Commonwealth v. Manila*, Crim. No. 00-0509 (N. Mar. I. Commw. Super. Ct. Oct. 21, 2001), *aff'd*, 2005 MP 17.

As lead counsel, I prosecuted this first shaken baby syndrome murder case in the Northern Mariana Islands. My involvement included the investigation of the case, which began when the baby was hospitalized before her death. The case required the testimony of several medical experts to distinguish the different injuries and establish the cause of death. The jury convicted Mr. Manila, who was sentenced to 60 years imprisonment.

Judge:

Virginia Sablan-Onerheim, nka Virginia S. Sablan

Co-counsel:

Clyde Lemons, Jr. (Retired)
Quezon City
Manila, Philippines

Defendant's Counsel:

Jeffrey A. Moots
Legal Counsel
Office of the Governor of Guam
P.O. Box 2950
Hagatna, GU, 96932
(671) 473-1115

Diane Cabrera
Lower Elwha Klallam Tribe
341 Spokwes Drive
Port Angeles, WA 98363
(360) 452-6759

2. *Cabrera v. Northern Mariana Islands*, Civ. No. 00-0022 (D. N. Mar. I. Dec. 18, 2001).

As lead counsel, I successfully defended three police officers in a Section 1983 lawsuit for alleged police brutality filed by a family arrested by the officers. After the family's case in chief, I had most of the counts dismissed on a Fed. R. Civ. P. Rule 50(a) motion. The jury granted judgment in favor of our clients for all remaining counts.

Judge:

Alex R. Munson

Co-counsel:

Clyde Lemons, Jr. (Retired)

Plaintiffs' Counsel:

Joseph A. Arriola
Disbarred

3. *Commonwealth v. Cabrera*, Crim. No. 00-0381 (N. Mar. I. Commw. Super. Ct. July 27, 2001).

Mr. Cabrera and his three sons were charged for attacking their neighbor and the neighbor's guest, and causing extensive damage to the residence in the presence of the victim's family. I assisted in the prosecution of the case wherein Mr. Cabrera and his sons were convicted by the jury.

Judge:

David A. Wiseman (Retired)

Lead counsel:

Clyde Lemons, Jr. (Retired)

Defendants' Counsel:

Joseph A. Arriola

Disbarred

4. *Commonwealth v. Teigita*, Crim. No. 00-0273 and three consolidated cases (Nos. CR97-0199; CR99-0580; and CR00-0306) (N. Mar. I. Commw. Super. Ct. Oct. 31, 2000).

Mr. Teigita had three pending criminal cases in the CNMI court when he was charged with two individuals for committing a poker room robbery. He and his co-defendants were indicted in federal court for the same incident. A global disposition for all four CNMI cases and one federal case was reached. Within nine months after the incident occurred, Mr. Teigita entered a guilty plea in two of the four CNMI cases and the federal case, and received a sentence to serve in a federal penitentiary. This prompt resolution served to deter poker room robbery cases rampant on the island at the time.

Judge:

Edward Manibusan

Defendant's counsel:

Douglas Hartig

Chief Public Defender

CNMI Office of the Public Defender

P.O. Box 10007

Saipan, MP 96950

(670) 234-6215

5. *Commonwealth v. Santos*, Crim. No. 99-0494 and three consolidated cases (Nos. CR99-0495, CR00-0076 and CR00-0135) (N. Mar. I. Commw. Super. Ct. Aug. 17, 2000).

Mr. Santos, a repeat offender with a long history of criminal cases, committed a series of serious offenses within weeks after being released from serving a prison term. I prosecuted the four CNMI cases and had each of them set for a jury trial. While the cases were awaiting trial, Mr. Santos was charged in federal court for a federal criminal offense based on the same facts as one of the CNMI cases. Mr. Santos' attorney for the federal case and the attorney for the CNMI cases recommended a joint disposition to me and the Assistant U.S. Attorney. Mr. Santos entered a guilty plea in two of the CNMI cases and the federal case. He received a lengthy prison term to serve in the federal penal system.

Judge:

Edward Manibusan

Defendant's Counsel:

Douglas Hartig
Chief Public Defender
CNMI Office of the Public Defender
P.O. Box 10007
Saipan, MP 96950
(670) 234-6215

Assistant U.S. Attorney:

David Wood (deceased)

6. *Commonwealth v. Martinez*, Traff. No. 97-6830 (N. Mar. I. Commw. Super. Ct. Mar. 31, 1998), *aff'd in part, rev'd in part*, 2000 MP 5.

I prosecuted this traffic DUI case against an off-duty police officer that resulted in a conviction for DUI, and other violations. I also defended the conviction on appeal. The CNMI Supreme Court affirmed the DUI and one violation, but reversed the conviction for the other violation. This caselaw is frequently cited in traffic cases.

Judge:

Miguel S. Demapan (deceased)

Defendant's Counsel at trial and on appeal:

Bruce L. Berline
Berline & Associates LLC
P.O. Box 5682 CHRB
Saipan, MP 96950
(670) 233-3663

7. *Commonwealth v. Pangelinan*, Crim. No. 98-0485 (N. Mar. I. Commw. Super. Ct. Mar. 21, 2000).

This criminal domestic violence case involved a police officer who had previously investigated domestic violence cases. Prior to the bench trial, Mr. Pangelinan married the complaining witness. The complaining witness nevertheless wanted to proceed with the trial because she was insistent that the hitting did in fact occur. During the trial, however, she recanted her story and I had to treat her as a hostile witness. The court returned a not guilty verdict.

Judge:

Virginia Sablan-Onerheim nka Virginia S. Sablan

Defendant's Counsel:

Douglas F. Cushnie (deceased)

8. *Commonwealth v. Scragg*, Traff. No. 98-03872 (N. Mar. I. Commw. Super. Ct. Oct. 1, 1998), *aff'd*, 2000 MP 4.

I prosecuted this traffic case in a bench trial that resulted in a conviction for DUI and refusal to submit to a breath test. I also defended the conviction on appeal before the CNMI Supreme Court. The conviction was affirmed, and this caselaw is frequently cited in traffic cases.

Judge:

Edward Manibusan

Defendant's Counsel at Trial and on Appeal:

Bruce L. Berline

Berline & Associates LLC

P.O. Box 5682 CHRB

Saipan, MP 96950

(670) 233-3663

9. *Commonwealth v. Nekaifes*, Crim. No. 97-0372 (N. Mar. I. Commw. Super. Ct. Apr. 15, 1999).

I prosecuted this criminal case against two women who robbed a gas station. I tried the first defendant, an elderly woman, before a jury in the NMI Superior Court. The jury returned a guilty verdict. This is a very unusual case in Saipan because it was the first time a jury convicted an elderly woman for robbery. She was sentenced to serve a short prison term. Her co-defendant, the principal in the robbery, was subsequently charged with two additional criminal cases. She entered a guilty plea to a felony charge and was sentenced to serve a term of imprisonment.

Judge:

Timothy H. Bellas

Defendant Nekaifes' Counsel:

Robert T. Torres

Law Office of Robert Tenorio Torres

P.O. Box 500730 CK

Saipan, MP 96950

(670) 234-7859

Defendant Omar's Counsel:

William C. Campbell (deceased)

10. *Commonwealth v. Cabrera*, Crim. No. 97-0447 (N. Mar. I. Commw. Super. Ct. Feb. 2, 1999).

I was co-counsel for the prosecution in a murder case against two Defendants. I participated in the trial as well as witness preparation, including securing the key witness' presence from Washington State. The jury returned a not guilty verdict on the murder charge, but the trial judge returned a guilty verdict on the misdemeanor charge of assault and battery on another victim, and sentenced both Defendants to the maximum term of imprisonment.

Judge:
Edward Manibusan

Lead counsel:
Robert J. Steinborn
Address unknown

Opposing Counsel:
Perry B. Inos
Associate Justice
CNMI Supreme Court
P.O. Box 500307
Saipan, MP 96950
(670) 236-9753

Antonio M. Atalig (disbarred)

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

In 2001, I represented a CNMI government agency as an Assistant Attorney General in an arbitration case of a private company's lawsuit against the CNMI Government for a breach of contract claim after the company performed a major renovation of an island marina. During arbitration, the parties pursued settlement that incorporated creative terms requiring legislative approval. This brought both parties before a senate legislative hearing. The legislature's failure to approve the settlement caused the matter to return to arbitration. Another attorney handled the renewed arbitration hearing. The company prevailed, and obtained a judgment against the government that was significantly more than the terms of the proposed settlement amount.

In 2002, I was appointed as Deputy Attorney General and was charged with supervising

the entire Civil Division of the Office of the Attorney General. From 2002 to 2003, I served as the first female and indigenous Attorney General of the CNMI.

Since becoming a District Court Judge in 2011, I have actively participated on the Pacific Judicial Council ("PJC") which comprises nine jurisdictions, including American Samoa, Guam, the CNMI, the Federated States of Micronesia, Chuuk, Pohnpei, Yap, Kosrae, and Palau. In my current role as a voting member on the PJC Education Committee, I assist with developing and promoting programs for the legal community.

In 2012, I established a committee that revised the Criminal Justice Act ("CJA") Plan in the NMI to create a CJA committee. Because there is no assigned federal public defender to this District, I work closely with attorneys in the community to serve as CJA attorneys for indigent defendants who appear in the District Court.

In 2013, I appointed the first ever magistrate judge for our District Court, who carries the dual title of magistrate judge and Clerk of Court. In 2016, I established the Drug Offender Re-entry Court (DORE), a federal drug re-entry court in the CNMI. It was a collaborative effort between the District Court for the NMI, the U.S. Attorney's Office, the CJA Panel, and several community partners such as counseling services, to assist federal drug offenders. I also supervise any District Court committee that revises local rules governing civil, criminal, and magistrate judge responsibilities. The most recent revisions to the local rules were completed in 2017.

As the Chief District Court Judge in the NMI, I supervised the construction of a new courthouse that opened during the height of the COVID-19 pandemic in July 2020. The 36,000 square foot new building includes two judges' chambers, a jury assembly room, a law library, a state of the art spacious 2,400 square foot courtroom with a unique oculus skylight, and a large multi-purpose space that functions as grand jury room and a second courtroom. The courthouse also houses the Office of the Clerk of Court and the U.S. Pretrial and Probation Office, the U.S. Attorney's Office, the U.S. Marshals Service, and the Federal Protective Service. The opening of the new courthouse amidst the pandemic enabled all the stakeholders to maintain operations and give the community access to justice either in person or through the use of modern technology.

I have also been involved in various efforts regarding legislation affecting territorial courts. For instance, I communicated with U.S. Representative Gregorio "Kilili" Sablan (NMI), and Guam Representatives Madeline Bordallo and then Michael F. Q. San Nicolas, and worked with the Judicial Conference of the United States, the policymaking body for the federal courts, on proposed legislation to: increase from 10 to 15 years the term of office of the judges of the district courts of the Northern Mariana Islands, Guam, and the U.S. Virgin Islands; and amend the retirement benefits for territorial judges.

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

None.

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

None.

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

None.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Since becoming a District Court Judge, I have found that parties, witnesses, and attorneys likely to present potential conflicts of interest include my close family members and friends. Where close family members or friends are parties, witnesses, or attorneys appear before me, I will recuse myself and a designated judge would then preside over the matter.

Additionally, my spouse is currently a justice on the Commonwealth Supreme Court. A filing in federal court that may call on a certified question to the Commonwealth Supreme Court will cause my spouse, rather than me, to disqualify himself. State court habeas petitions that have been decided upon by the NMI Supreme Court will cause me to recuse myself in the event my husband was on the panel.

During my term as District Court Judge, I have recused myself when I have had conflicts of interest based on financial interests. I have made efforts to divest myself of shares in local companies to avoid any future financial conflict of interest.

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

I will continue to handle all matters involving actual or potential conflicts of interest through the careful and diligent application of the Code of Conduct for United States Judges, 28 U.S.C. § 455, as well as other relevant Canons and statutory provisions. In the event of my disqualification, a designated judge from the courts of record of the Northern Mariana Islands, or District Court of Guam, or a circuit or district judge of any of the circuits, may be assigned to serve as a judge. 48 U.S.C. § 1821(b)(2).

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Since I have been a government attorney throughout my legal career, I have been unable to provide free legal service to people because my employment contract prohibits me from engaging in legal work outside of my public employment.

I have participated in public forum conferences as a guest speaker, and have volunteered in various school competitions involving the law. I have been a guest speaker to mock trial high school and junior high school teams, as well as served as an attorney coach. I regularly preside over the mock trial high school championship round.

Over the years, I would, and continue to, welcome school children to my courtroom and speak about the justice system. I also visit schools annually during Law Week – from elementary and middle school, to high school and college – as part of the Northern Marianas Judiciary's "Courts in the Classroom" program.

From 2004 to 2011, I devoted a substantial amount of time spearheading the Criminal Justice Information System for the entire Northern Mariana Islands, including the

planning, procurement, and utilization of the law enforcement executive departments' communications infrastructure.

I also served as a coach for the Northern Marianas high school team for the "We the People" national competition in Washington, DC in April 2010. This program educates students on the U.S. Constitution.

26. **Selection Process:**

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

There is no selection commission in the Northern Marianas to recommend judicial candidates for the U.S. District Court of the Northern Mariana Islands.

In December 2020, United States Congressman Gregorio Kilili Sablan and I met and he informed me that he would recommend me to the White House for renomination after my initial ten year term expired in July 2021.

On February 4, 2021, Congressman Sablan sent a letter to the President recommending that I be renominated for a second term as District Court Judge for the Northern Mariana Islands. On May 3, 2023, Congressman Sablan called and informed me that the White House would be contacting me about my potential renomination. I interviewed with attorneys from the White House Counsel's Office on May 4, 2023. Since May 6, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 30, 2023, the President announced his intent to nominate me.

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

No.

Senator Lindsey Graham, Ranking Member
Questions for the Record
Judge Ramona Villagomez Manglona
Nominee to be Judge for the District for the Northern Mariana Islands

1. **Please explain whether you agree or disagree with the following statement: “The judgments about the Constitution are value judgments. Judges exercise their own independent value judgments. You reach the answer that essentially your values tell you to reach.”**

Response: I disagree with this statement. Judges pass judgment on issues before them based upon the relevant constitutional text and binding precedent, not based on one’s personal beliefs or value. The answer is reached after a thorough review of the applicable text and precedent, consideration of the arguments presented, and the application of the facts in the record.

2. **When asked why he wrote opinions that he knew the Supreme Court would reverse, Judge Stephen Reinhardt’s response was: “They can’t catch ’em all.” Is this an appropriate approach for a federal judge to take?**

Response: This is not an appropriate approach for a federal judge to take. As a trial court judge, I follow the law and apply binding precedent from the United States Supreme Court and Ninth Circuit. I have not and will not issue a decision that I know will be reversed by any appellate court.

3. **Do you consider a law student’s public endorsement of or praise for an organization listed as a “Foreign Terrorist Organization,” such as Hamas or the Popular Front for the Liberation of Palestine, to be a disqualification for a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes, if I were to be informed of a law student’s public endorsement of or praise for an organization listed as a “Foreign Terrorist Organization,” I would consider this fact to be a disqualifier for a potential clerkship in my chambers.

4. **In the aftermath of the brutal terrorist attack on Israel on October 7, 2023 the president of New York University’s student bar association wrote “Israel bears full responsibility for this tremendous loss of life. This regime of state-sanctioned violence created the conditions that made resistance necessary.” Do you consider such a statement, publicly made by a law student, to be disqualifying with regards to a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes. If the applicant qualified for an interview, and I am informed about the applicant's public statement, I would inquire about the applicant's position about any organization that has been identified as a terrorist organization such as Hamas. A confirmation of support for such organization or an expressed discriminatory opinion would be a disqualifier for a clerkship in my chambers.

5. Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.

Response: Plaintiff in both cases is Students for Fair Admissions, Inc. (SFFA), a nonprofit organization whose purpose is "to defend human and civil rights secured by law, including the right of individuals to equal protection under the law." 143 S.Ct. 2141 (2023). SFFA filed separate lawsuits against a public and private university that were two of the oldest institutions of higher learning in the United States, University of North Carolina (UNC) and Harvard College. SFFA alleged that the UNC used race in its undergraduate admission programs which violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. SFFA alleged Harvard used race in its college admissions program in violation of Title VI of the Civil Rights Act of 1964. The trial courts, applying Supreme Court precedents, found both admissions programs permissible. The Supreme Court first held that SFFA had organizational standing to sue on behalf of its members. It then turned to the merits of the case, and applied strict scrutiny to the universities' race-based admissions policies. The Court concluded that the policies did not survive strict scrutiny, and held that Harvard's and UNC's admissions programs violate the Equal Protection Clause of the Fourteenth Amendment, which applied directly to UNC as a state institution and to Harvard College through Title VI of the Civil Rights Act of 1964 as a private institution that received federal funds.

6. Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?

Response: Yes.

If yes, please list each job or role where you participated in hiring decisions.

Response: As the Chief Judge (2011-current), I have individually hired law clerks and chambers staff, and joined in the group decisions to hire staff in the Office of the Clerk of Court. As a Superior Court judge, I participated in the hiring of law clerks and chambers staff. As the former CNMI Attorney General, I participated in group decisions in hiring assistant attorneys general and staff. As the President of my parent's family company, I participated in hiring company employees.

7. **Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

Response: No.

8. **Have you ever solicited applications for employment on the basis of race, ethnicity, religion, or sex?**

Response: No.

9. **Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

Response: No.

If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer's decision to grant the preference.

Response: Not applicable.

10. **Under current Supreme Court and Ninth Circuit precedent, are government classifications on the basis of race subject to strict scrutiny?**

Response: Yes, the Supreme Court and the Ninth Circuit apply strict scrutiny to race-based differentiations. *See Student for Fair Admissions, Inc. v. President and Fellows of Harvard Coll.*, 143 S.Ct. 2141 (2023); *Mitchell v. Wash.*, 818 F.3d 436 (9th Cir. 2016).

11. **Demand Justice is a progressive organization dedicated to "restor[ing] ideological balance and legitimacy to our nation's courts."**

- a. **Has anyone associated with Demand Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with Demand Justice? If so, who?**

Response: No.

- 12. **The Alliance for Justice is a “national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”**

- a. **Has anyone associated with Alliance for Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Are you currently in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

- c. **Have you ever been in contact with anyone associated with the Alliance for Justice? If so, who?**

Response: No.

- 13. **Arabella Advisors is a progressive organization founded “to provide strategic guidance for effective philanthropy” that has evolved into a “mission-driven, Certified B Corporation” to “increase their philanthropic impact.”**

- a. **Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. **Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund.**

Response: No.

- c. Are you currently in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- d. Have you ever been in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

14. The Open Society Foundations is a progressive organization that “work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens.”

- a. Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with the Open Society Foundations? If so, who?**

Response: No.

15. Fix the Court is a “non-partisan, 501(C)(3) organization that advocates for non-ideological ‘fixes’ that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people.”

- a. Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**

Response: No.

- b. Are you currently in contact with anyone associated with Fix the Court? If so, who?**

Response: No.

- c. Have you ever been in contact with anyone associated with Fix the Court? If so, who?**

Response: No.

- 16. Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).**

Response: There is no selection commission in the Northern Mariana Islands to recommend judicial candidates for the U.S. District Court for the Northern Mariana Islands. In December 2020, United States Congressman Gregorio Kilili Sablan and I met, and he informed me that he would recommend me to the White House for renomination after my initial ten year term expired in July 2021. On February 4, 2021, Congressman Sablan sent a letter to the President recommending that I be renominated for a second term as District Court Judge for the Northern Mariana Islands. On May 3, 2023, Congressman Sablan called and informed me that the White House would be contacting me about my potential renomination. I interviewed with attorneys from the White House Counsel's Office on May 4, 2023. Since May 6, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 30, 2023, the President announced his intent to nominate me.

- 17. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

- 18. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

- 19. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

- 20. During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

- 21. During your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

- 22. Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?**

Response: No.

- a. If yes,**
 - i. Who?**
 - ii. What advice did they give?**
 - iii. Did they suggest that you omit or include any particular case or type of case in your questionnaire?**

Response: Not applicable.

- 23. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.**

Response: There is no selection commission in the Northern Mariana Islands to recommend judicial candidates for the U.S. District Court for the Northern Mariana Islands. In December 2020, United States Congressman Gregorio Kilili Sablan and I met, and he informed me that he would recommend me to the White House for renomination after my initial ten year term expired in July 2021. On February 4, 2021, Congressman Sablan sent a letter to the President recommending that I be renominated for a second term as District Court Judge for the Northern Mariana Islands. On May 3, 2023,

Congressman Sablan called and informed me that the White House would be contacting me about my potential renomination. I interviewed with attorneys from the White House Counsel's Office on May 4, 2023. Since May 6, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 30, 2023, the President announced his intent to nominate me.

24. Please explain, with particularity, the process whereby you answered these questions.

Response: I received these questions on November 22, 2023, reviewed my files, conducted legal research, and drafted my responses. I submitted my draft responses to the Office of Legal Policy at the Department of Justice on November 24, 2023, and I received limited feedback. I then finalized and submitted my answers.

Senator Mike Lee
Questions for the Record
Ramona Villagomez Manglona
Nominee to be Judge for the District Court of the Northern Mariana Islands

1. How would you describe your judicial philosophy?

Response: For the past 20 years as a state court and now federal judge, my philosophy has been to approach every case with an open mind, review all the applicable law, consider the arguments of the parties, and render a decision impartially based solely on the facts and the applicable law. In this process, I make it a point to treat everyone that enters the courtroom with respect, which includes litigants, counsel, witnesses, jurors, the public, and court staff.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: When deciding a case that turned on the interpretation of a federal statute, I begin with applying any Supreme Court or Ninth Circuit precedent that interpreted that statute. If there is no binding precedent, then I would consider the plain text, any definition provided in the statute, and the statutory scheme or structure to interpret the text in a manner that gives effect to all of its provisions. *See, e.g., Ysleta Del Sur Pueblo v. Texas*, 142 S. Ct. 1929, 1939 (2022). If the plain text is unambiguous, then the inquiry ends. However, if there is ambiguity in the text and there is no binding precedent, then I would consider the canons of construction directed by the Supreme Court and the Ninth Circuit. At this stage, I would also review opinions from other federal circuits and district courts to determine if those opinions would be persuasive.

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: When deciding a case that turned on the interpretation of a constitutional provision, I would begin with a review and application of any binding Supreme Court and Ninth Circuit decision. In the rare event that it is a case of first impression, I would interpret the text in a manner consistent with the methods of interpretation that the Supreme Court has used. For example, the Supreme Court analyzed the original public meaning of the constitutional provisions informed by history and tradition when it interpreted the Second Amendment and the Sixth Amendment in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *Crawford v. Washington*, 541 U.S. 36 (2004), respectively.

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

Response: Please see my response to Question 3, above.

5. **How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?**

Response: Please see my response to Question 2, above.

6. **Does the “plain meaning” of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic conventions evolve?**

Response: The Supreme Court has interpreted the “plain meaning” of a statute or constitutional provision to refer to the ordinary public meaning of the relevant language at the time of enactment. *See, e.g. Bostock v. Clayton County*, 140 S. Ct. 1731, 1737 (2020) (examining the meaning of “because of” and “sex” in Title VII of the Civil Rights Act of 1964); *New York State Rifle & Pistol Assoc. v. Bruen*, 142 S. Ct. 2111 (2022) (interpreting Second Amendment under the original public meaning informed of history and tradition).

7. **What are the constitutional requirements for standing?**

Response: The Supreme Court has held that Article III standing requires a plaintiff to allege sufficient facts to show plaintiff has suffered an injury in fact that is (1) concrete and particularized, and actual or imminent, not conjectural or hypothetical; (2) a causal connection between the injury and the conduct complained of; and (3) a likelihood beyond mere speculation that the injury will be redressed by a favorable decision. *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992).

8. **Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?**

Response: Article I, section 8 of the Constitution enumerates the powers granted to Congress. One of those enumerated powers is the Necessary and Proper Clause, which states Congress has the power “[t]o make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.” The Supreme Court in *McCulloch v. Maryland*, 17 U.S. 316, 418 (1819) held that Congress is authorized to pass all laws “incidental to the [enumerated] power, and conducive to its beneficial exercise.” The Supreme Court also recognized that “[a]lthough the Clause gives Congress authority to ‘legislate on that vast mass of incidental powers which must be involved in the constitution,’ it does not license the exercise of any ‘great substantive and independent power[s]’ beyond those specifically enumerated.” *NFIB v. Sebelius*, 132 S. Ct. 2566, 2591 (2012) (citing *McCulloch* at 411, 421).

9. **Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?**

Response: The Supreme Court in *NFIB v. Sebelius* held that “questions of constitutionality of action taken by Congress does not depend on recitals of power which it undertakes to exercise.” 132 S. Ct. at 2598. I would evaluate the constitutionality of a law by faithfully applying binding Supreme Court and Ninth Circuit precedent, including the applicable means of statutory and constitutional construction.

10. Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?

Response: Yes, as the Ninth Amendment to the Constitution provides, “[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” The Supreme Court in *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997) identified the two part method of substantive due process analysis to determine whether an unenumerated right is protected by the Due Process Clause of the Constitution. It held the Fifth and Fourteenth Amendments protect “those fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition,” and are “implicit in the concept of ordered liberty.” *Id.* The Supreme Court in *Dobbs v. Jackson Women’s Health Organization* identified a list of unenumerated rights it previously recognized, such as the right to marry a person of a different race, the right to marry while in prison, the right to obtain contraceptives, the right to reside with relatives, the right to make decisions about the education of one’s children, the right not to be sterilized without consent, and the right in certain circumstances not to undergo involuntary surgery, forced administration of drugs, or other substantially similar procedures. 142 S. Ct. 2228, 2257-58 (citing cases).

11. What rights are protected under substantive due process?

Response: Please see my response to Question 10, above.

12. If you believe substantive due process protects some personal rights such as a right to contraceptives, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?

Response: The Supreme Court held in *Griswold v. Connecticut*, 381 U.S. 479 (1965) the individual’s right to obtain contraceptives under the right of marital privacy. In *Lochner v. New York*, 25 S. Ct. 539 (1905), the Supreme Court struck down a New York labor law limiting the number of hours an employee in bakeries may work to 60 hours a week as an arbitrary interference with the freedom to contract and an invalid exercise of police power to protect the public health, safety, morals, or general welfare. Thirty years after *Lochner* was decided, it was overturned in *West Coast Hotel v. Parrish*, 57 S. Ct. 578 (1937), where the Supreme Court upheld the constitutionality of the Washington state minimum wage legislation on the basis that a state may use its police powers to restrict the individual freedom to contract.

13. What are the limits on Congress's power under the Commerce Clause?

Response: The Supreme Court in *United States v. Lopez*, 514 U.S. 549, 558-59 (1995) identified three broad categories of activity that Congress may regulate under the Commerce Clause: (1) the use of the channels of interstate commerce; (2) the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities; and (3) those activities having a substantial relation to interstate commerce.

14. What qualifies a particular group as a "suspect class," such that laws affecting that group must survive strict scrutiny?

Response: The Supreme Court has identified race, religion, national origin, and alienage as inherently suspect distinctions subject to strict scrutiny. *See, e.g., City of New Orleans v. Dukes*, 427 U.S. 297, 303 (1976); *Graham v. Richardson*, 403 U.S. 365, 372 (1971).

15. How would you describe the role that checks and balances and separation of powers play in the Constitution's structure?

Response: The checks and balances and separation of powers in the Constitution's structure are important facets of our constitutional design to ensure the proper functioning of our national government and to preserve individual liberty. As the Supreme Court recently restated, "The Framers recognized that, in the long term, structural protections against abuse of power were critical to preserving liberty." *Seila Law LLC v. Consumer Financial Protection Bureau*, 140 S. Ct. 2183, 2202 (2020). "Their solution to governmental power and its perils was simple: divide it." *Id.*

16. How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: The Supreme Court has decided cases in which a branch of government exceeded its constitutional authority. *See, e.g., National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012) (individual mandate, imposing minimum essential coverage requirement under which certain individuals must purchase and maintain health coverage insurance coverage exceeded Congress's power under Commerce Clause); *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952) (Presidential seizure order amounts to lawmaking, a legislative function, and not within constitutional power of the President). If a case were to come before me alleging a violation of the separate of powers doctrine, I will apply the applicable Supreme Court and Ninth Circuit precedent to determine if there is in fact a constitutional violation.

17. What role should empathy play in a judge's consideration of a case?

Response: None. As a sitting district court judge, I must decide a case based solely on the facts and the applicable law.

- 18. Which is worse; invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?**

Response: Neither is acceptable and both are contrary to a judge's duty to support the Constitution and the laws enacted pursuant to the Constitution.

- 19. From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?**

Response: I have not examined nor am I familiar with the data on the Supreme Court's judicial review and frequency of invalidations, therefore I cannot offer any opinion on the cause of the change. As a sitting district court judge, I am bound to apply binding Supreme Court and Ninth Circuit precedent on any judicial review case.

- 20. How would you explain the difference between judicial review and judicial supremacy?**

Response: Black's Law Dictionary (11th ed. 2019) defines "judicial review" as "[a] court's power to review the actions of other branches or levels of government; esp., the courts' power to invalidate legislative and executive actions as being unconstitutional." The Supreme Court in *Marbury v. Madison*, 1 Cranch 137, 5 U.S. 137 (1803) declared that "[i]t is emphatically the province and duty of the judicial department to say what the law is." Black's Law Dictionary (11th ed. 2019) defines "judicial supremacy" as "[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states." An example is the Supreme Court decision in *Cooper v. Aaron*, 358 U.S. 1 (1958), which held that the governor and legislature of the state were bound by its prior decision under Article VI of the Constitution.

- 21. Abraham Lincoln explained his refusal to honor the Dred Scott decision by asserting that "If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal." How do you think elected officials should balance their independent obligation to follow the Constitution with the need to respect duly rendered judicial decisions?**

Response: Article VI of the Constitution requires all government officials, including elected state and federal officials and judicial officers, to take an oath to support the Constitution as the supreme law of the land. The Supreme Court has held that pursuant to Article VI, elected state officials must follow duly rendered judicial decisions. *Cooper v. Aaron*, 358 U.S. 1, 18 (1958). Article V of the Constitution provides the process for amending the Constitution. Pursuant to that authority, constitutional amendments have been passed to overturn or reject decisions of the Supreme Court. For example, the Supreme Court's decision in *Chislm v. Georgia*, 2 U.S. 419 (1793) was overturned by the Eleventh Amendment, and the *Dred Scott* case was overturned by the Fourteenth Amendment.

22. **In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that's important to keep in mind when judging.**

Response: This is an important distinction of the powers among the three branches, and that the ultimate authority of the courts is to render judgment. As the Supreme Court recognized early on in our republic, "the framers of the constitution contemplated that instrument, as a rule for the government of *courts*, as well as of the legislature," "and that *courts*, as well as other departments, are bound by that instrument." *Marbury v. Madison*, 5 U.S. 137, 179-180 (1803) (emphasis in original).

23. **As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extend the precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: As a lower court judge, I am bound to faithfully apply binding precedent set by the Supreme Court and Ninth Circuit, regardless of the precedent's underpinnings. Only the Supreme Court and Ninth Circuit may reverse their own precedent if they have an opportunity to recognize that a prior precedent is not rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand, but I do not have such authority.

24. **When sentencing an individual defendant in a criminal case, what role, if any, should the defendant's group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges' sentencing analysis?**

Response: An individual defendant's race, gender, nationality, sexual orientation, or gender identity do not play any role in a judge's sentencing analysis; the only permissible factors to be considered in imposing sentence are pursuant to 18 U.S.C. §

3553(a). In addition, Congress has directed the U.S. Sentencing Commission to assure the guidelines and policy statements are entirely neutral as to the race, sex, national origin, creed, and socioeconomic status of offenders. 28 U.S.C. § 994.

25. **The Biden Administration has defined “equity” as: “the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.” Do you agree with that definition? If not, how would you define equity?**

Response: I am not familiar with the statement in question or the context in which it was made. Black’s Law Dictionary (11th ed. 2019) defines “equity” as “[f]airness; impartiality; evenhanded dealing,” as well as “[t]he body of principles constituting what is fair and right; natural law.”

26. **Is there a difference between “equity” and “equality?” If so, what is it?**

Response: Black’s Law Dictionary (11th ed. 2019) defines “equity” as “[f]airness; impartiality; evenhanded dealing,” as well as “[t]he body of principles constituting what is fair and right; natural law.” Black’s Law Dictionary (11th ed. 2019) defines “equality” as “the quality, state, or condition of being equal; esp., likeness in power or political status.”

27. **Does the 14th Amendment’s equal protection clause guarantee “equity” as defined by the Biden Administration (listed above in question 24)?**

Response: The Fourteenth Amendment’s Equal Protection Clause provides that no state shall make or enforce any law that denies to any person within its jurisdiction the equal protection of the laws. The Equal Protection Clause does not specifically refer to “equity.”

28. **How do you define “systemic racism?”**

Response: I am not aware of any Supreme Court or Ninth Circuit decision that defines “systemic racism.” The Oxford English Dictionary (2023) defines “systemic racism” as “[d]iscrimination or unequal treatment on the basis of membership of a particular racial or ethnic group (typically one that is a minority or marginalized), arising from systems, structures, or expectations that have become established within society or an institution.”

29. **How do you define “critical race theory?”**

Response: Black's Law Dictionary (11th ed. 2019) defines "critical race theory" as "[a] reform movement within the legal profession, particularly within academia, whose adherents believe that the legal system has disempowered racial minorities."

30. **Do you distinguish "critical race theory" from "systemic racism," and if so, how?**

Response: Please see my responses to Questions 28 and 29 above.

**Questions from Senator Thom Tillis
for Ramona Villagomez Manglona
Nominee to be Judge for the District Court of the Northern Mariana Islands**

- 1. Can a judge's personal views and background benefit them in interpreting and applying the law, or would you say that they are irrelevant?**

Response: As a sitting judge on the state and federal courts for over 20 years, I would say that a judge's personal views and background do not and should not factor into the duty of a judge to interpret and apply the law impartially. It must be based solely on the text of the law and any binding precedent from the Supreme Court and Ninth Circuit.

- 2. Do you believe impartiality is an aspiration or an expectation for a judge?**

Response: Impartiality is a necessary expectation for every judge. Disqualification is warranted when a judge's impartiality might reasonably be questioned. Canon 3C(1); 28 U.S.C. § 455(a).

- 3. What is judicial activism? Do you consider judicial activism appropriate?**

Response: Black's Law Dictionary (11th ed. 2019) defines "judicial activism" as "[a] philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, usually with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore governing texts and precedents." Judicial activism is inappropriate and the antithesis to the mandate that all judges take an oath to support the Constitution and uphold the rule of law.

- 4. Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

Response: No.

- 5. Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

Response: Yes, there may be occasions when the proper interpretation of the law results in an undesirable outcome for a party. As a judge, my role is to faithfully and impartially apply the law to the facts of the case pending before me without regard to any party's desired outcome.

- 6. What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

Response: The Second Amendment is a fundamental right. See *District of Columbia v. Heller*, 554 U.S. 570 (2008); *McDonald v. City of Chicago*, 561 U.S. 742 (2010), and *New York State Rifle & Pistol Association v. Bruen*, 142 S. Ct. 2111 (2022). As a district judge, I have issued decisions that upheld the Second Amendment rights of persons. *Radich v. Guerrero*, No. 1:14-cv-00020, 2016 WL 1212437 (D. N. Mar. I. Mar. 28, 2016); *Murphy v. Guerrero*, No. 1:14-cv-00026, 2016 WL 5508998 (D. N. Mar. I. Sept. 28, 2016). I will continue to faithfully apply Supreme Court and Ninth Circuit precedent on the Second Amendment to any matter that comes before me.

7. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?

Response: When considering qualified immunity cases, I apply binding Supreme Court and Ninth Circuit precedent. See *District of Columbia v. Wesby*, 138 S. Ct. 577 (2018) and *Hopson v. Alexander*, 71 F.4th 692, 697 (9th Cir. 2023). Officers are entitled to qualified immunity under § 1983 unless (1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was “clearly established at the time.” *Wesby*, at 62-63. “Clearly established” means that, at the time of the officer’s conduct, the law was “sufficiently clear” that every “reasonable official would understand that what he is doing” is unlawful. *Id.* at 63. In other words, existing law must have placed the constitutionality of the officer’s conduct “beyond debate.” This demanding standard protects “all but the plainly incompetent or those who knowingly violate the law.” *Id.*

8. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?

Response: Whether qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety is a policy question that is properly addressed by policy makers. As a district judge, I apply Supreme Court and Ninth Circuit precedent to determine if an officer is entitled to the defense of qualified immunity.

9. What do you believe should be the proper scope of qualified immunity protections for law enforcement?

Response: Please see my answer to Question 8.

10. What are your thoughts regarding the importance of ensuring that all IP rights are in fact enforced?

Response: Article 1, section 8, clause 8 of the Constitution grants Congress the power to make laws to secure to inventors exclusive rights. Any litigant asserting a statutory IP right will be accorded the same right to be heard as any other litigant, and I would faithfully apply binding Supreme Court and Ninth Circuit precedent to the facts presented.

- 11. In the context of patent litigation, in some judicial districts plaintiffs are allowed to request that their case be heard within a particular division. When the requested division has only one judge, this allows plaintiffs to effectively select the judge who will hear their case. What are your thoughts on this practice, which typically is referred to as “forum shopping” and/or “judge shopping?”**

Response: In the District Court for the Northern Mariana Islands, there are no divisions. I am not sufficiently familiar with how other judicial districts with divisions assign patent litigation. The Supreme Court has considered the concept of forum shopping in change of venue cases, and “sought to fashion a rule that would not create opportunities for forum shopping.” *Ferens v. John Deere Co.*, 494 U.S. 516, 527 (citing *Van Dusen v. Barrack*, 376 U.S. 612 (1964)).

- 12. The Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in shambles. What are your thoughts regarding the Supreme Court’s patent eligibility jurisprudence?**

Response: As a sitting district judge, it would be inappropriate for me to opine on the quality of the Supreme Court’s patent eligibility jurisprudence. *See* Code of Conduct for United States Judges, Canon 3A(6). If confirmed for another term, I will faithfully follow and apply binding precedent from the Supreme Court and the Federal Circuit on 35 U.S.C. § 101 to the cases that come before me.

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November 1, 2023

Via Email

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Via Email

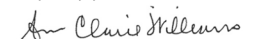
The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

*Re: Nomination of Chief Judge Ramona Villagomez Manglona to the
United States District Court for the Northern Mariana Islands*

Dear Chairman Durbin and Ranking Member Graham:

The American Bar Association's Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of Chief Judge Ramona Villagomez Manglona, who has been nominated by the President to the United States District Court for the Northern Mariana Islands. As you know, the Standing Committee confines its evaluation to the qualities of integrity, professional competence, and judicial temperament. The Standing Committee is of the unanimous opinion that Chief Judge Manglona is **"Well Qualified"** to serve on the United States District Court for the Northern Mariana Islands.

Very truly yours,


Hon. Ann Claire Williams (Ret.)
Chair, Standing Committee
on the Federal Judiciary

cc: Stuart F. Delery, Assistant to the President and Counsel
to the President (*via email*)
Lola A. Kingo, Chief Nominations Counsel, Office of Legal Policy,
U.S. Department of Justice (*via email*)
Chief Judge Ramona Villagomez Manglona (*via email*)
ABA Standing Committee on the Federal Judiciary (*via email*)
Denise A. Cardman, ABA Standing Committee on the Federal Judiciary,
Staff Counsel (*via email*)

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John David Russell

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

United States District Judge for the Northern District of Oklahoma

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

GableGotwals
110 North Elgin Avenue
Suite 200
Tulsa, Oklahoma 74120

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

1963; Enid, Oklahoma

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

1985 – 1988, University of Oklahoma College of Law; J.D. (with Distinction), 1988

1982 – 1985, Oklahoma State University; B.S. (with Honors), 1985

1981 – 1981, Oklahoma City University; no degree received

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

2015 – present
GableGotwals
110 North Elgin Avenue

Suite 200
Tulsa, Oklahoma 74120
Shareholder/Director

2002 – 2014
Fellers Snider Blankenship Bailey & Tippens
321 South Boston Avenue
Suite 800
Tulsa, Oklahoma 74103
Shareholder/Director (2003 – 2014)
Associate Attorney (2002)

2002
Gardere Wynne Sewell
100 West Fifth Street
Suite 200
Tulsa, Oklahoma 74103
Senior Attorney

1995 – 2002
United States Attorney's Office, Northern District of Oklahoma
110 West Seventh Street
Suite 300
Tulsa, Oklahoma 74119
Assistant United States Attorney

1993 – 1994
Sneed Lang Adams & Barnett
2300 Williams Tower II
Two West Second Street
Tulsa, Oklahoma 74103
Associate Attorney

1991 – 1993
United States Department of Justice, Tax Division
555 Fourth Street, Northwest
Washington, DC 20001
Trial Attorney

1988 – 1991; Summer 1987
Bracewell & Patterson
2001 M Street, Northwest
Suite 900
Washington, DC 20006
Associate Attorney (1988 – 1991)
Summer Associate (1987)

1987 – 1988
 Professor Michael P. Cox
 University of Oklahoma College of Law
 300 Timberdell Road
 Norman, Oklahoma 73019
 Research Assistant

1987 – 1988
 Oklahoma Supreme Court
 2100 North Lincoln Boulevard
 Oklahoma City, Oklahoma 73105
 Judicial Extern for the Honorable Hardy Summers

Summer 1984; Summer 1985; Summer 1986
 Gungoll Jackson & Collins
 323 West Broadway
 Enid, Oklahoma 73701
 Summer Associate (1986)
 Law clerk (Summers 1984 and 1985)

Other Affiliations (Uncompensated)
 2022 – present
 Federal Bar Association for the Northern and Eastern Districts of Oklahoma
 Director

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

I did not serve in the military. I registered for selective service after turning 18.

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

American College of Trial Lawyers, Fellow (2023 – present)

Maurice Merrill Golden Quill Award for best written article published in the Oklahoma Bar Association Journal in 2023

Super Lawyers, Oklahoma Top 50 (2013, 2015, 2021, 2022, 2023)

Best Lawyers, Best the Company Litigation (2010 – 2021, 2023)

Litigation Counsel of America, Fellow (2007 – present)

Super Lawyers, Oklahoma (2006 – 2023)

U.S. Department of Justice, Tax Division, Outstanding Attorney (1992)

University of Oklahoma College of Law, Phi Delta Phi (1987 – 1988)

Oklahoma State University, Blue Key Honor Society (1984 – 1985)

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

American College of Trial Lawyers, Fellow (2023 – present)

American Inns of Court, Council Oak Chapter, Term Master

Criminal Justice Act Committee to revise Criminal Justice Act Plan, Member (2017 – 2018)

Criminal Justice Act Panel, Panel Representative (2018 – present)

Criminal Justice Act Panel, Member (2003 – present)

District of Columbia Bar Association (1989 – present)

Defender Services Advisory Group of the Administrative Office of the Courts, 10th Circuit Representative (2023 – present)

Federal Bar Association, Northern and Eastern Oklahoma Chapter, Board of Directors (2022 – present)

Litigation Counsel of America, Fellow (2007 – present)

Merit Selection Panel on Re-appointment of Magistrate Judge Frank H. McCarthy, Chairman (2018)

Merit Selection Panel on Re-appointment of Magistrate Judge T. Lane Wilson, Member (2016)

Merit Selection Panel on Appointment of 10th Circuit Case Budgeting Attorney, Member (2014)

Oklahoma Bar Association (1988 – present)

10. **Bar and Court Admission:**

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

District of Columbia, 1989
Oklahoma, 1988

There have been no lapses in membership.

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

United States Court of Appeals for the Tenth Circuit, 1997
United States District Court for the District of Columbia, 1989
United States District Court for the Eastern District of Oklahoma, 2009
United States District Court for the Northern District of Oklahoma, 1994
United States District Court for the Western District of Oklahoma, 1991
United States Tax Court, 1994

There have been no lapses in membership.

11. **Memberships:**

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

Knights of Columbus Council No. 13313 Church of St. Mary, Tulsa, Oklahoma (2010 – present)

Tulsa Country Club, Tulsa, Oklahoma, Social Club member (approximately 1998 – 2002)

The Other Other Club of Tulsa, Tulsa, Oklahoma (2019 – 2022)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical

implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

Membership in the Knights of Columbus is limited to Catholic men. The Knights of Columbus is dedicated to the preservation of religious values of legitimate common interest to its members. This dedication demonstrates that it does not practice invidious discrimination as described in the Commentary to Canon 2C of the Code of Conduct for United States Judges.

In 2019, I became a member of The Other Other Club, Tulsa, Oklahoma, an organization that celebrates Winston Churchill's birthday with an annual dinner and features a guest speaker on Churchill. Membership in The Other Other Club is restricted to men. I did not make an effort to change the club's policy on membership.

12. Published Writings and Public Statements:

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

With Andrew J. Hofland & Justin A. Lollman, *White-Collar Defense Alert – Recent Amendments to the U.S. Sentencing Guidelines Allows for More Lenient Sentencing of Nonviolent First-Time Offenders*, Client Alert, GableGotwals (Sept. 14, 2023). Copy supplied.

With Andrew J. Hofland & Justin A. Lollman, *The New Second Amendment Frontier: Litigating the Constitutionality of Firearm Offenses Under Bruen's Text-and-History Standard*, 94 Okla. B.J. 7 (Mar. 2023). Copy supplied.

With Andrew J. Hofland, *Gavel to Gavel: Two extra steps to protect your PPP loan forgiveness*, The Journal Record (Aug. 26, 2020). Copy supplied.

With Sheppard F. Miers, David McKinney & James M. Scears, *Pass-Through Entity 20% Qualified Business Income Deduction – IRS Gives Final Favorable Guidance for Rental Real Estate*, Lexology (Oct. 2, 2019). Copy supplied.

With Hope Forsyth, *Oklahoma Supreme Court Invalidates State's Noneconomic Damages Cap*, Client Alert, GableGotwals (May 10, 2019). Copy supplied.

With Andrew J. Hofland, *Managing Expectations in Criminal Tax Defense – Yours and Your Client's*, 90 Okla. B.J. 18 (2019). Copy supplied.

The Sarbanes-Oxley Act of 2002: New Criminal Penalties and Civil Remedies for Corporate Misconduct, 73 Okla. B.J. 3477 (2002). Copy supplied.

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

Criminal Justice Act Plan, Northern District of Oklahoma (2018 – 2019): following the release of the Cardone Report (2017 *Report of the Ad Hoc Committee to Review the Criminal Justice Act Program*), the Northern District of Oklahoma proposed a revision to the CJA Plan for the Northern District. I was the principal author of the revised plan that was adopted by the district judges.

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

None.

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

The following list reflects my best efforts to identify the speeches or talks that I have delivered. To compile the list, I consulted my own records and internet sources. There may, however, be other speeches or talks that I have been unable to recall or identify as I may have spoken briefly at events for which I did not retain any record.

October 6, 2023: Panelist, Creative Case Solutions: Thinking Outside the Box, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. Notes supplied.

April 12, 2023: Speaker, Challenging Government Motions for Pretrial Detention, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. Materials supplied.

December 29, 2022: Panelist, Tenth Circuit Year in Review, Criminal Law,

Northern/Eastern Oklahoma Chapter of the Federal Bar Association, Tulsa, Oklahoma. The panel reviewed and presented the most significant Tenth Circuit cases affecting criminal law in 2022. I have no notes, transcript, or recording. The address for the FBA Chapter is FBA (NE Okla.) President, Justin A. Lollman, 110 North Elgin Avenue, Suite 200, Tulsa, Oklahoma 74120.

December 19, 2022: Speaker, Current Issues: Challenging the Constitutionality of 18 U.S.C. 922(g) after *Bruen*, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. I discussed the Supreme Court's decision in *Bruen*. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

December 10, 2021: Panelist, Successful Case Outcomes, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. The panel discussed recent victories by CJA Panel attorneys. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

December 19, 2019: Panelist, The New NDOK Plan for Implementing the Criminal Justice Act: Presentation with Questions and Answer Session, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. The panel discussed the new CJA Plan and how the changes would affect panel members. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

November 2, 2018: Panelist, Use of Experts in Criminal Justice Act Cases, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. The panel discussed the availability and utility of expert witnesses in appointed criminal cases. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

December 28, 2017: Panelist, Tenth Circuit Year in Review, Criminal Law, Northern/Eastern Oklahoma Chapter of the Federal Bar Association, Tulsa, Oklahoma. The panel reviewed and presented the most significant Tenth Circuit cases affecting criminal law in 2017. I have no notes, transcript, or recording. The address for the FBA Chapter is FBA (NE Okla.) President, Justin A. Lollman, 110 North Elgin Avenue, Suite 200, Tulsa, Oklahoma 74120.

December 19, 2014: Speaker, Representing Targets, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. I provided guidance and strategy for federal defenders and panel members on representing targets of federal investigations before charges are filed. I have no notes, transcript, or

recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

December 12, 2013: Panelist, Ethics Panel, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. The panel spoke about ethical issues arising in federal criminal defense. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

December 19, 2012: Speaker, Civil and Criminal Forfeiture: The Basics, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. I provided insight to federal defenders and panel members on forfeiture strategy. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

November 14, 2008: Speaker, Plea Negotiations, Federal Public Defender for the Northern District of Oklahoma, Tulsa, Oklahoma. I provided strategy to federal defenders and panel members on effective plea negotiations. I have no notes, transcript, or recording. The address for the Federal Public Defender for the Northern District of Oklahoma is Williams Tower I, Suite 1225, One West Third Street, Tulsa, Oklahoma 74103.

November 3, 2006: Speaker, White Collar Crime, Ethics, Oklahoma Bar Association, Oklahoma City, Oklahoma. Notes supplied.

October 27, 2006: Speaker, White Collar Crime, Ethics, Oklahoma Bar Association, Tulsa, Oklahoma. Notes supplied.

December 1999 (specific date unknown): Speaker, Business Crimes, Tulsa County Bar Association, Tulsa, Oklahoma. I presented basic information on federal white-collar offenses. I have no notes, transcript, or recording. The address for the Tulsa County Bar Association is 1446 South Boston Avenue, Tulsa, Oklahoma 74119.

June 1998 (specific date unknown): Speaker, Appellate Advocacy, National Advocacy Center, U.S. Department of Justice, Columbia, South Carolina. I presented appellate advocacy tips to prosecutors who handle their own appeals. I have no notes, transcript, or recording. The address for the National Advocacy Center is 1620 Pendleton Street, Columbia, South Carolina 29201.

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

they are available to you.

Curtis Killman, *Final romance-scam suspect sentenced in million-dollar fraud, money-laundering case*, Tulsa World (Sept. 11, 2021). Copy supplied.

Curtis Killman, *Man guilty in bankruptcy fraud sentenced to probation in federal court*, Tulsa World (Dec. 31, 2019). Copy supplied.

Curtis Killman, *Man gets 20 years for kidnapping ex-wife at gunpoint in attempt to win her back, federal prosecutors say*, Tulsa World (May 28, 2019). Copy supplied.

David Harper, *Former Grove bank official sentenced to probation for conspiracy*, Tulsa World (Oct. 2, 2010). Copy supplied.

David Harper, *Grove man sentenced in loan conspiracy case*, Tulsa World (Oct. 1, 2010). Copy supplied.

Tony Thornton, *Courts: Former Sen. Gene Stipe's businesses*, The Oklahoman (Sept. 12, 2007). Copy supplied.

Manny Gamallo, *Report on Stipe-Phipps firms must be released, judge says*, Tulsa World (Jul. 26, 2007). Copy supplied.

P.J. Lassek, *Mayor fires suspended deputy city attorney*, Tulsa World (Feb. 24, 2007). Copy supplied.

P.J. Lassek, *Lawyer: City botched rights case*, Tulsa World (Jan. 7, 2007). Copy supplied.

David Harper, *Woman handed prison term in Sand Springs bank fraud*, Tulsa World (Aug. 17, 2006). Copy supplied.

David Harper, *Debt to society lightens criminals' wallets*, Tulsa World (Jun. 5, 2005). Copy supplied.

Local, Area Briefs: Rental-car company ex-employee sentenced in theft, Tulsa World (May 12, 2005). Copy supplied.

David Harper, *Judge limits recovery of legal fees*, Tulsa World (Apr. 17, 2004). Copy supplied.

David Harper, *DOJ to take on legal fees*, Tulsa World (Mar. 11, 2004). Copy supplied.

David Harper, *Former CFS exec hopes to be repaid*, Tulsa World (Mar. 4, 2004).

Copy supplied.

David Harper, *Charges dismissed against ex-CFS exec*, Tulsa World (Feb. 7, 2004). Copy supplied.

David Harper and Shaun Schafer, *Judge tosses former CFS exec's charges*, Tulsa World (Sept. 20, 2003). Copy supplied.

David Harper, *Efforts in CFS case defended by U.S.*, Tulsa World (Sept. 3, 2003). Copy supplied.

David Harper, *Medical fraud nets 51 months, big restitution*, Tulsa World (Mar. 2, 2002). Copy supplied.

David Harper, *Man gets prison term of 51 months, bill for \$789,088 restitution*, Tulsa World (Mar. 2, 2002). Copy supplied.

Local Briefs: Fire of unknown origin burns Tuley residence, Tulsa World (Jun. 26, 2001). Copy supplied.

David Harper, *Former official guilty in theft*, Tulsa World (May 11, 2001). Copy supplied.

Woman admits to investment fraud, Tulsa World (Apr. 27, 2001). Copy supplied.

David Harper, *Former school official charged*, Tulsa World (Mar. 21, 2001). Copy supplied.

Ruling for leniency, deals left intact, Tulsa World (Jun. 22, 1999). Copy supplied.

David Harper, *Jay man named by U.S. in firearms allegations*, Tulsa World (Jan. 26, 1999). Copy supplied.

Judges Question Trial's Procedure, The Oklahoman (Jan. 23, 1999). Copy supplied.

David Harper, *Tulsan's case raises questions at appellate level*, Tulsa World (Jan. 23, 1999). Copy supplied.

David Harper, *Man pleads guilty to illegal gambling charges*, Tulsa World (Dec. 15, 1998). Copy supplied.

Local New Briefs: Last suspect in double shooting arrested, Tulsa World (Oct. 28, 1998). Copy supplied.

David Harper, *Ex-Tulsa stockbroker sentenced in forgery*, Tulsa World (Jul. 24,

1998). Copy supplied.

Mark A. Hutchison, *Company President Accused of Tax Fraud*, The Oklahoman (Jul. 8, 1997). Copy supplied.

Prosecutors Hope To Delay Trial Of Ex-Sheriff, Daily Oklahoman (Feb. 26, 1997). Copy supplied.

Ex-Sheriff's Lawyer Cites Trail Danger, The Oklahoman (Jan. 24, 1997). Copy supplied.

Mark A. Hutchison and Anthony Thornton, *Ex-Sheriff's Attorneys Stay on Case*, The Oklahoman (Jan. 16, 1997). Copy supplied.

David Harper, *Conflict of Interest Cited in Law Firm, Walker Case*, Tulsa World (Jan. 4, 1997). Copy supplied.

Anthony Thornton, *Dispute Let to Change in Attorneys*, The Oklahoman (Sept. 20, 1996). Copy supplied.

Anthony Thornton, *Sheriff Allowed to Switch Lawyers; Trial Delayed*, The Oklahoman (Sept. 17, 1996) Copy supplied.

Anthony Thornton, *Judge Allows New Lawyers for Sheriff*, The Oklahoman (Sept. 17, 1996). Copy supplied.

Manny Gamallo, *Sting Witness Tells of Bribing Sheriff*, Tulsa World (Jul. 12, 1996). Copy supplied.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?
 - i. Of these cases, approximately what percent were:

jury trials:	___%
bench trials:	___% [total 100%]
 - ii. Of these cases, approximately what percent were:

civil proceedings:	___%
criminal proceedings:	___% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and

dissents.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. **Public Office, Political Activities and Affiliations:**

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

I have not held any public offices, and I have not had unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I have not held any membership or office in any political party or election committee.

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

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

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a law clerk to a judge.

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

I have never practiced alone.

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

1988 – 1991

Bracewell & Patterson
2001 M Street, Northwest
Suite 900
Washington, DC 20006
Associate Attorney

1991 – 1993

United States Department of Justice, Tax Division
555 Fourth Street, Northwest
Washington, DC 20001
Trial Attorney

1993 – 1994

Sneed Lang Adams & Barnett
2300 Williams Tower II
Two West Second Street
Tulsa, Oklahoma 74103
Associate Attorney

1995 – 2002

United States Attorney's Office, Northern District of Oklahoma
110 West Seventh Street
Suite 300
Tulsa, Oklahoma 74119
Assistant United States Attorney

2002

Gardere Wynne Sewell
100 West Fifth Street
Suite 200
Tulsa, Oklahoma 74103
Senior Attorney

2002 – 2014

Fellers Snider Blankenship Bailey & Tippens
321 South Boston Avenue
Suite 800
Tulsa, Oklahoma 74103
Shareholder/Director (2003 – 2014)
Associate Attorney (2002)

2015 – present

GableGotwals
110 North Elgin Avenue

Suite 200
Tulsa, Oklahoma 74120
Shareholder/Director

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

Since 2004, I have been part of the Adjunct Settlement program for the Northern District of Oklahoma. Adjunct Settlement Judges volunteer to mediate cases in a confidential setting to allow parties an opportunity to resolve their lawsuit without the cost of private mediation.

1. *Windes v. Richmond Hyperbaric Med., Inc.*, Case No. 04-CV-854-JHP-FHM (N.D. Okla.)

This was a breach of contract lawsuit that originally included some tort claims. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case settled for a confidential amount.

2. *Easterwood v. MicahTek, Inc.*, Case No. 05-CV-125-TCK (N.D. Okla.)

This was a sex discrimination suit against the plaintiff's employer. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case settled for a confidential amount.

3. *Knight v. Kimberly Clark*, Case No. 05-CV-446-CVE-FHM (N.D. Okla.)

Plaintiff sued her employer for employment discrimination under the Civil Rights Act. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case settled for a confidential amount.

4. *Pinson et al. v. Equifax Info. Services LLC, et al.*, Case No. 06-CV-162-GKF-SAJ

Plaintiff sued Equifax and other credit reporting services for violations of the Fair Credit Reporting Act. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case did not settle. The court granted summary judgment to the defendants.

5. *Russell v. Chase Inv. Services, Corp.*, Case No. 06-CV-538 (N.D. Okla.)

Plaintiff sued Chase for breach of fiduciary duties. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case did not settle and was ultimately dismissed.

6. *Omni-2 Mech. Services, LLC v. Ivey Mech. Co., LLC*, Case No. 08-CV-340-GKF-FHM (N.D. Okla.)

This was a breach of contract case removed to federal court on diversity jurisdiction. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case did not settle at the settlement conference. The case settled just prior to trial.

7. *UMB Bank N.A. v. Asbury Communities, Inc.*, Case No. 20-CV-160-TCK-CDL (N.D. Okla.)

UMB sued for breach of contract and related tort claims involving a large retirement community in Tulsa that had been in financial distress. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case settled for a confidential amount.

8. *Harris v. Liberty Ins. Corp.*, Case No. 21-CV-222 (N.D. Okla.)

Harris sued Liberty for breach of the insurance contract and for bad faith claim handling. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case settled for a confidential amount.

9. *United Financial Cas. Co. v. Rasier, LLC et al.*, Case No. 21-CV-412-GKF-JFJ (N.D. Okla.)

This was an insurance coverage dispute arising out of a death claim by an estate against an Uber driver who ran over his passenger. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case did not settle and is pending.

10. *Castillo v. Rosario et al.*, Case No. 22-CV-54-CVE-CDL (N.D. Okla.)

Castillo sued Rosario and others for personal injuries resulting from a truck accident. I was an Adjunct Settlement Judge appointed by the court to conduct a settlement conference. The case did not settle and is pending.

b. Describe:

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

My law practice began in September 1988 at Bracewell & Patterson's Washington, DC office. I was assigned to work with a partner who represented Canadian natural gas producers in pipeline certificate matters before the Federal Energy Regulatory Commission. The clients were supporting construction of a pipeline project to deliver gas to our clients' customers in the Northeastern United States. I also became involved in two significant, but very different, antitrust matters. One matter involved an antitrust suit challenging set-aside contracts for road construction projects in the District of Columbia. The second matter involved an extensive opinion letter on the extraterritorial application of the U.S. antitrust laws to the privatization of a foreign, government-owned corporation. My role in these matters was primarily to research and write.

In April 1991 I joined the U.S. Department of Justice, Tax Division. The Tax Division is composed of sections responsible for geographic regions of the United States, and each section handles several specific types of cases regardless of location. I was assigned to the Civil Trial Section, Central Region, which handled cases across much of the middle of the United States. Our section also handled abusive tax shelter cases and abusive preparer cases regardless of location. I was immediately given first-chair responsibility over cases, and I was co-counsel on several significant cases, one of which went to trial for two weeks in January 1992.

I returned to Oklahoma in late 1993 and joined the Sneed Lang law firm as a litigation associate. At Sneed Lang I spent most of my time researching and writing briefs, but I also served as second chair in a jury trial.

In January 1995, I began my second round of government service as an Assistant U.S. Attorney in Tulsa handling white-collar prosecutions. I was given first-chair responsibility for investigating and prosecuting all manner of white-collar cases, but I specialized in tax prosecutions given my background. I tried several complex white-collar cases, including a four-week jury trial involving fraudulent loan collectors. In 1998, the office needed an appellate coordinator, and I was asked to take on the responsibility on top of my white-collar caseload. I began writing and reviewing my colleagues' briefs to the Tenth Circuit. I served the dual role of prosecutor and appellate coordinator for about three years. During that time, I wrote, edited, and argued a number of cases before the Tenth Circuit.

In 2002 I returned to private practice as Senior Attorney with the Tulsa office of Gardere Wynne Sewell, a Dallas-based law firm. As a Senior

Attorney, I was to have primary responsibility for civil litigation matters on behalf of the firm's clients. In an unusual twist of events, the firm announced on my first day of work that it was closing the Tulsa office by the end of August 2002. Most of the attorneys in the Tulsa office joined the Fellers Snider firm. I joined Fellers Snider as an associate attorney handling the same type of civil litigation that I was hired to handle at the Gardere firm. I became a shareholder of Fellers Snider in January 2003. At Fellers Snider I tried many cases as lead counsel and co-counsel. After joining Fellers Snider, I was recruited to join the Criminal Justice Act Panel for the Northern District of Oklahoma. The Panel is composed of attorneys who accept appointments to serve as counsel for indigent clients charged with federal criminal offenses. I began taking appointments in 2003, and I continue to take appointments today. Together with my appointed cases, my practice evolved to handle retained criminal cases. The complexity and magnitude of the cases I handled steadily grew. During my tenure at Fellers Snider, I was involved as co-counsel with my colleagues in several class action cases in which the potential client exposure was in the hundreds of millions of dollars. The complexity of my criminal cases also increased over time. For more than half of my time at Fellers Snider, I served on the firm's five-member Executive Committee, the governing body of the firm.

Over the past 21 years, my criminal defense and government investigation practice has grown significantly. In addition to the appointed cases I take as a CJA attorney, I handle a wide variety of criminal defense engagements, most of which involve white-collar offenses. My government investigation practice has grown significantly over the past ten years to include a number of healthcare-related engagements that include civil allegations of false claims, anti-kickback allegations, and Stark violations.

In late 2014, several clients expressed a desire to have a deeper bench of lawyers to handle their matters. Four of us who serviced these clients left Fellers Snider and joined GableGotwals in January 2015 to broaden the scope of services we could provide. Since joining GableGotwals, my practice has broadened further to include a variety of healthcare engagements in administrative, civil, and criminal practice areas. For the past five years, I served on the firm's Board of Directors.

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

My first area of specialization was tax controversy work at the Department of Justice, Tax Division. I have continued with my tax litigation work since then. At Sneed Lang, I represented several individual clients who had disputes with the Internal Revenue Service. At the U.S. Attorney's

Office, I specialized in criminal tax cases against individuals and entities. At Fellers Snider, I was engaged on several occasions to defend clients against criminal tax charges, and the scope of my criminal tax defense practice expanded after joining GableGotwals. At GableGotwals, my tax controversy practice expanded to include litigating protests at the Oklahoma Tax Commission involving significant assessments.

At Fellers Snider and GableGotwals, I have had a significant energy and insurance litigation practice. Initially I was defending insurers for breach of contract and bad faith claim handling, and two of those cases involved jury trials. My insurance litigation practice has evolved from bad-faith defense to litigating coverage issues between competing insurers involving large dollar claims. I also assist insurers in multi-state market conduct examinations and unclaimed property audits. Throughout my private practice experience, I have litigated and tried oil and gas disputes, including environmental claims involving the energy industry.

For the past 20 years, I have grown my criminal defense specialty to account for a significant portion of my overall caseload. I have a sub-specialty in criminal tax cases because of my background as a Trial Attorney at the Tax Division and my prior prosecutions of tax crimes while an Assistant U.S. Attorney.

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

1. federal courts:	80%
2. state courts of record:	20%
3. other courts:	0%
4. administrative agencies:	0%
 - ii. Indicate the percentage of your practice in:

1. civil proceedings:	60%
2. criminal proceedings:	40%
- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have been trial counsel in 28 trials consisting of approximately 109 days of trial. Fifty-seven percent of those trials were jury trials, 39 percent were bench trials, and 4 percent were arbitration proceedings. I was the chief counsel in 19 of those

trials and associate counsel in nine of those trials. I was sole counsel in seven of the 28 trials.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 57% |
| 2. non-jury: | 43% |

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

I have not practiced before the Supreme Court of the United States.

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

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

1. *In re Genentech Herceptin (Trastuzumab) Marketing and Sales Practices Litigation*, Case No. 16-MD-2700 (N.D. Okla.)

From 2022 to present, I have been co-lead MDL counsel for the plaintiffs in what is now a putative class action on behalf of all U.S. purchasers of 440 mg vials of Genentech's breast cancer drug Herceptin. The case is pending in the Northern District of Oklahoma (Frizzell, J.); the case was originally assigned to the Honorable Terence Kern. Plaintiffs are oncology practices across the United States that purchased Herceptin to administer to breast cancer patients whose condition warranted administration of the drug. Plaintiffs contend that Genentech falsely labeled its Herceptin 440 mg vials such that purchasers expected to receive 440 mg of active ingredient when the majority of vials did not contain 440 mg of active ingredient. The putative class is pursuing claims for breach of warranty, violation of consumer protection laws, unjust enrichment and fraud stemming from the misleading label claim. The putative class members allege that Genentech hid the underfill for two decades by falsely stating that the vials were labeled for what they contain, not what the purchasers could extract. The potential damages in this case exceed \$1 billion. I took over as lead MDL counsel in 2022 following the retirement of my

colleague. I have supervised attorneys working on the case in all phases of the litigation, including the drafting of pleadings, briefs, the conduct of extensive fact and expert discovery, and the preparation of motions and responses to motions. The case is currently in Phase II discovery on class certification issues.

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2. *Casillas Petroleum v. Continental Res. Partners II, LLC*, Case No. CJ-2020-1346
(Okla. Dist. Ct., Tulsa Cnty.)

From March 2020 to September 2020, I was co-lead counsel for defendant Continental Resources against a contract counterparty that sought an injunction to force Continental Resources to close on a \$200 million purchase and sale agreement allegedly breached in the week before the coronavirus pandemic struck the United States. I co-wrote the injunction briefing, prepared witnesses for trial, and participated in all aspects of the trial, which took place over two days in August 2020 before the Honorable Doug Drummond. While awaiting Judge Drummond's decision, the parties resolved the matter.

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1900 North Pearl Street
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3. *State v. Windstream Communications et al.*, Case No. CF-12-3841 (Okla. Dist. Ct. Tulsa Cnty.)

In 2012, I was co-counsel representing Windstream in a criminal indictment by the Multi-County Grand Jury alleging Windstream bribed a local school superintendent with tickets to the NCAA Final Four men's basketball tournament. A felony conviction would have resulted in the loss of contracts valued in the hundreds of millions of dollars. We moved to dismiss the indictment on the grounds that the indictment was returned the day after the grand jury's term expired. Following argument on the motion and while awaiting a decision, Windstream resolved the matter with the Oklahoma Attorney General and received a deferred prosecution and expungement. The case was pending before the Honorable William Kellough.

Co-Counsel

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Fellers Snider Blankenship Bailey & Tippens

100 North Broadway
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Oklahoma City, OK 73102
(405) 232-0621

Counsel for Plaintiff

Charles Rogers
Megan Tilley
Oklahoma Attorney General
313 Northeast 21st Street
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(405) 521-3921

4. *Smith et al. v. Collingsworth et al.*, Case No. CV-2004-742-2 (Ark. Cir. Ct. Saline Cnty.)

From 2007 to 2012, I was co-counsel for defendant United American Insurance Company in a nationwide class action asserting that United American's policyholders were defrauded in the sale of limited benefit health insurance policies with the promise that the policies would provide the same coverage as major medical insurance. I shared responsibilities with my colleagues in all areas of the litigation including motions, briefing, depositions, expert preparation, expert depositions, and trial preparation. We negotiated a favorable settlement two weeks before the class action trial was to begin. The case was pending before the Honorable Gary Arnold.

Co-Counsel

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William A. Waddell Jr.
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Counsel for Plaintiffs

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Michael R. Smith
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John Doyle Nalley
Lovell, Nalley & Nalley
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5. *[Publicly-traded corporation] v. [Oklahoma statutorily created corporation]*, Private, 3-judge arbitration (Oklahoma City, Okla.)

The parties' names are not disclosed because the arbitration was private. In 2007, I was co-counsel for an Oklahoma statutorily created corporation in a private arbitration over the alleged breach of a supply contract. The value at issue was approximately \$28 million. I was responsible for briefing and depositions of the opposing party's witnesses in preparation for trial. I prepared witnesses for our client and cross-examined witnesses for the opposing party. The three-judge panel consisted of two retired federal judges (Honorable Thomas R. Brett (deceased) and Honorable Layne Phillips) and a senior private practitioner from Oklahoma (Kenneth McKinney (deceased)). Following a three-day trial before the arbitrators, the arbitrators ruled 2-1 in favor of our client.

Co-Counsel

Terry W. Tippens
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Counsel for Plaintiff

Oliver S. Howard (Deceased)
David E. Keglovits
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6. *United States v. Bumblis*, Case No. 05-CR-187-CMH (E.D. Va.)

From 2005 to 2006, I defended Ms. Bumblis on charges of false claims to the government and theft. The government alleged that Ms. Bumblis had submitted false travel vouchers for an extended period of temporary duty. Her supervisor had approved all of the travel vouchers and was aware of Ms. Bumblis's travel circumstances. The court (Honorable Claude Hilton) granted our motion for judgment of acquittal at the close of the government's evidence. We sought attorneys' fees from the government under the Hyde Amendment. The government settled the Hyde Amendment claim with Ms. Bumblis. I was in charge of all aspects of defense and trial of the case.

Co-Counsel

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Counsel for Government

Matthew Bester
United States Attorney's Office
2100 Jamieson Avenue
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7. *Source Rock Energy Partners, LLC v. Tag Team Res, LLC*, Case No. CJ-2004-5869 (Okla. Dist. Ct. Tulsa Cnty.)

From 2004 to 2012, I was co-counsel for defendant Tag Team in Source Rock's lawsuit over an alleged violation of an "area of mutual interest" clause in a gas exploration contract. Source Rock was claiming approximately \$30 million in damages from Tag Team, alleging it owed Source Rock for minerals extracted from the area of mutual interest. I was responsible for briefing all pretrial motions. I assisted in preparing our expert witness and the deposition of the opposing expert. I supervised the post-trial and appellate briefing. Following a two-week jury trial, the trial judge, the Honorable J. Michael Gassett (retired), granted Tag Team's motion for directed verdict. I co-wrote the brief to the Oklahoma Court of Civil Appeals; the court did not hear argument. The Oklahoma Court of Civil Appeals affirmed Judge Gassett's directed verdict.

Co-Counsel

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Counsel for Plaintiff

Ken Brune
Brune Law Firm
900 Reunion Center
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8. *United States v. Lorson and Evans*, Case No. 97-CR-135-TCK (N.D. Okla. 1998)

From 1996 through 1998, I was lead counsel in a case charging Lorson and Evans with conspiracy, wire fraud, and money laundering involving a fraudulent loan collection company. The defendants defrauded investors who entrusted the defendants to collect delinquent loans purchased by investors. I was responsible for supervising the grand jury investigation, all pretrial and trial briefing, pretrial preparation of witnesses, and trial. After a four-week jury trial in February 1998 before the Honorable Terence Kern, the jury convicted the defendants of all counts.

Co-Counsel

Kevin C. Leitch (retired)

Counsel for Defendants

Allen M. Smallwood
1310 South Denver Avenue
Tulsa, OK 74119
(918) 582-1993

John Hall (Deceased)

9. *Streetman v. United States (In re Russell)*, 154 B.R. 723 (Bankr. W.D. Ark. 1993)

From 1992 to 1993, I was sole counsel for the United States to defend this adversary proceeding seeking a refund of approximately \$6 million. I was assigned this case in February 1992, six weeks before trial was to begin. The case was on remand from the Eighth Circuit Court of Appeals to the Bankruptcy Court to try a discrete issue: whether the bankruptcy debtor's election to forgo the three-year carryback of net operating losses was a fraudulent conveyance. The bankruptcy trustee was seeking to set aside the election. The question at trial was whether the debtor intended to defraud creditors by making the election and whether the debtor was insolvent at the time of the election. If the election had been set aside and the NOLs had been carried back, the bankruptcy trustee would have been entitled to a tax refund in the millions of dollars. After a five-day trial, the court (Honorable James G. Mixon (deceased)) ruled that the election to forgo the carryback period was not fraudulent. I was solely responsible for all pre- and post-trial

briefing, conducting all discovery, hiring and preparing an expert witness, and deposing witnesses across the country during the six-week period prior to trial.

Counsel for Plaintiff

Charles W. Baker
Rose Law Firm
120 East Fourth Street
Little Rock, AR 72201
(501) 375-9131

10. *United States v. Bailey*, 789 F. Supp. 788 (N.D. Tex. 1992)

From 1991 to 1992, I was co-counsel in this case against four abusive tax return preparers from Fort Worth, Texas. The defendants prepared hundreds of false and fraudulent tax returns to reduce or eliminate their clients' tax liabilities. I shared all briefing, deposition, and trial responsibilities with my co-counsel. Following a two-week bench trial in January 1992 in which most of the taxpayer witnesses were hostile, the court (Honorable Terry Means) enjoined the preparers from preparing federal tax returns.

Co-Counsel

Noreene C. Stehlik
U.S. Department of Justice, Tax Division
555 Fourth Street, Northwest
Washington, DC 20001
(202) 514-6520

Counsel for Defendants

Jack N. Price (deceased)

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

Perhaps the most significant matters of my career were never public and cannot be disclosed. Those matters involved declinations of criminal charges or civil resolutions before a case was filed. For these matters, the pre-filing resolution represented a life-changing event. Simply being criminally charged or being sued would have ruined the client. I cannot, however, reveal any further details to ensure I maintain client confidentiality.

I have played an active role in the management of GableGotwals. I served on the firm's Board of Directors which oversees all aspects of the firm's business, from 2018 to 2023. I chaired the firm's pro bono program from 2015 to 2018, and I was a member of the firm's recruiting committee for several years. When I was at Fellers Snider, I served on the firm's Executive Committee for eight years. The Executive Committee oversaw all aspects of the firm's business. At both GableGotwals and Fellers Snider, I frequently supervised other attorneys in cases and mentored junior attorneys on all aspects of legal practice.

I have been an active member of the Criminal Justice Act Panel for the Northern District of Oklahoma since 2003, representing clients in federal criminal cases as appointed counsel. In 2018 the Court and Federal Public Defender asked me to serve as the Panel Representative for the Northern District, a position I hold today. As the Panel Representative, I serve on the committee that trains and reviews new applicants to the CJA Panel. I have served for many years on the continuing legal education committee for the Panel. In 2023, my fellow Panel Representatives from the Tenth Circuit selected me as their representative on the Defender Services Advisory Group that advises the Administrative Office of the United States Courts. The DSAG meets twice a year in Washington to address issues involving representation of indigent clients charged in federal court around the country.

I have not registered as a lobbyist or engaged in any lobbying activities.

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

None.

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

Upon resignation from Gable & Gotwals, P.C., the firm will repurchase my shares, and any final income amount will be paid. I will be entitled to a profit sharing distribution for 2023 to be paid in 2024.

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

None.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation in which I have ever played a role. For a period of time, I also anticipate recusing in all cases where my current employer, Gable & Gotwals, P.C., is or represents a party. I will evaluate any other real or potential conflict, as well as any relationship that could give rise to the appearance of such a conflict, on a case-by-case basis and determine appropriate actions with the advice of parties and their counsel, including by recusing where necessary or appropriate.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

My current law firm actively encourages its lawyers to provide pro bono representation. When I first joined GableGotwals, I was the pro bono coordinator for the firm. In this

role I monitored the pro bono work performed by the firm's lawyers and mentored many young lawyers who were handling litigated matters. I mentored an associate attorney in a contested guardianship trial on behalf of a client referred to our firm by Legal Aid of Eastern Oklahoma. I also served as co-counsel with one of my colleagues representing the local Girl Scouts of America with respect to potential litigation involving the recent anniversary of the murders of three girl scouts. Additionally, since 2021, I have served as co-counsel with national counsel, non-profit organizations, and university clinics in six compassionate release cases.

In one of my pro bono matters, I served as counsel for grandparents obtaining guardianship of their grandson. I prepared all of the guardianship papers and represented, counseled them through the proceeding, and followed up with post-guardianship proceedings. They have had guardianship of their grandson for the past three years while their daughter has struggled with addiction.

26. Selection Process:

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

On March 16, 2023, I submitted my resume to Senator James Lankford to be considered for one of the two judicial vacancies in the Northern District of Oklahoma. On April 14, 2023, I interviewed with the Advisory Panel established by Senators Lankford and Markwayne Mullin. On April 28, 2023, I interviewed with Senator Lankford. On June 5, 2023, Senator Lankford informed me that I had been recommended to the White House Counsel's Office as a potential candidate for nomination. On June 12, 2023, I interviewed with attorneys from the White House Counsel's Office. On August 26, 2023, the White House Counsel's Office informed me that I would be moving forward with the selection process. Since that date, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On October 18, 2023, the President announced his intent to nominate me.

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

No.

Senator Lindsey Graham, Ranking Member

Questions for the Record

Mr. John Russell, nominee to be United States District Judge for the Northern District of Oklahoma

1. **Please explain whether you agree or disagree with the following statement: “The judgments about the Constitution are value judgments. Judges exercise their own independent value judgments. You reach the answer that essentially your values tell you to reach.”**

Response: I disagree with the statement. A judge’s value judgment is not an acceptable basis on which to resolve constitutional issues. A judge should apply the law to the facts in a fair and impartial manner and follow binding precedent when answering constitutional questions.

2. **When asked why he wrote opinions that he knew the Supreme Court would reverse, Judge Stephen Reinhardt’s response was: “They can’t catch ’em all.” Is this an appropriate approach for a federal judge to take?**

Response: I am not familiar with that statement or the context in which it was made. The quotation implies that the Judge consciously wrote opinions that were knowingly contrary to binding Supreme Court precedent. If this implication is correct, I do not agree that his approach was appropriate.

3. **Do you consider a law student’s public endorsement of or praise for an organization listed as a “Foreign Terrorist Organization,” such as Hamas or the Popular Front for the Liberation of Palestine, to be a disqualification for a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes.

4. **In the aftermath of the brutal terrorist attack on Israel on October 7, 2023 the president of New York University’s student bar association wrote “Israel bears full responsibility for this tremendous loss of life. This regime of state-sanctioned violence created the conditions that made resistance necessary.” Do you consider such a statement, publicly made by a law student, to be disqualifying with regards to a potential clerkship in your chambers? Please provide a yes or no answer. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer. Failure to provide a yes or no answer will be construed as a “no.”**

Response: Yes.

5. **Please describe the relevant law governing when a federal court may entertain and grant a writ of habeas corpus on behalf of a person in custody pursuant to a judgment of a State court.**

Response: The statutes controlling federal habeas relief are found at 28 U.S.C. §§ 2241 – 2254. Section 2254 gives federal courts jurisdiction to review claims by a prisoner subject to a judgment in State court who claims to be “in custody in violation of the Constitution or laws or treaties of the United States.” § 2254(a). The law governing habeas petitions under § 2254 is well developed. Subsection (d) states that an application of a petitioner “in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.”

6. **Please describe the relevant law governing how a prisoner in custody under sentence of a federal court may seek and receive relief from the sentence.**

Response: A prisoner subject to a federal criminal judgment may seek relief from the judgment and sentence under several specific federal statutes: direct appeal of the federal judgment (28 U.S.C. § 1291); petition for writ of habeas corpus (28 U.S.C. § 2241); a motion to vacate, set aside, or correct a sentence (28 U.S.C. § 2255); a compassionate release motion for modification of a term of imprisonment (18 U.S.C. § 3582(c)). Each statutory provision carries with it an extensive body of law and precedent.

7. **Please explain the facts and holding of the Supreme Court decisions in *Students for Fair Admissions, Inc. v. University of North Carolina* and *Students for Fair Admissions Inc. v. President & Fellows of Harvard College*.**

Response: The University of North Carolina and Harvard College both considered the applicants’ race in offering admission to prospective students. The Supreme Court held that both schools’ race-based admissions policies and processes failed strict scrutiny and violated the Equal Protection Clause of the Fourteenth Amendment.

8. **Have you ever participated in a decision, either individually or as a member of a group, to hire someone or to solicit applications for employment?**

If yes, please list each job or role where you participated in hiring decisions.

Response: I participated in hiring decisions in my role as a shareholder in the GableGotwals and Fellers Snider law firms. I also interviewed candidates for

positions at the U.S. Attorney's Office and at Bracewell & Patterson and provided feedback to those making the hiring decision.

9. **Have you ever given preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

Response: No.

10. **Have you ever solicited applications for employment on the basis of race, ethnicity, religion, or sex?**

Response: No.

11. **Have you ever worked for an employer (such as a law firm) that gave preference to a candidate for employment or for another benefit (such as a scholarship, internship, bonus, promotion, or award) on account of that candidate's race, ethnicity, religion, or sex?**

If yes, please list each responsive employer and your role at that employer. Please also describe, with respect to each employer, the preference given. Please state whether you played any part in the employer's decision to grant the preference.

Response: No.

12. **Under current Supreme Court and Tenth Circuit precedent, are government classifications on the basis of race subject to strict scrutiny?**

Response: Yes. *See, e.g., Students for Fair Admissions v. Harvard College*, 143 S. Ct. 2141, 2162 (2023); *Price-Cornelison v. Brooks*, 524 F.3d 1103, 1109 (10th Cir. 2008).

13. **Please explain the holding of the Supreme Court's decision in *303 Creative LLC v. Elenis*.**

Response: The Supreme Court held that a Colorado law violated the First Amendment free speech rights of a website designer. A business may refuse, on religious grounds, to provide website design services to same-sex couples when doing so would require the designer to create expressive designs that speak messages with which the designer disagrees.

14. **In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), Justice Jackson, writing for the Court, said: "If there is any fixed star in our**

constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein."

Is this a correct statement of the law?

Response: The Supreme Court cited part of this quotation in *303 Creative LLC v. Elenis*, 600 U.S. 570, 585 (2023). *Barnette* is good law and binding precedent.

15. **How would you determine whether a law that regulates speech is “content-based” or “content-neutral”? What are some of the key questions that would inform your analysis?**

Response: A law regulating speech is “content based if a law applies to a particular speech because of the topic discussed or the idea or message expressed.” *Reed v. Town of Gilbert, Ariz.*, 576 U.S. 155, 163 (2015); *City of Austin v. Reagan Nat’l Advert. of Austin, LLC*, 596 U.S. 61 (2022). In analyzing the question, the first step is to determine “whether the law is content neutral on its face,” which must be decided “before turning to the law’s justification or purpose.” *Id.* at 165-166. If the regulation “imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny.” *Id.* at 171

16. **What is the standard for determining whether a statement is not protected speech under the true threats doctrine?**

Response: Speech that is a true threat of violence is not protected by the First Amendment. *See Virginia v. Black*, 538 U.S. 343, 359 (2003); *United States v. Heineman*, 767 F.3d 970, 976 (10th Cir. 2014). In a criminal prosecution for threatening speech, the government must prove “that the defendant had some understanding of his statements’ threatening character,” and the prosecution need only prove “a recklessness standard” of *mens rea*. *Counterman v. Colorado*, 143 S. Ct. 2106, 2113 (2023).

17. **Under Supreme Court and Tenth Circuit precedent, what is a “fact” and what sources do courts consider in determining whether something is a question of fact or a question of law?**

Response: The Supreme Court has characterized facts as “questions of who did what, when or where, how or why.” *E.g., U.S. Bank Nat. Ass’n ex rel. CWC Capital Asset Mgmt. LLC v. Vill. at Lakeridge, LLC*, 138 S. Ct. 960, 966 (2018). Black’s Law Dictionary defines “fact” as “[s]omething that actually exists; an aspect of reality” or “[a]n actual or alleged event or circumstance, as distinguished from its legal effect, consequence, or interpretation.” Black’s Law Dictionary (11th ed. 2019). It further defines “question of

law” as “[a]n issue to be decided by the judge, concerning the application or interpretation of the law.” Black’s Law Dictionary (11th ed. 2019).

18. Which of the four primary purposes of sentencing—retribution, deterrence, incapacitation, and rehabilitation—do you personally believe is the most important?

Response: I do not believe that any one of the four primary purposes of sentencing is more important than the others. A judge must consider the seven factors in 18 U.S.C. § 3553(a) to make an individualized decision to formulate a sentence that is “sufficient, but not greater than necessary” to achieve the four statutory sentencing purposes. The statute does not rank any one factor as more important than another. If confirmed, I would follow 18 U.S.C. § 3553(a) and apply binding precedent from the Supreme Court and the Tenth Circuit interpreting those factors.

19. Please identify a Supreme Court decision from the last 50 years that you think is particularly well reasoned and explain why.

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit me from commenting on the quality of the reasoning of Supreme Court precedents. If confirmed, my duty would be to follow the binding precedent from the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

20. Please identify a Tenth Circuit judicial opinion from the last 50 years that you think is particularly well reasoned and explain why.

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit me from commenting on the quality of the reasoning of Supreme Court precedents. If confirmed, my duty would be to follow the binding precedent from the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

21. Please explain your understanding of 18 USC § 1507 and what conduct it prohibits.

Response: Section 1507 of Title 18 provides that, “Whoever, with the intent of interfering with, obstructing, or impeding the administration of justice, or with the intent of influencing any judge, juror, witness, or court officer, in the discharge of his duty, pickets or parades in or near a building housing a court of the United States, or in or near a building or residence occupied or used by such judge, juror, witness, or court officer, or with such intent uses any sound-truck or similar device or resorts to any other demonstration in or near any such building or residence, shall be fined under this title or imprisoned not more than one year, or both.”

22. Is 18 U.S.C. § 1507 constitutional?

Response: I am not aware of any precedent of the Supreme Court or the Tenth Circuit holding that 18 U.S.C. § 1507 is constitutional on its face. I am aware that the Supreme Court rejected a challenge to a similar state statute in *Cox v. Louisiana*, 379 U.S. 559 (1965). As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit me from offering personal opinions about the constitutionality of a federal statute because that issue could come before me, and I do not want to prejudge any issue. If confirmed, my duty would be to follow the binding precedent from the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

23. Is it ever appropriate to consider foreign law in constitutional interpretation? If yes, please describe in which circumstances such consideration would be appropriate.

Response: The Supreme Court has, on very limited occasions, discussed foreign law in its analysis of constitutional interpretation. *See, e.g., Atkins v. Virginia*, 536 U.S. 304, 316, 122 S. Ct. 2242, 2249 n. 21 (2002). If confirmed, I would follow the binding precedent from the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

24. Please answer the following questions yes or no. If you would like to include an additional narrative response, you may do so, but only after a yes or no answer:

a. Was *Brown v. Board of Education* correctly decided?

Response: Yes. The constitutionality of racial segregation in schools is not likely to come before the courts again. I therefore believe it is permissible as a judicial nominee to state my opinion that the case was correctly decided.

b. Was *Loving v. Virginia* correctly decided?

Response: Yes. The constitutionality of interracial marriage is not likely to come before the courts again. I therefore believe it is permissible as a judicial nominee to state my opinion that the case was correctly decided.

c. Was *Griswold v. Connecticut* correctly decided?

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

d. Was *Roe v. Wade* correctly decided?

Response: The Supreme Court overruled *Roe v. Wade* in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022). *Dobbs* is binding precedent, and I will apply it faithfully and to the best of my ability.

e. **Was *Planned Parenthood v. Casey* correctly decided?**

Response: The Supreme Court overruled *Planned Parenthood v. Casey* in *Dobbs v. Jackson Women's Health Organization*, 142 S. Ct. 2228 (2022). *Dobbs* is binding precedent, and I will apply it faithfully and to the best of my ability.

f. **Was *Gonzales v. Carhart* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

g. **Was *District of Columbia v. Heller* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

h. **Was *McDonald v. City of Chicago* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

i. **Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

j. **Was *New York State Rifle & Pistol Association v. Bruen* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

k. **Was *Dobbs v. Jackson Women's Health* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

l. **Were *Students for Fair Admissions, Inc. v. University of North Carolina and Students for Fair Admissions Inc. v. President & Fellows of Harvard College* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

m. **Was *303 Creative LLC v. Elenis* correctly decided?**

Response: As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit commenting on cases and matters that may come before me if confirmed. If confirmed, my duty would be to follow binding precedents of the Supreme Court and the Tenth Circuit, and I pledge to do so faithfully and to the best of my ability.

25. **What legal standard would you apply in evaluating whether or not a regulation or statutory provision infringes on Second Amendment rights?**

Response: I would apply the standard set forth in binding precedent of the Supreme Court and Tenth Circuit. In *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), the Supreme Court established the following standard: “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Id.* at 2126.

26. Demand Justice is a progressive organization dedicated to “restor[ing] ideological balance and legitimacy to our nation’s courts.”
- Has anyone associated with Demand Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
 - Are you currently in contact with anyone associated with Demand Justice? If so, who?
 - Have you ever been in contact with anyone associated with Demand Justice? If so, who?

Response to all subparts: No.

27. The Alliance for Justice is a “national association of over 120 organizations, representing a broad array of groups committed to progressive values and the creation of an equitable, just, and free society.”
- Has anyone associated with Alliance for Justice requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
 - Are you currently in contact with anyone associated with the Alliance for Justice? If so, who?
 - Have you ever been in contact with anyone associated with the Alliance for Justice? If so, who?

Response to all subparts: No.

28. Arabella Advisors is a progressive organization founded “to provide strategic guidance for effective philanthropy” that has evolved into a “mission-driven, Certified B Corporation” to “increase their philanthropic impact.”
- Has anyone associated with Arabella Advisors requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?
 - Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund.
 - Are you currently in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.
 - Have you ever been in contact with anyone associated with Arabella Advisors? Please include in this answer anyone associated with Arabella’s known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.

Response to all subparts: No.

29. **The Open Society Foundations is a progressive organization that “work[s] to build vibrant and inclusive democracies whose governments are accountable to their citizens.”**
- a. **Has anyone associated with Open Society Fund requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**
 - b. **Are you currently in contact with anyone associated with the Open Society Foundations? If so, who?**
 - c. **Have you ever been in contact with anyone associated with the Open Society Foundations? If so, who?**

Response to all subparts: No.

30. **Fix the Court is a “non-partisan, 501(C)(3) organization that advocates for non-ideological ‘fixes’ that would make the federal courts, and primarily the U.S. Supreme Court, more open and more accountable to the American people.”**
- a. **Has anyone associated with Fix the Court requested that you provide any services, including but not limited to research, advice, analysis, writing or giving speeches, or appearing at events or on panels?**
 - b. **Are you currently in contact with anyone associated with Fix the Court? If so, who?**
 - c. **Have you ever been in contact with anyone associated with Fix the Court? If so, who?**

Response to all subparts: No.

31. **Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).**

Response: On March 16, 2023, I submitted my resume to Senator James Lankford to be considered for one of the two judicial vacancies in the Northern District of Oklahoma. On April 14, 2023, I interviewed with the Advisory Panel established by Senators Lankford and Mullin. On April 28, 2023, I interviewed with Senator Lankford. On June 5, 2023, Senator Lankford informed me that I had been recommended to the White House Counsel’s Office as a potential candidate for nomination. On June 12, 2023, I interviewed with attorneys from the White House Counsel’s Office. On August 26, 2023, the White House Counsel’s Office informed me that I would be moving forward with the selection process. Since that date, I have been in contact with officials from the Office of Legal Policy at the Department of Justice and the White House Counsel’s Office. On October

18, 2023, the President announced his intent to nominate me. On October 24, 2023, the President sent my nomination to the United States Senate.

32. **During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

33. **During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

34. **During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors, or did anyone do so on your behalf? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.**

Response: No.

35. **During your selection process did you talk with any officials from or anyone directly associated with the Open Society Foundations, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

36. **During your selection process did you talk with any officials from or anyone directly associated with Fix the Court, or did anyone do so on your behalf? If so, what was the nature of those discussions?**

Response: No.

37. **Since you were first approached about the possibility of being nominated, did anyone associated with the Biden administration or Senate Democrats give you advice about which cases to list on your committee questionnaire?**
- a. **If yes,**
 - i. **Who?**
 - ii. **What advice did they give?**
 - iii. **Did they suggest that you omit or include any particular case or type of case in your questionnaire?**

Response: No.

38. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On June 12, 2023, I interviewed with attorneys from the White House Counsel's Office as a potential candidate for nomination. On August 26, 2023, I received communication from the White House Counsel's office that the nomination process would move forward, and I spoke with the Justice Department about the process. Since then, I have been in contact with attorneys from the Office of Legal Policy at the Department of Justice as well as attorneys from the White House Counsel's Office.

39. Please explain, with particularity, the process whereby you answered these questions.

Response: On November 22, 2023, I received questions from the Committee through the Department of Justice Office of Legal Policy. I drafted my answers, and, where necessary, conducted legal research. I reviewed my records where appropriate. I shared my draft with OLP, which provided feedback. I reviewed and considered OLP's feedback. I submitted my answers to the Committee.

Senator Mike Lee
Questions for the Record
John David Russell, Nominee for District Court Judge for the Northern District of
Oklahoma

1. How would you describe your judicial philosophy?

Response: If confirmed as a district judge, my philosophy will be to apply the rule of law in all cases in a fair and impartial manner. In doing so, I will treat all parties and their counsel with respect. I will work diligently to ensure that all who come before me leave with the understanding that their case has been carefully considered and fairly decided. I will be fully prepared for every case.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: In deciding a case turning on the interpretation of a federal statute, I would faithfully apply Supreme Court and Tenth Circuit precedent. If there is no such precedent, I would first review the statutory text and any relevant statutory definitions. If the text is clear, the inquiry ends there. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1749 (2020) (“This Court has explained many times over many years that, when the meaning of the statute’s terms is plain, our job is at an end.”). If the text is not clear, I would consult the sources authorized by Supreme Court and Tenth Circuit precedent, which include cases from other jurisdictions and recognized canons of statutory construction and interpretive principles. If the question remains unresolved, I would consider the types of legislative history that the Supreme Court and the Tenth Circuit have identified as reliable. *Id.* (noting that legislative history may be helpful “when interpreting *ambiguous* statutory language”).

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: In deciding cases that turned on the interpretation of a constitutional provision, I would faithfully apply Supreme Court and Tenth Circuit precedent. In certain contexts, the Supreme Court has said that the first step of constitutional interpretation is to consider the text of the Constitution, applying the original public meaning of the text. *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008) (interpreting the Second Amendment under the original public meaning). If there is no applicable precedent, I would follow the interpretive methods set out in the binding precedent of the Supreme Court and the Tenth Circuit. For example, when evaluating a firearm regulation under the Second Amendment, the Supreme Court “requires courts to assess whether modern firearms regulations are consistent with the Second Amendment’s text and historical understanding.” *New York State Rifle & Pistol Ass’n, v. Bruen*, 142 S. Ct. 2111, 2131 (2022).

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

Response: The text and original public meaning are determinative of questions concerning the interpretation of certain constitutional provisions. *See, e.g., New York State Rifle & Pistol Ass’n, v. Bruen*, 142 S. Ct. 2111, 2136-2137 (2022); *Kennedy v. Bremerton School Dist.*, 142 S. Ct. 2407, 2411 (2022). If confirmed, I would faithfully follow binding precedent from the Supreme Court and the Tenth Circuit when interpreting the Constitution.

5. **How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?**

Response: Please see the response to Question 2.

6. **Does the “plain meaning” of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic conventions evolve?**

Response: The Supreme Court has said that it “normally interprets a statute in accord with the ordinary public meaning of its terms at the time of enactment.” *Bostock v. Clayton County*, 140 S. Ct. 1731, 1738 (2020). If confirmed, I would faithfully follow binding precedent of the Supreme Court and the Tenth Circuit in determining the plain meaning of a statute or constitutional provision.

7. **What are the constitutional requirements for standing?**

Response: To establish standing, a plaintiff must suffer “an injury in fact—a concrete and imminent harm to a legally protected interest, like property or money—that is fairly traceable to the challenged conduct and likely to be redressed by the lawsuit.” *Biden v. Nebraska*, 143 S. Ct. 2355, 2365 (2023).

8. **Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?**

Response: Article I of the Constitution enumerates the powers of Congress. Congress is limited to those powers enumerated in the Constitution. The Supreme Court has recognized, however, that the express grant of powers to Congress in the Constitution “necessarily implies the grant of all usual and suitable means for the execution of the powers granted,” and that “Congress is authorized to pass all laws ‘necessary and proper’ to carry into execution the powers conferred on it.” *McCulloch v. Maryland*, 17 U.S. 316, 323-324 (1819).

9. **Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?**

Response: The Supreme Court has stated that “[t]he question of the constitutionality of action taken by Congress does not depend on recitals of power which it undertakes to exercise.” *Nat’l Fed. of Ind. Bus. v. Sebelius*, 132 S. Ct. 2566, 2598 (2012). I would

evaluate the constitutionality of such a law by following the procedure outlined in response to Question 3.

10. Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?

Response: Yes. The Supreme Court has held that the Due Process Clause protects fundamental rights and liberties that are “objectively, deeply rooted in this Nation’s history and tradition and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720–721 (1997) (quotation marks and citations omitted). These rights include the right to marry, *Loving v. Virginia*, 388 U.S. 1 (1967), the right to have children, *Skinner v. Oklahoma*, 316 U.S. 535 (1942), and the right to direct the education and upbringing of one’s children, *Meyer v. Nebraska*, 262 U.S. 390 (1923).

11. What rights are protected under substantive due process?

Response: Please see response to Question 10.

12. If you believe substantive due process protects some personal rights such as a right to contraceptives, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?

Response: In *Griswold v. Connecticut*, 381 U.S. 479 (1965), the Supreme Court held that a state law banning the use of contraceptives by married couples was a violation of substantive due process under the Constitution. The Court further held in *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937), that the Constitution does not protect the economic rights at stake in *Lochner v. New York*. If confirmed, I will be bound to follow Supreme Court precedent.

13. What are the limits on Congress’s power under the Commerce Clause?

Response: Congress’s power is limited by Article I, Section 8. The Supreme Court has identified three categories of activity that Congress may regulate under the Commerce Clause: (1) “the use of the channels of interstate commerce,” (2) “the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities” and (3) “those activities that substantially affect interstate commerce.” *United States v. Lopez*, 514 U.S. 549, 558–559 (1995).

14. What qualifies a particular group as a “suspect class,” such that laws affecting that group must survive strict scrutiny?

Response: A “suspect class” is defined as, “a statutory classification based on race, national origin, or alienage, and thereby subject to strict scrutiny under equal-protection analysis.” Black’s Law Dictionary (11th ed. 2019) The Supreme Court has

stated that “[t]hese factors are so seldom relevant to the achievement of any legitimate state interest that laws grounded in such considerations are deemed to reflect prejudice and antipathy—a view that those in the burdened class are not as worthy or deserving as others. For these reasons and because such discrimination is unlikely to be soon rectified by legislative means, these laws are subjected to strict scrutiny and will be sustained only if they are suitably tailored to serve a compelling state interest.” *City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985).

15. How would you describe the role that checks and balances and separation of powers play in the Constitution’s structure?

Response: The Supreme Court has stated that the “separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch.” *United States v. Lopez*, 514 U.S. 549, 552 (1995). “[T]he system of separated powers and checks and balances established in the Constitution was regarded by the Framers as ‘a self-executing safeguard against the encroachment or aggrandizement of one branch at the expense of the other.’” *Morrison v. Olson*, 487 U.S. 654, 693 (1988) (quoting *Buckley v. Valeo*, 424 U.S. 1, 122 (1976)).

16. How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: If confirmed, I would decide a case of this type in the same way I would decide all cases, by faithfully applying binding precedent from the Supreme Court and the Tenth Circuit in a fair and impartial manner to the facts presented. As an example, I would apply the Supreme Court’s decision in *Youngstown Sheet & Tube v. Sawyer*, 343 U.S. 579 (1952), holding that the President had no power to act except in those cases that are expressly or implicitly authorized by the Constitution or an Act of Congress. Please also see the responses to Questions 2, 3, 4, and 5.

17. What role should empathy play in a judge’s consideration of a case?

Response: Judges must apply the law in a fair and impartial manner to the facts of each case. A judge’s personal feelings, opinions, or beliefs are not proper in considering a case.

18. Which is worse; invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?

Response: A judge should avoid both outcomes; each is equally undesirable.

19. From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the

downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?

Response: I have not researched this data and judicial trends over history. I therefore do not have a basis to form an opinion on this subject. If confirmed, I will faithfully apply binding precedent of the Supreme Court and the Tenth Circuit in a fair and impartial manner.

20. How would you explain the difference between judicial review and judicial supremacy?

Response: “Judicial review” is defined as “[a] court’s power to review the actions of other branches or levels of government.” Black’s Law Dictionary (11th ed. 2019). “Judicial supremacy” is defined as “[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states.” Black’s Law Dictionary (11th ed. 2019). *Marbury v. Madison*, 5 U.S. 137, 178 (1803) stated that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”

21. Abraham Lincoln explained his refusal to honor the Dred Scott decision by asserting that “If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal.” How do you think elected officials should balance their independent obligation to follow the Constitution with the need to respect duly rendered judicial decisions?

Response: The question of how elected officials should balance their official obligations is one for policymakers and elected officials to consider. The Constitution requires government officials, elected and appointed, to take an oath to uphold the Constitution. U.S. Const. art. VI, §3. Elected officials must follow duly rendered judicial decisions. *See, e.g., Cooper v. Aaron*, 358 U.S. 1, 18 (1958) (“the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system. . . . No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.”). If presented with a case raising this question, I would faithfully follow binding precedent from the Supreme Court and the Tenth Circuit regardless of my personal views.

22. In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that’s important to keep in mind when judging.

Response: Hamilton expressed his belief that the role of the federal courts is to interpret and apply the law, while the role of the legislative and executive branches is

to make or enforce the law. Judges must only decide the cases and controversies brought before them.

23. **As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extend the precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: If confirmed, I would apply binding precedent from the Supreme Court and the Tenth Circuit. If there is no controlling precedent, a district judge should decide the case in accordance with the Constitution and the precedents of the Supreme Court and the Tenth Circuit. These authorities will provide the proper analysis to follow and sources to consult to arrive at the correct outcome consistent with the rule of law.

24. **When sentencing an individual defendant in a criminal case, what role, if any, should the defendant's group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges' sentencing analysis?**

Response: A defendant's race, gender, nationality, sexual orientation, or gender identity play no role in a judge's sentencing analysis. The factors to be applied at sentencing include those set out in 18 U.S.C. § 3553(a), binding precedent from the Supreme Court and the Tenth Circuit, and the relevant provisions of the United States Sentencing Guidelines. The Sentencing Guidelines specifically state that race and national origin "are not relevant in the determination of a sentence." U.S.S.G. §5H1.10.

25. **The Biden Administration has defined "equity" as: "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality." Do you agree with that definition? If not, how would you define equity?**

Response: I am not familiar with the statement by the Biden Administration referenced in the question, and I do not know the context in which it was made. "Equity" is defined as, among other things, "[f]airness; impartiality; evenhanded dealing." Black's Law Dictionary (11th ed. 2019). "Equality" is defined as, among other things, "[t]he quality, state, or condition of being equal; esp., likeness in power

or political status.” *Id.* If presented with a question involving these terms, I would faithfully apply the binding precedent of the Supreme Court and the Tenth Circuit in a fair and impartial manner..

26. Is there a difference between “equity” and “equality?” If so, what is it?

Response: Please see the response to Question 25.

27. Does the 14th Amendment’s equal protection clause guarantee “equity” as defined by the Biden Administration (listed above in question 24)?

Response: As noted above, I am not familiar with the Biden Administration’s statement and its use of the term “equity” or the context in which the statement was made. The Equal Protection Clause of the Fourteenth Amendment provides that, “[n]o State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV. I am not aware of any Supreme Court or Tenth Circuit precedent analyzing and applying the Equal Protection Clause to the definition provided in Question 25.

28. How do you define “systemic racism?”

Response: I do not have my own definition of this term. Racism is defined as, among other things, the “[u]nfair treatment of people, often including violence against them, because they belong to a different race from one’s own.” Black’s Law Dictionary (11th ed. 2019). If the defined conduct occurs on a systemic basis, it could be defined as “systemic racism.” Merriam-Webster’s Dictionary defines systemic racism as “the oppression of a racial group to the advantage of another as perpetuated by inequity within interconnected systems (such as political, economic, and social systems).” Merriam-Webster’s Dictionary (2022). I am not aware of any Supreme Court or Tenth Circuit decision defining “systemic racism.”

29. How do you define “critical race theory?”

Response: I do not have my own definition of this term. It has been defined as, among other things, “[a] reform movement within the legal profession, particularly within academia, whose adherents believe that the legal system has disempowered racial minorities.” Black’s Law Dictionary (11th ed. 2019).

30. Do you distinguish “critical race theory” from “systemic racism,” and if so, how?

Response: Please see the responses to Questions 28 and 29.

**Senator John Kennedy
Questions for the Record**

John D. Russell

1. Are there any circumstances under which it is justifiable to sentence a criminal defendant to death? Please explain.

Response: By federal statute, defendants convicted of certain offenses such as murder; attempted murder of a witness, juror, or court officer; treason; and large-scale drug trafficking can be sentenced to death. 18 U.S.C. § 3591. The procedure for courts to follow in determining whether death is the appropriate sentence are also set out by federal statute. 18 U.S.C. §§ 3591-3599. In cases where the government has provided notice that it intends to seek the death penalty, the jury that found guilt or the court must hear evidence of mitigating and aggravating circumstances, return special findings based on that evidence, and make findings on the appropriate sentence. 18 U.S.C. § 3593. Canons of judicial ethics prohibit judicial nominees and judges from commenting on legal issues that could become the subject of litigation, and it would therefore be inappropriate for me to comment further on this matter. If confirmed, I would faithfully follow binding precedent of the Supreme Court and the Tenth Circuit as well as the federal statutory procedure for sentencing defendants.

2. Except when a statutory maximum controls, when is it appropriate for a sentencing judge to impose a sentence below the range provided by the Sentencing Guidelines?

Response: In every criminal case, a judge must consider the seven factors in 18 U.S.C. § 3553(a) to make an individualized decision to formulate a sentence that is “sufficient, but not greater than necessary” to achieve the four statutory purposes of sentencing. A court “must make an individualized assessment based on the facts” of each case, recognizing that a within-Guidelines sentence may be greater than necessary to serve the purposes of sentencing. *Gall v. United States*, 552 U.S. 38, 50 (2007); *Kimbrough v. United States*, 552 U.S. 85, 91 (2007). A court “may vary [from the Guidelines range] based solely on policy considerations, including disagreements with the Guidelines.” *Kimbrough*, 552 U.S. at 101. Variances are sentences outside of the guideline range that are not imposed within the Guidelines framework. A court can also depart downward from the applicable Guideline range if the facts support one of the departure grounds found in Chapter Five of the Sentencing Guidelines. Departures are sentences outside of the guideline range authorized by specific policy statements in the *Guidelines Manual*. Canons of judicial ethics prohibit judicial nominees and judges from commenting on legal issues that could become the subject of litigation, and it would therefore be inappropriate for me to comment further on this matter. If confirmed, I would faithfully follow the binding precedent of the Supreme Court and the Tenth Circuit, the federal statutory procedure, and the Sentencing Guidelines when sentencing defendants.

3. Is the U.S. Supreme Court a legitimate institution?

Response: Yes.

4. Is the current composition of the U.S. Supreme Court legitimate?

Response: Yes.

5. Please describe your judicial philosophy. Be as specific as possible.

Response: If confirmed as a district judge, my philosophy will be to apply the rule of law in all cases in a fair and impartial manner. In doing so, I will treat all parties and their counsel with respect. I will work diligently to ensure that all who come before me leave with the understanding that their case has been carefully considered and fairly decided. I will be fully prepared for every case.

6. Is originalism a legitimate method of constitutional interpretation?

Response: "Originalism" is defined as "[t]he doctrine that words of a legal instrument are to be given the meanings they had when they were adopted; specif., the canon that a legal text should be interpreted through the historical ascertainment of the meaning that it would have conveyed to a fully informed observer at the time when the text first took effect." Black's Law Dictionary (11th ed. 2019). The original public meaning of the text of the Constitution as of the time of the ratification of the language in question controls the meaning of the Constitution. *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008) (interpreting the Second Amendment under the original public meaning); *New York State Rifle & Pistol Ass'n, v. Bruen*, 142 S. Ct. 2111, 2136-2137 (2022); *Kennedy v. Bremerton School Dist.*, 142 S. Ct. 2407, 2411 (2022). If confirmed, I would faithfully follow the binding precedent of the Supreme Court and the Tenth Circuit as well as the original public meaning of the text when interpreting the Constitution.

7. If called on to resolve a constitutional question of first impression with no applicable precedents from either the U.S. Supreme Court or the U.S. Courts of Appeals, to what sources of law would you look for guidance?

Response: If there is no controlling precedent to resolve a constitutional question, the Supreme Court has held that the original public meaning of the text of the Constitution as of the time of the ratification of the language in question controls the meaning of the Constitution. *District of Columbia v. Heller*, 554 U.S. 570, 605 (2008) (interpreting the Second Amendment under the original public meaning).

8. Is textualism a legitimate method of statutory interpretation?

Response: Textualism is defined as “[t]he doctrine that the words of a governing text are of paramount concern and that what they fairly convey in their context is what the text means.” Black’s Law Dictionary (11th ed. 2019). The Supreme Court has held that the ordinary public meaning of a statute at the time of enactment controls its meaning. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1738 (2020). If confirmed, I would faithfully follow the binding precedent of the Supreme Court and the Tenth Circuit as well as the ordinary public meaning of the text when interpreting a statute.

9. When is it appropriate for a judge to look beyond textual sources when determining the meaning of a statute or provision?

Response: In deciding cases turning on the interpretation of a federal statute, I would faithfully apply Supreme Court and Tenth Circuit precedent. If there is no such precedent, I would first review the statutory text and any relevant statutory definitions. If the text is clear, the inquiry ends there. *Bostock v. Clayton County*, 140 S. Ct. 1731, 1749 (2020) (“This Court has explained many times over many years that, when the meaning of the statute’s terms is plain, our job is at an end.”) If the text is not clear, I would consult the sources authorized by Supreme Court and Tenth Circuit precedent, which include cases from other jurisdictions and recognized canons of statutory construction and interpretive principles. If the question remains unresolved, I would consider the types of legislative history that the Supreme Court and the Tenth Circuit have identified as reliable. *Id.* (noting that legislative history may be helpful “when interpreting *ambiguous* statutory language”).

a. Should a judge ever look beyond textual sources when a statute’s meaning is clear? Please explain.

Response: Please see the response to Question 9.

10. Does the meaning (rather than the applications) of the U.S. Constitution change over time? If yes, please explain in detail the circumstances under which the U.S. Constitution’s meaning changes over time and the relevant constitutional provisions.

Response: No. The Constitution has a fixed meaning, and its provisions can only be modified through the amendment process in Article V.

11. What is the role of legislative history in determining a statute’s meaning?

Response: Please see the response to Question 9.

12. When is it appropriate for a district judge to issue a nationwide injunction? Please also explain the legal basis for nationwide injunctions and the relevant factors a district judge should consider before issuing one.

Response: Generally, Federal Rule of Civil Procedure 65 governs the issuance of injunctions by federal courts. Injunctions that have nationwide effect and applicability have been issued by federal courts. *See, e.g., Trump v. Hawaii*, 138 S. Ct. 2392 (2018). Neither the Supreme Court nor the Tenth Circuit has issued binding precedent as to the precise circumstances in which a nationwide injunction may be authorized. The Tenth Circuit has stated in *dicta* that an individual class representative may not have standing to seek a nationwide injunction in her own right over actions not directly affecting her. *See Colorado Cross Disability Coalition v. Abercrombie & Fitch*, 765 F.3d 1205, 1212 (10th Cir. 2014).

- 13. After the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health Organization*, 142 S. Ct. 2228 (2022), a federal district judge in Washington, DC suggested that the Thirteenth Amendment may provide a basis for a constitutional right to abortion.**

a. Do you agree?

Response: I am not aware of the case referenced in this question. Canons of judicial ethics prohibit judicial nominees and judges from commenting on legal issues that could become the subject of litigation, and it would therefore be inappropriate for me to comment further on this matter.

b. Is it ever appropriate for a lower court judge to imply the existence of a constitutional right despite the existence of controlling precedent to the contrary?

Response: Lower court judges must apply binding precedent of the Supreme Court and the Tenth Circuit.

- 14. Is there ever an appropriate circumstance in which a district judge may ignore or circumvent or seek to undermine a precedent set by the circuit court under which it sits or the U.S. Supreme Court?**

Response: No.

- 15. Would you faithfully apply all precedents of the U.S. Supreme Court?**

Response: Yes.

- 16. Would you faithfully apply the U.S. Supreme Court’s decision in *Oklahoma v. Castro-Huerta*, 142 S. Ct. 2486 (2022), including any dicta, *see Utah Republican Party v. Cox*, 892 F.3d 1066, 1079 (10th Cir. 2018)?**

Response: Yes.

- 17. Please describe the analysis you would use to evaluate whether a law or regulation infringes on an individual's rights under the Second Amendment in light of the Supreme Court's opinion in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).**

Response: I would apply the standard set forth in binding precedent of the Supreme Court and the Tenth Circuit. In *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), the Supreme Court established the following standard: “[w]hen the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. To justify its regulation, the government may not simply posit that the regulation promotes an important interest. Rather, the government must demonstrate that the regulation is consistent with this Nation’s historical tradition of firearm regulation. Only if a firearm regulation is consistent with this Nation’s historical tradition may a court conclude that the individual’s conduct falls outside the Second Amendment’s ‘unqualified command.’” *Id.* at 2126.

- 18. When should a district judge deem a previously unrecognized unenumerated right to be “fundamental” and therefore entitled to protection under the Fourteenth Amendment?**

Response: The Supreme Court established a test to determine whether a claimed right is among the unenumerated rights protected by the Due Process Clause: the asserted right must be “objectively, deeply rooted in this Nation’s history and tradition and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997). If confirmed, I will faithfully apply Supreme Court and Tenth Circuit precedent.

- 19. Please identify any unrecognized unenumerated rights that could plausibly be worthy of fundamental status.**

Response: The Supreme Court has held that the Due Process Clause protects fundamental rights and liberties that are “objectively, deeply rooted in this Nation’s history and tradition and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed.” *Washington v. Glucksberg*, 521 U.S. 702, 720–721 (1997) (quotation marks and citations omitted). These rights include the right to marry, *Loving v. Virginia*, 388 U.S. 1 (1967), the right to have children, *Skinner v. Oklahoma*, 316 U.S. 535 (1942), and the right to direct the education and upbringing of one’s children, *Meyer v. Nebraska*, 262 U.S. 390 (1923). As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit me from opining on unenumerated, unarticulated rights in the Constitution because those questions could come before me if confirmed. If confirmed, I will faithfully apply Supreme Court and Tenth Circuit precedent.

20. What is the difference between judicial review and judicial supremacy?

Response: “Judicial review” is defined as “[a] court’s power to review the actions of other branches or levels of government.” Black’s Law Dictionary (11th ed. 2019). “Judicial supremacy” is defined as “[t]he doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review, esp. U.S. Supreme Court interpretations, are binding on the coordinate branches of the federal government and the states.” Black’s Law Dictionary (11th ed. 2019). *Marbury v. Madison*, 5 U.S. 137, 178 (1803) stated that “[i]t is emphatically the province and duty of the judicial department to say what the law is.”

21. Should a district judge give deference to an agency’s interpretation of a statute that imposes criminal penalties? Please explain in detail.

Response: In *Chevron v. Natural Resources Defense Council*, 467 U.S. 837, 842-843 (1984), the Supreme Court established a two-part test for reviewing a regulatory agency’s construction of a statute: first, courts must ask “whether Congress has directly spoken to the precise question at issue [and if] the intent of Congress is clear, that is the end of the matter”; second, if the statute is ambiguous, courts will defer to the administrative agency’s interpretation if it is reasonable and “based on a permissible construction of the statute.” The Supreme Court recently expressed concern that an agency’s interpretation of an ambiguous statute “gives rise to serious vagueness concerns in light of the [Clean Water Act’s] criminal penalties. Due process requires Congress to define penal statutes ‘with sufficient definiteness that ordinary people can understand what conduct is prohibited’ and ‘in a manner that does not encourage arbitrary and discriminatory enforcement.’” *Sackett v. EPA*, 598 U.S. 651, 680-681 (2023) (quoting *McDowell v. United States*, 579 U.S. 550, 576 (2016)). If confirmed, I will faithfully apply Supreme Court and Tenth Circuit precedent.

22. Please describe how courts determine whether an agency’s action violates the Major Questions Doctrine.

Response: Please see the response to Question 21.

23. Please identify one federal judge or justice, current or former, whose service on the bench most inspires you and explain why.

Response: In my 35 years practicing law, I have had the good fortune of appearing before many outstanding federal judges around the United States, and from each I have taken some wisdom that I would employ if confirmed. There is one judge, however, before whom I appeared in a number of cases, the Honorable Thomas R. Brett, who demonstrated every day on the bench the right way to handle a case. Judge Brett knew how to get to the core issue quickly, and he knew how to move cases while showing respect for the parties and their counsel. Judge Brett was known for his homespun

sayings that had a way of getting to the point quickly. In all events, every litigant came away from his court knowing they had been treated fairly and impartially.

- 24. You have been nominated to serve as a federal district judge. To the best of your recollection, please list up to 10 cases in which you served as lead counsel in a case tried before a jury in federal district court.**

Response:

United States v. Clifton, Case No. 95-CR-36-TCK (N.D. Okla.)
United States v. Knox, Case No. 95-CR-41-TCK (N.D. Okla.)
United States v. O'Brien, Case No. 96-CR-26-TCK (N.D. Okla.)
United States v. Walker, Case No. 96-CR-84-HDC (N.D. Okla.)
United States v. Lorson, Case No. 97-CR-135-TCK (N.D. Okla.)
United States v. Revis, Case No. 99-CR-68-CVE (N.D. Okla.)
United States v. Hooks, Case No. 00-CR-149-K (N.D. Okla.)
United States v. Marshall, Case No. 00-CR-155-TRB (N.D. Okla.)
United States v. Bumblis, Case No. 05-CR-187-CMH (E.D. Va.)
United States v. Pasillas-Castenon, Case No. 06-CR-175-HDC (N.D. Okla.)
United States v. Koch, Case No. 10-CR-48-CVE (N.D. Okla.)

- 25. To the best of your recollection, please list all instances in which you presented oral argument before a U.S. Court of Appeals panel.**

Response:

United States v. Knox, Case No. 95-5274 (10th Cir.)
United States v. Clifton, Case No. 96-5018 (10th Cir.)
United States v. O'Brien, Case Nos. 96-5228, 96-5229, and 96-5230 (10th Cir.)
United States v. Viehhaus, Case No. 97-5207 (10th Cir.)
United States v. Martin, Case No. 98-5066 (10th Cir.)
United States v. Le, Case No. 98-5088 (10th Cir.)
United States v. Hicks, Case No. 98-5178 (10th Cir.)
United States v. Brown, Case No. 98-5206 (10th Cir.)
United States v. Moore, Case No. 98-5238 (10th Cir.)
United States v. Pasillas-Castenon, Case No. 07-5101 (10th Cir.)
Oldenkamp v. United American Ins. Co., Case Nos. 09-5032 & 09-5039 (10th Cir.)
United States v. Koch, Case No. 10-5135 (10th Cir.)

- 26. At the Committee's November 15, 2023, hearing, you indicated that you would give Senator Kennedy a copy of the materials provided to you by the White House to prepare you for questioning. Please provide those materials or confirm how and when you will be providing them.**

Response: The Department of Justice has advised me that the White House will be addressing this question under separate cover.

Questions from Senator Thom Tillis
for John David Russell to be United States District Judge for the Northern District of
Oklahoma

- 1. Can a judge's personal views and background benefit them in interpreting and applying the law, or would you say that they are irrelevant?**

Response: A judge's personal views and background are irrelevant to interpreting and applying the law.

- 2. Do you believe impartiality is an aspiration or an expectation for a judge?**

Response: Impartiality is an expectation for a judge. Canon 3 of the Code of Conduct for United States Judges requires judges to perform the duties of the office fairly, impartially, and diligently.

- 3. What is judicial activism? Do you consider judicial activism appropriate?**

Response: "Judicial activism" is defined as "[a] philosophy of judicial decision-making whereby judges allow their personal views about public policy, among other factors, to guide their decisions, [usually] with the suggestion that adherents of this philosophy tend to find constitutional violations and are willing to ignore governing texts and precedents." Black's Law Dictionary (11th ed. 2019). I do not consider judicial activism appropriate.

- 4. Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

Response: No.

- 5. Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

Response: When a judge faithfully interprets the law, the outcome may conflict with the judge's personal views. But cases must be decided based on the rule of law without bias or prejudice. Canon 3(A)(1) of the Code of Conduct for United States Judges states that a judge "should not be swayed by partisan interests, public clamor, or fear of criticism." If confirmed, I will faithfully follow the law and apply it impartially to the facts of the case before me.

- 6. What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

Response: If confirmed, I will faithfully follow and apply binding precedent interpreting the Second Amendment, including the Supreme Court's holdings in *District of Columbia v. Heller*, 554 U.S. 570 (2008), *McDonald v. City of Chicago*, 561 U.S. 742 (2010), and *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022).

7. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?

Response: In any case presenting the defense of qualified immunity, I would faithfully apply binding precedent of the Supreme Court and the Tenth Circuit. Under recent Tenth Circuit authority, “[t]he doctrine of qualified immunity shields officials from civil liability so long as their conduct ‘does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Andersen v. DelCore*, 79 F.4th 1153, 1162 (10th Cir. 2023) (quoting *Mullenix v. Luna*, 577 U.S. 7, 11 (2015) (per curiam); *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)). When a law enforcement defendant “asserts qualified immunity, this affirmative defense creates a presumption that the defendant is immune from suit.” *Id.* (internal citations omitted). If confirmed, I would follow this binding precedent.

8. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?

Response: Please see the response to Question 7. If confirmed, I will faithfully apply binding precedent from the Supreme Court and the Tenth Circuit governing qualified immunity. The Canons of the Code of Conduct for United States Judges prohibit me from offering a personal opinion on the legal doctrine.

9. What do you believe should be the proper scope of qualified immunity protections for law enforcement?

Response: Please see the response to Questions 7 and 8.

10. What are your thoughts regarding the importance of ensuring that all IP rights are in fact enforced?

Response: Congress has the power under the Intellectual Property Clause to grant authors and inventors exclusive rights in their writings and discoveries. U.S. Const. art. I, § 8. Courts should enforce intellectual property rights granted by Congress to authors and inventors. *See Golan v. Holder*, 565 U.S. 302 (2012); *see also, Morrow v. Microsoft Corp.*, 499 F.3d 1332, 1339-1340 (Fed. Cir. 2007) (“Unquestionably, a patentee who holds all the exclusionary rights and suffers constitutional injury in fact from infringement is one entitled to sue for infringement in its own name.”). If a holder of intellectual property rights believes that those

rights have been violated, the holder can seek to enforce those rights by bringing a case in federal district court. If the holder brings a suit, the court will resolve the case based on the claims and defenses raised in the case. If confirmed, I will faithfully apply binding precedent from the Supreme Court, the Tenth Circuit, and the Federal Circuit on intellectual property issues that come before me.

- 11. In the context of patent litigation, in some judicial districts plaintiffs are allowed to request that their case be heard within a particular division. When the requested division has only one judge, this allows plaintiffs to effectively select the judge who will hear their case. What are your thoughts on this practice, which typically is referred to as “forum shopping” and/or “judge shopping?”**

Response: I have heard of the practice of filing suit in a division of a district court to secure a particular judge, but I have not heard of any inappropriate conduct. The Northern District of Oklahoma has only a single division, and cases filed in the Northern District are randomly assigned to one of four magistrate judges or one of four active and senior district judges who hear civil cases.

- 12. The Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in shambles. What are your thoughts regarding the Supreme Court’s patent eligibility jurisprudence?**

Response: If confirmed, I pledge to faithfully apply binding legal precedent from the Supreme Court and the Tenth Circuit on any patent eligibility issues that would come before me. As a judicial nominee, the Canons of the Code of Conduct for United States Judges prohibit me from commenting on the quality of the reasoning of Supreme Court precedents. If confirmed, my duty would be to follow binding precedent from the Supreme Court, the Tenth Circuit, and the Federal Circuit, and I pledge to do so faithfully and to the best of my ability.

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October 31, 2023

The Honorable Richard Durbin, Chair
Committee on the Judiciary
United States Senate
Washington D.C. 20510

The Honorable Lindsey Graham, Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senators Durbin and Graham:

I write in support of the nomination of John Russell to the United States District Court for the Northern District of Oklahoma. Although currently in private practice, I am an alumnus of the U.S. Department of Justice, having served in various civil and criminal units during my 17-year DOJ career (trial attorney in the Tax Division (1991-98), AUSA in Connecticut (1998-2007), and Deputy Assistant Attorney General, Tax Division, Criminal Enforcement (2007-09)). John and I were colleagues in the Tax Division from 1991 to 1993, during which time we worked closely on a variety of complex civil tax cases. In the years following John's return to Oklahoma, we have remained in contact, both professionally and personally.

John is a superb choice for one of the open seats on the District Court. He was an excellent Tax Division colleague, whose advice and judgment were highly valued by the other attorneys, including our experienced supervisors. He was generous with his time and talent, and by his mentoring and personal example he brought out the best in his fellow attorneys. Throughout his career, John has demonstrated a commitment to the Constitution and the rule of law, always remembering that his duty as an attorney is not just to win cases, but to represent the government or his private clients in a way that would ensure the integrity of our adversarial system.

In addition to his stellar professional qualifications and high ethical standards, John is a man of great personal virtue and probity; he is kind, loyal, and generous. Unfailingly calm and respectful, John demonstrated a judicial temperament even as a young attorney. These admirable qualities are to be desired in any public servant, especially one who would serve as a trial judge.

Respectfully submitted,



John Marrella



October 31, 2023

Via U.S. Mail

Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Nomination of John D. Russell to the United States District Court for the
Northern District of Oklahoma

Dear Chair Durbin and Ranking Member Graham:

I am writing to offer my enthusiastic support for the nomination of John D. Russell to be a
United States District Judge for the Northern District of Oklahoma.

I have known Mr. Russell as a colleague at the GableGotwals law firm for approximately
nine years. During that period, we have worked together on several challenging, contentious
engagements. Without fail, Mr. Russell has demonstrated the highest level of professionalism,
integrity, and skill throughout them all. Whether adverse counsel employed scorched-earth
tactics or had malleable veracity, they were met with Mr. Russell's unflappable temperament. I
am a better attorney because of my association with him, along with the several other attorneys in
the firm who have had the good fortune to work with Mr. Russell on a regular basis.

As Past President of the Tulsa County Bar Association (TCBA), I serve as chair of the
TCBA's awards and nominations committee. Among the more prestigious recognitions of the
committee is the Golden Rule Award. The award is made to an attorney who recognizes the
ethical & professional obligations as an officer of the court as well as the spirit and intent of the
Oklahoma Rules of Professional Conduct; practices ethically and honestly and is true to his/her
word; strives for the traditional goals of moral excellence; exhibits the highest standards of
fairness and integrity; sets a model example for conduct with members of the Bar and the
Judiciary by words and deeds; is civil, courteous, and respectful towards the court and his/her
opponents; is loyal to his/her client without trickery and deception and without using abusive



practices or misleading the court or opposing counsel; avoids the temptation to make his/her client's case into a personal vendetta; and conducts himself/herself in a manner that improves the image of the legal profession in the eyes of the public. Mr. Russell (who has been nominated for the award) embodies these criteria with seemingly little effort. He is a good lawyer and, perhaps, a better man. Mr. Russell would be a model United States District Judge.

For the reasons above, I heartily endorse Mr. Russell's nomination to the bench and urge a speedy Senate confirmation.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Philip D. Hixon', written over a horizontal line.

Philip D. Hixon
Past President

cc: Sarah Bauer (by email)
Ryan Giles (by email)

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November 1, 2023

Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
Sarah_Bauer@judiciary-dem.senate.gov

Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
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Ryan_Giles@judiciary-rep.senate.gov

RE: Nomination of John D. Russell

Senator Durbin & Senator Graham:

I have known John Russell for over 30 years. I tried cases against him when he was a prosecutor in the United States Attorney's Office for the Northern District of Oklahoma, as well as have co-counseled criminal defense cases with him when he left the Department of Justice and was in private practice.

John's knowledge of the law and ability to articulate that through writing and oral argument is without equal. When John was a prosecutor most criminal defense lawyers had mixed feelings about John being their opponent. They had great respect for his ability, but they also knew he was going to make them work very hard to be successful against him. His legal adversaries in the private world all have the same opinion of John's legal ability.

I have seen John in stressful cases in the courtroom and in other settings. Never have I seen him become angry or even raise his voice. It would be difficult to conjure up a person with a better temperament to have the power, authority, and responsibility of a United States district judge.

I highly recommend the you give John Russell all consideration possible to insure his appointment to this important position.

Sincerely,



Allen M. Smallwood

AMS:bw



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November 2, 2023

BY EMAIL

Honorable Richard J. Durbin, Chair
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Honorable Lindsey O. Graham, Ranking Member
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: *Nomination of John D. Russell to the United States District Court for the Northern District of Oklahoma*

Dear Chair Durbin and Ranking Member Graham:

I write to offer my unqualified support for the nomination of John D. Russell as United States District Judge for the Northern District of Oklahoma.

Mr. Russell and I have been professionally and socially associated in various respects since the 1990s. Having closely observed Mr. Russell for almost three decades, I know him to be highly qualified for the position you consider here. For over fifteen years we practiced law in the same firm and worked closely together on contested and complex cases in Federal Court, before regulatory commissions and in private arbitration. During that time, we routinely collaborated and consulted with each other on technical and difficult legal questions, on matters of professional ethics, and on litigation analysis and strategy. In my experience over almost fifty years of actively practicing law, I cannot think of any lawyer more qualified to become a member of the Federal judiciary.

Mr. Russell is a skilled lawyer. He is analytical, evaluative, and incisive in his approach. He gleans the core issues from complex cases. His command of federal procedure made him an especially valued resource for me during our professional association and I have personally observed his superior ability to evaluate and master complex and technical legal questions. In this regard, his preparation is meticulous and his work ethic admirable.

Honorable Richard J. Durbin, Chair
Honorable Lindsey O. Graham, Ranking Member
November 2, 2023
Page 2

Mr. Russell demonstrates remarkable temperament in his practice. He maintains a calm but firm demeanor with opposing counsel during moments of conflict, while always adhering to his professional obligation of diligent representation of his clients. He is collegial and respectful to other lawyers, whether or not they are opposed to his client's interests. When conflict and controversy emerge – as they always do in the practice – he is often the calmest and most engaged person in the room. He relates very well to others within the legal community with his legal competence and his interpersonal skills. He is an articulate, frank, and direct communicator.

During our fifteen-year professional association, I observed that Mr. Russell consistently exercised superior judgment. He was thoughtful and deliberate in developing and implementing litigation and settlement strategies to achieve sound and beneficial case resolutions. His intelligent approach to dispute resolution was very effective.

Mr. Russell is foremost a person of the highest character and integrity. His law partners and his legal colleagues throughout Oklahoma respect him not only for his professionalism and his legal skill, but also for the example he publicly sets for integrity, character, and composure. His ethics are beyond question. His reputation in the community is rock solid.

I have no doubt whatsoever that as a District Judge, Mr. Russell would know the law, follow the law, and apply the law thoughtfully and wisely. Accordingly, I am pleased enthusiastically to endorse his nomination and I highly recommend his prompt confirmation.

Sincerely,



Curtis M. Long

CML:jms



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R. Richard Love, III | Partner
p 918-586-5679 | rlove@cwlaw.com

November 2, 2023

By Email to:

Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
Sarah_Bauer@judiciary-dem.senate.gov

Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
Ryan_Giles@judiciary-rep.senate.gov

Re: Nomination of John D. Russell to the United District Court for the Northern District of Oklahoma

Dear Chair Durbin and Ranking Member Grassley:

I am writing to offer my wholehearted support for the nomination of John D. Russell to be a United States District Judge for the Northern District of Oklahoma.

I have known Mr. Russell since 1998 when we met and worked together as Assistant U.S. Attorney's until 2002, where we tried many cases together. He and I have been friends and colleagues since. John is one of the hardest working, most capable lawyers I have ever had the pleasure of working with (and against). No detail escapes John and every angle of a case is considered in devising the most favorable resolution for those he represents. He has a very diverse practice at Gable Gotwals, engaging in both criminal and civil litigation in federal court. In a nutshell, there is absolutely no one better qualified than John. Please get him appointed.

I am available anytime on my cell phone, 918-645-4797 to discuss his endorsement in further detail.

Sincerely,

R. Richard Love, III

Conner & Winters, LLP | Attorneys and Counselors at Law
Dallas, TX | Houston, TX | NW Arkansas | Oklahoma City, OK | Tulsa, OK | Washington, DC



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November 2, 2023

VIA EMAIL

Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington DC 20510

Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington DC 20510

RE: Nomination of John D. Russell to the United States District Court
for the Northern District of Oklahoma

Dear Chair Durbin and Ranking Member Graham:

It is my honor to support John D. Russell's nomination to be a United States District Judge for the Northern District of Oklahoma. I have known John well, both professionally and personally, for my entire 37-year legal career. He is an outstanding lawyer and a fabulous human being. John is smart, thoughtful, compassionate, and has the highest integrity. All traits that mean he has the perfect temperament to serve on the federal judiciary.

John has substantial experience in commercial and criminal litigation across many discreet areas including healthcare, securities, false claims, class actions, insurance, and antitrust matters. He represents companies in civil litigation arising out of government investigations and also represents companies and individuals under investigation by state and federal grand juries and governmental administrative agencies. John conducts internal corporate investigations and advises corporate boards on investigations.

As a former federal prosecutor, John investigated, charged, and tried to decision a wide range of white-collar criminal cases. As a trial attorney for the U.S. Department of Justice, Tax Division, he tried civil tax cases in U.S. District Courts around the country.

From my perspective as a trial lawyer, John's background makes him an ideal federal judge. John's varied trial experience as a former federal prosecutor for the U.S. Attorney's Office for the Northern District of Oklahoma, former Trial Attorney for the U.S. Department of Justice, Tax Division, and experienced commercial litigator is rare. Because he has handled civil and criminal cases for both plaintiffs and defendants before trial and appellate courts, as well as federal and state regulatory agencies, he will truly be a trial lawyer's judge, a rarity in these political times.

John is an incredibly sincere individual who has the highest standards and a heart for justice. This is evidenced by his work as a member of the Northern District of Oklahoma's Criminal Justice Act Panel, where he represents indigent defendants in federal criminal cases. He is also an Adjunct Settlement Judge in the Northern District of Oklahoma, assisting the court, without charge, in mediating civil cases.

John is also an involved member of the Tulsa community, a devoted husband, father, and grandfather. John is an excellent role model, both personally and professionally, who will work hard and constantly strive to do the right thing as a Judge. If confirmed, John will make both of our Senators proud, as well as the President.

With his unique skill set of trial experience, intelligence, judgment, temperament, and thoughtfulness, it is difficult to imagine a better qualified attorney to sit on the District Court for the Northern District of Oklahoma. It is with the most enthusiasm that I support John's nomination, and hope the Senate gives him a speedy and resounding confirmation.

Please let me know if I can answer any questions or if there is anything else I can do to support John Russell's nomination.

Very truly yours,



MARY QUINN COOPER

MQC\ad

JOHN H. FILDEW
RANDALL S. WANGEN
STEPHEN J. POKOJ
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November 3, 2023

STANLEY L. FILDEW
(1896-1978)
FRANK T. HINKS
(1887-1974)
RICHARD E. HINKS
(1916-1990)
WILLIAM P. THORPE
(1938-2012)

SENT VIA ELECTRONIC MAIL (Sarah_Bauer@judiciary-dem.senate.gov)

Honorable Richard Durbin, Chairman
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

**Re: Nomination of John David Russell of Oklahoma
United States District Judge**

Dear Senator Durbin:

I am writing to strongly endorse the nomination of John Russell for the position of United States District Judge for the Northern District of Oklahoma. I have known John for more than 30 years. We served together in the Tax Division of the Department of Justice. John and I were part of a group of younger attorneys who took great pride in our jobs. Our DOJ division was responsible for tax cases in the central United States, and we put in long hours traveling and litigating tax disputes. We were strong advocates for the interests of the government, but we also had the flexibility to compromise when the taxpayer's position had merit. These early years gave John a firm grounding in preparation, deliberation, and fairness to all, that he carries forward to this day.

John and I have remained friends for the decades after our DOJ service through telephone calls, emails, and Christmas greetings. We have discussed court decisions and the events of the day on many occasions. I have tried multiple cases in the federal courts. I have several friends (nominated by both parties) that are federal judges. My mother was a federal District Court Judge and federal Circuit Court Judge for more than 40 years (having been nominated by a Republican to the District Court and a Democrat to the Circuit Court). I think I have a good sense of the kind of person that would make a good federal judge. John is that kind of person. He is grounded in the Country's ideals and has the intellect, temperament, and sense of fairness to be an outstanding federal judge. I look forward to your favorable consideration of John's nomination.

Very truly yours,

Charles S. Kennedy III

cc: Sarah_seitz@lankford.senate.gov

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Daniel G. Webber, Jr.
dwebber@ryanwhaley.com
405.239.6040

November 2, 2023

VIA EMAIL

Honorable Richard J. Durbin, Chair
United States Senate Committee
on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Honorable Lindsey O. Graham, Ranking Member
United States Senate Committee
on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: *Nomination of John D. Russell to the United States District Court for the Northern
District of Oklahoma*

Dear Chair Durbin and Ranking Member Graham:

I am writing to voice my enthusiastic support for the nomination of John D. Russell to serve as a United States District Judge for the Northern District of Oklahoma.

I have known John for approximately 20 years. In 2003, I entered private practice after serving as both an Assistant United States Attorney and the United States Attorney for the Western District of Oklahoma. While learning the ropes of private practice in all three of Oklahoma's judicial districts, I quickly learned from judges and practitioners (and practitioners who would later become judges) that John was considered a model for someone successfully transitioning from being a prosecutor to private practice that involves complex civil and criminal litigation.

In 2006, I participated in a continuing legal education program on white collar criminal investigations. John gave the ethics presentation, focusing on the challenges of joint representation of companies and their employees. I kept John's presentation on my bookshelf for over a decade. More importantly, I was able to work with John on several matters where my client's employee, business partner, or family member needed top notch independent counsel. Many of these matters involved civil litigation running parallel to governmental investigations.

I have also faced John as opposing counsel, again in a matter where a large and complex civil suit was proceeding in the middle of a federal investigation. It became clear to me that the prosecutors, like me, understood that you can take John's word to the bank. This was just another

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Nomination of John D. Russell
November 2, 2023
Page 2

case in which John's legal acumen and skill, combined with his reputation for integrity, stood out among a crowded field of talented attorneys.

I have personally witnessed John's even temperament among a group of agitated lawyers in a discovery dispute. John's ability to keep his cool and maintain focus on the task at hand not only served his client well but also restored a sense of professionalism and purpose to a situation that likely would have devolved into a familiar session of all talk and no action.

In sum, given John's depth of experience in both civil and criminal matters, combined with his demonstrated integrity and professionalism, it is hard for me to imagine a more qualified candidate for the federal district court bench. He will be ready to start on day one. I hope the committee and the full Senate approve his nomination as quickly as possible.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Webber, Jr.', written in a cursive style.

Daniel G. Webber, Jr.



Graydon D. Luthey, Jr.
Direct Line: (918) 595-4821
dluthey@gablelaw.com

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November 3, 2023

By Email

Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: *Nomination of John D. Russell to the United States District Court for the Northern District of Oklahoma*

Dear Chair Durbin and Ranking Member Graham:

I write in support of the nomination of John D. Russell for United States District Judge for the Northern District of Oklahoma. I have known Mr. Russell for several decades. He became my law partner at GableGotwals eight years ago. I helped recruit him to our law firm. I have worked on cases with him.

Mr. Russell is an outstanding lawyer with varied federal court experience. Of all the federal district judges in the Northern and Eastern Districts of Oklahoma before whom I have practiced in the last 43 years, he is uniquely qualified for the federal district bench.

He has been a federal prosecutor and criminal defense counsel appointed and retained in federal district court. He has federal tax litigation experience. He has been lead counsel for plaintiffs and defendants in a wide variety of federal civil litigation. He has handled matters involving federal agencies.

That breadth of his federal litigation practice has allowed Mr. Russell to develop great organizational and analytical skills that are needed by a federal district judge. He examines all sides of an issue. He is highly intelligent, incisive in thought, clear in communication, and

Hon. Richard J. Durbin
Hon. Lindsey O. Graham
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measured in approach. He has the humility, self-control and respect for people that a lifetime judicial appointment requires. His work ethic is stellar.

Mr. Russell has spent his professional career championing and applying the rule of law fairly. He will be impartial. As a law partner of Mr. Russell, I have observed how he interacts with junior lawyers, opposing counsel, firm staff, court personnel, and parties to litigation. He has the necessary temperament for the job. He has the highest character and is devoted to his community, his family and his faith.

Mr. Russell will be an outstanding addition to an outstanding federal bench in the Northern District of Oklahoma. Although I will miss practicing law with him, I highly support his nomination.¹

Sincerely,

Graydon D. Luthey, Jr.

GDL:mda

¹ My views are also informed by my own experience with local federal district judges, which includes having been trained by a lawyer who became Chief Judge of the Northern District of Oklahoma, having been law partners with a now active senior judge of the district, another judge of Northern District, the Chief Judge of the Eastern District of Oklahoma, and having been a supervising lawyer in private practice of the current Chief Judge of the District. I have been lead counsel in matters in all federal district courts in Oklahoma and have argued before the Tenth Circuit and the United States Supreme Court. I have served as President of one of our American Inns of Court and of the local chapter of the Federal Bar Association and am an elected member of the American Law Institute and a Life Fellow of the American Bar Foundation.

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J. Christopher Davis
Direct Tel: (918) 592-9890
Direct Fax: (918) 592-9801

chris.davis@crowedunlevy.com

November 3, 2023

Sarah_Bauer@judiciary-dem.senate.gov
Honorable Richard J. Durbin, Chair
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Ryan_Giles@judiciary-rep.senate.gov
Honorable Lindsey O. Graham, Ranking Member
U.S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

Re: *Nomination of John D. Russell to the United States District Court for the
United States District Judge for the Northern District of Oklahoma*

Dear Chair Durbin and Ranking Member Graham:

I am pleased to write and offer my full support for the nomination of John D. Russell to be a United States District Judge for the Northern District of Oklahoma. He will be a welcome addition to the bench in our venue.

I have been practicing law for 28 years and have known John in a professional capacity for at least half that time. I have consulted with him on cases and even referred two of my clients to him who had been the subject of an investigation by the Oklahoma Securities Commission. I had a front row seat to watch how John handled those matters. He was always well prepared, was able to offer excellent advice to the clients, and he had the knack for engaging the Commission with professionalism and competency, but without appearing obnoxious or petulant. I have never

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November 3, 2023

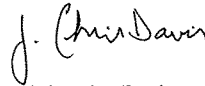
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known John to appear angry, short-tempered, or distressed. He is endowed with ideal judicial temperament. I recently got to know him and his wife much better as he was inducted as a Fellow into the American College of Trial Lawyers in San Diego. My wife and I spent considerable time with them. They are as humble as they are intelligent, and John's wife is fully supportive of his practice and aspirations.

In addition to my own personal comments about him, I can assure you his reputation in the greater Tulsa area legal community and particularly with the local federal bench is impeccable. I am Chairman of our firm's Litigation and Trial Practice Group in our Tulsa office and have served the Northern District of Oklahoma court in many capacities, as a current Adjunct Settlement Conference Judge, as a member of the Local Rules Committee, and as a past member of the Admissions and Grievances Committee. Within those connections and my own practice in federal court, I have become familiar with how well-regarded John is among our local judiciary. My observation is the local bench highly values his service.

I heard someone once refer to John as a true "Lawyer's lawyer". I could see that. When I think of the many potential candidates who could have been put forward, John Russell would be top of my list for this role. I believe you have an outstanding candidate before you. He would serve the people of Oklahoma and all litigants appearing in this venue with exactly the judicial excellence you want for this role. I am happy to be of further service if need be.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Christopher Davis". The signature is fluid and cursive, with the first name "J." and last name "Davis" clearly distinguishable.

J. Christopher Davis
For the Firm

JCD:ajw



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November 5, 2023

The Honorable Richard J. Durbin
Chairman, Judiciary Committee
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Lindsey O. Graham
Ranking Member, Judiciary Committee
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

**Re: Support of GableGotwals Shareholders for the Confirmation of
John D. Russell to the United States District Court for the Northern
District of Oklahoma**

Dear Chairman Durbin and Ranking Member Graham:

We write to express our strongest support for the nomination and confirmation of our colleague John D. Russell to the United States District Court for the Northern District of Oklahoma. We are all shareholders at GableGotwals, where John has practiced law for the last eight years. We sign this letter in our personal capacities. While our backgrounds and political views may differ, we all share the belief that John would be an excellent judge and should be promptly confirmed.

As a lawyer, mentor, leader, and friend, you could not ask for a better colleague than John D. Russell. He has played an integral role in the life and success of our firm over the last eight years, serving on the firm's board of directors, on several key committees, and as lead counsel on some of our largest and most complex cases. He has been a mentor to countless attorneys at the firm, including several of the signatories to this letter. And he has done all of this while consistently being one of the firm's most productive and profitable shareholders.

John's work ethic, analytical abilities, ethical standards, and commitment to justice are second to none. Few attorneys can say that they have risen to the top of their field, particularly in multiple practice areas. John can, having done so in the competitive fields of complex commercial litigation and white-collar criminal defense. A Fellow of the American College of Trial Lawyers, John is one of the most skilled and sought-after attorneys in the state of Oklahoma. And yet, while he could very easily fill his plate doing some of the highest paid legal work in the

Support for Nomination of John D. Russell
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state, John has instead devoted a significant portion of his practice to serving underserved communities through his work representing indigent clients on the Northern District of Oklahoma's Criminal Justice Act Panel. John believes that every person, regardless of income, deserves a fair trial and lives out that ideal every day through his practice. In ways big and small, he exemplifies the very best of our profession.

In sum, we believe John is an ideal candidate for this position. While we will miss having him as our colleague, we know that he will make an exceptional district judge. Our loss is the country's gain. We urge you to confirm his nomination.

Respectfully submitted,

Ellen A. Adams

Jennifer R. Annis

Brandon C. Bickle

Meagen E. W. Burrows

Jeffrey A. Curran

Adam C. Doverspike

E. Talitha Ebrite

Jordan B. Edwards

Grant A. Fitz

Amelia A. Fogleman

Robert J. Getchell

Steven G. Heinen

Andrew J. Hofland

John M. Krattiger

James F. Lea, III

Justin A. Lollman

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Carrie B. McNeer

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Richard B. Noulles

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Jeffrey D. Hassell

Philip D. Hixon

Thomas J. Hutchison

Stephen W. Lake

Lance E. Leffel

Graydon D. Luthey, Jr.

David B. McKinney

Nicholas V. Merkley

Todd A. Nelson

J. Blake Patton

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November 5, 2023
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Leo J. Portman
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Terry L. Watt
Kelsey L. Jennings
Jena L. Williams
Charles C. Callaway, Jr.
Stan Williams II
William H. Whitehill, Jr.

November 6, 2023

Via EMAIL

Honorable Richard J. Durbin, Chair
U. S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

c/o Chairman Durbin's Chief Counsel Sarah Bauer at Sarah.Bauer@judiciary-dem.senate.gov

Honorable Lindsey O. Graham, Ranking Member
U. S. Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

c/o Ranking Member Graham's Chief Counsel Ryan Giles at Ryan.Giles@judiciary-rep.senate.gov

Re: Nomination of John D. Russell to the United States District Court for the Northern District of Oklahoma

Dear Chair Durbin and Ranking Member Graham:

I am writing to offer my wholehearted and unreserved support for the nomination of John Russell to be a United States District Judge for the Northern District of Oklahoma.

I have known Mr. Russell for over 20 years. We were partners while he was at the Fellers Snider law firm and I worked closely with him for six years when we were both appointed to be on the

Honorable Richard J. Durbin, Chair
U. S. Senate Committee on the Judiciary
and
Honorable Lindsey O. Graham, Ranking Member
U. S. Senate Committee on the Judiciary
November 6, 2023
Page 2

firm's governing Executive Committee. I have maintained contact with Mr. Russell since he left Fellers in 2015 and spoke with him most recently last month.

I know firsthand that Mr. Russell's reputation in the legal community as being a skilled attorney is well deserved. I know personally that his character is unimpeachable and that he has shown strong interpersonal skills as part of his leadership role while he was at our firm.

In my opinion, his temperament, thoughtfulness, and intelligence make him ideally suited to sit on the federal bench. Therefore, I endorse Mr. Russell's nomination unequivocally and urge the Senate to give him a swift confirmation.

Sincerely,

A handwritten signature in black ink that reads "Terry L. Watt". The signature is written in a cursive, flowing style.

Terry L. Watt. Ph.D., J.D.
Direct Phone: 918-231-7726

TLW:caw

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November 10, 2023

VIA EMAIL

Honorable Richard J. Durbin, Chair
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

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

Re: *Nomination of John D. Russell to the United States District Court for the
Northern District of Oklahoma*

Dear Chair Durbin and Ranking Member Grassley:

I am writing to offer my full support for the nomination of John D. Russell to be a United States District Judge for the Northern District of Oklahoma.

I have known Mr. Russell personally and professionally for many years. As a former U.S. Attorney and acting Assistant Attorney General in charge of the Criminal Division who has led cases and investigations in many districts and venues across our great country for almost thirty years, I can say without reservation that Mr. Russell is one of the finest lawyers with whom I have the privilege of working. I have worked side-by-side with him in both civil and criminal defense cases. In each, he has exhibited the skills and judgment that will make him an outstanding U.S. District Judge.

Honorable Richard Durbin
Honorable Chuck Grassley
November 10, 2023
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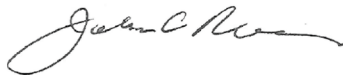
First, he has a mastery of federal procedure, trial, and case management that will translate immediately to the bench. He will bring a full understanding of and appreciation for the role of federal judges in ensuring that our Constitution and laws are faithfully followed and without fear or favor to anyone. Mr. Russell has a wealth of experience and expertise in representing individuals and companies on both the plaintiff's and defendant's side in civil cases. He is very well acquainted with the Northern District not only in representing individuals and companies in civil actions before that court, but also as an adjunct settlement judge appointed voluntarily to mediate disputes for the court. Suffice it to say that should he be so fortunate to be confirmed, he immediately will be able to manage and move a substantial civil docket ensuring that his decisions are made promptly and fairly.

Perhaps most importantly at present for the caseload in the Northern District of Oklahoma, Mr. Russell will be able to hit the ground running on the immense criminal docket facing that district. As a former Assistant U.S. Attorney, Tax Division trial attorney and long-time criminal defense counsel, he lives and breathes criminal procedure, evidence, plea procedure, trial process, and sentencing law. He will bring the experience and wisdom learned from representing the fortunate that has garnered him recognition as a Fellow in the American College of Trial Lawyers by his peers in prominent law firms nationwide. That will be coupled with his immense experience and wisdom gained from his many years representing the less fortunate, particularly indigent defendants in appointed cases in the Northern District of Oklahoma.

Finally, despite his tremendous accomplishments and recognition as a lawyer, Mr. Russell remains humble and friendly to all. He has the perfect temperament to be a federal judge. He is calm, thoughtful, respectful, patient, and wise. He will treat all who come before him impartially and with grace. He will be firm and decisive, thereby moving the cases and disputes in front of him. And he will work incredibly hard -- all to ensure justice is done.

In sum, John D. Russell's nomination has my wholehearted support. I urge the Committee and the full Senate confirm him without delay.

Respectfully,

A handwritten signature in dark ink, appearing to read "John C. Richter". The signature is fluid and cursive, with a long horizontal stroke at the end.

John C. Richter

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Hon. Ann Claire Williams (Ret.)
acwilliams@jonesday.com
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Please reply to:
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November 14, 2023

Via Email

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Via Email

The Honorable Lindsey Graham
Ranking Member
Committee on the Judiciary
United States Senate
Washington, DC 20510

Re: *Nomination of John David Russell to the United States District Court for the Northern District of Oklahoma*

Dear Chairman Durbin and Ranking Member Graham:

The American Bar Association's Standing Committee on the Federal Judiciary has completed its evaluation of the professional qualifications of John David Russell, who has been nominated by the President to the United States District Court for the Northern District of Oklahoma. As you know, the Standing Committee confines its evaluation to the qualities of integrity, professional competence, and judicial temperament. The Standing Committee is of the unanimous opinion that Mr. Russell is **"Well Qualified"** to serve on the United States District Court for the Northern District of Oklahoma.

Very truly yours,

Ann Claire Williams
Hon. Ann Claire Williams (Ret.)
Chair, Standing Committee
on the Federal Judiciary

cc: Stuart F. Delery, Assistant to the President and Counsel
to the President (*via email*)
Lola A. Kingo, Chief Nominations Counsel, Office of Legal Policy,
U.S. Department of Justice (*via email*)
John David Russell (*via email*)
ABA Standing Committee on the Federal Judiciary (*via email*)
Denise A. Cardman, ABA Standing Committee on the Federal Judiciary,
Staff Counsel (*via email*)