

**NOMINATIONS OF ANN C. FISHER,
ASHLEY E. POLING,
CARMEN G. IGUINA GONZALEZ, AND
JOSEPH R. PALMORE**

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

NOMINATIONS OF ANN C. FISHER AND ASHLEY E. POLING
TO BE COMMISSIONERS, POSTAL REGULATORY COMMISSION, AND
CARMEN G. IGUINA GONZALEZ AND JOSEPH R. PALMORE TO BE
ASSOCIATE JUDGES, DISTRICT OF COLUMBIA COURT OF APPEALS

JULY 25, 2024

Available via the World Wide Web: <http://www.govinfo.gov>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

GARY C. PETERS, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	RAND PAUL, Kentucky
MAGGIE HASSAN, New Hampshire	RON JOHNSON, Wisconsin
KYRSTEN SINEMA, Arizona	JAMES LANKFORD, Oklahoma
JACKY ROSEN, Nevada	MITT ROMNEY, Utah
JON OSSOFF, Georgia	RICK SCOTT, Florida
RICHARD BLUMENTHAL, Connecticut	JOSH HAWLEY, Missouri
LAPHONZA BUTLER, California	ROGER MARSHALL, Kansas

DAVID M. WEINBERG, *Staff Director*

CLAUDINE J. BRENNER, *Senior Counsel*

ANNIKA CHRISTENSEN, *Senior Professional Staff Member*

DEVIN M. PARSONS, *Professional Staff Member*

GAURI VERMA, *Research Assistant*

WILLIAM E. HENDERSON III, *Minority Staff Director*

CHRISTINA N. SALAZAR, *Minority Chief Counsel*

ANDREW J. HOPKINS, *Minority Counsel*

LAURA W. KILBRIDE, *Chief Clerk*

ASHLEY A. GONZALEZ, *Hearing Clerk*

CONTENTS

Opening statements:	Page
Senator Carper	1
Senator Peters	12
Senator Butler	17
Senator Marshall	19
Senator Hassan	22
Senator Hawley	25
Senator Rosen	28
Prepared statements:	
Senator Peters	33

WITNESSES

THURSDAY, JULY 25, 2024

Ann C. Fisher, to be Commissioners, Postal Regulatory Commission	
Testimony	3
Prepared statement	34
Biographical and professional information	36
Letter from U.S. Office of Government Ethics	57
Responses to pre-hearing questions	60
Letter of support	82
Ashley E. Poling, to be Commissioners, Postal Regulatory Commission	
Testimony	5
Prepared statement	83
Biographical and professional information	87
Letter from U.S. Office of Government Ethics	109
Responses to pre-hearing questions	112
Letters of support	139
Carmen G. Iguina Gonzalez, to be an Associate Judge, District of Columbia Court of Appeals	
Testimony	7
Prepared statement	141
Biographical and professional information	143
Letters of support	169
Joseph R. Palmore, to be an Associate Judge, District of Columbia Court of Appeals	
Testimony	10
Prepared statement	176
Biographical and professional information	178
Letters of support	211

**NOMINATIONS OF
ANN C. FISHER, ASHLEY E. POLING,
CARMEN G. IGUINA GONZALEZ, AND
JOSEPH R. PALMORE**

THURSDAY, JULY 25, 2024

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10:04 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Gary Peters, Chair of the Committee, presiding.

Present: Senators Peters [presiding], Carper, Hassan, Rosen, Butler, Hawley, and Marshall.

OPENING STATEMENT OF SENATOR CARPER

Senator CARPER [presiding.] Good morning, everyone.

I am Tom Carper. I used to be the Chair of this Committee for a number of years, and privileged to whenever he gets detained, to have a chance to pinch it for a few minutes. Today, we all serve on a bunch of different committees, and he needs to be with meeting his responsibilities in another committee for short. While I think he will rescue you-all from me very soon, but we will get started until he can arrive.

Today, we are considering four nominations, Ann Fisher, and Ashley Poling, to serve as Commissioners on the Postal Regulatory Commission (PRC) for additional terms. Also, Carmen Iguina Gonzalez, and Joseph Palmore to be Associate Judges (AJ) on the District of Columbia Court of Appeals. Welcome to each four nominees. Some of you I have known for a long time. To your friends and family that are sitting back, if you are a friend or family of one of our nominees, would you raise your hand? All right, good. Thank you. If you are a friend or family and you do not want to be identified. [Laughter.]

All right. I do not know, do you have any parents here? Any parents of these kids up here in any event? Parents? Yes. Thank you for raising these young people and providing for them good values and good examples so that they might want to serve our country as they do.

But we welcome all of our nominees and friends and family who have joined us for this hearing today. Congratulations on your nominations, and we thank you for your willingness to serve, to continue to serve in what are important roles.

Postal Regulatory Commission is a bipartisan body, as you may know, that provides independent oversight of the U.S. Postal Service (USPS). Postal Service plays an essential role connecting communities across our Nation, and the PRC plays an essential role in ensuring that the Postal Service is effectively carrying out its public service mandate.

Commissioners Fisher and Poling. Glad to see you back, again. I talked with Senator Collins yesterday. We had the opportunity at a celebration of the life of former Senator Joe Lieberman. Susan and I were there, and a bunch of our colleagues were there. But we talked about you and she said how proud she was of having worked for you—or was it the other way around? [Laughter.]

We are grateful for your work on the Commission, both of you over the last five years. I would add that we are also glad to welcome you back as former Committee staff members.

Turning to our judicial nominees, Ms. Iguina Gonzalez, and Mr. Palmore. The District of Columbia Court of Appeals, serves as the highest State-level appellate court here in our nation's capital. Currently, two of the court's eight associate judge seats are vacant, slowing cases and delaying resolutions for the parties and for the court. We welcome, again, each of you.

Today's hearing is an important opportunity for this Committee to learn more about your qualifications and how you plan to serve in these important roles, and in some cases, how you have already served in these important roles.

My script here says that I am to recognize Senator Paul. He has not yet arrived, and I am sure when he does, he will be recognized and have a opportunity as Ranking Member, senior Republican on the Committee, to speak.

I understand we got to swear in our witnesses. Is that true? I am going to ask the four of you to stand, if you will. Thank you. Are you ready? I am going to ask the four of you to raise your right hand, please. Do you swear that the testimony that you will give before this Committee will be the truth, the whole truth, and nothing but the truth so help you, God?

Ms. FISHER. I do.

Ms. POLING. I do.

Ms. GONZALEZ. I do.

Mr. PALMORE. I do.

Senator CARPER. You may be seated. Thank you. Not every committee for those who are witnesses, guests, not every committee swears their witnesses. But when they have dubious backgrounds and we are not sure of their character, we will have them take the oath, just to be sure. I am kidding.

Our first nominee is a woman who needs no introduction in this room. Ann Fisher nominated for second term as a Commissioner on the Postal Regulatory Commission. She began her tenure as a Commissioner in August 2019, after being confirmed by the Senate by voice vote.

Ms. Fisher has served in the Federal Government for 31 years since the age of 8—is that right? No, that's a typo. During her 12 years on Capitol Hill, she held several senior roles, including Deputy Staff Director of this Committee. She began her tenure at the Postal Regulatory Commission in 2007 as its Chief of Staff, and

later served as the Commission's Director of Public Affairs and Government Relations.

Ms. Fisher is a graduate of the University of South Dakota with a Master of Arts (MA) in economics, and she has a Bachelor of Science (BS) in mathematics from Minnesota State University.

Welcome, Ms. Fisher, you may proceed with your opening remarks. Thank you. Please proceed.

**TESTIMONY OF HON. ANN C. FISHER,¹ COMMISSIONER,
POSTAL REGULATORY COMMISSION**

Ms. FISHER. Thank you, Senator Carper.

I am honored to appear before you today as a nominee for a second term at the Postal Regulatory Commission. I am also very grateful to President Biden and Leader McConnell for nominating me.

Though my family was not able to join me today, I want to thank my husband Dave, and my daughters Dagny and Reagan for their endless love and support. I would also like to thank my parents, Paul and Cathryn Rehfuss of Yankton, South Dakota, who led the way for me as longtime civil servants. My dad as a counselor for the South Dakota Department of Labor, and my mom is a registered nurse for the South Dakota Department of Social Services.

This May marked my 31st year of Federal employment, all but two of those years involving work on postal issues. My career began in the U.S. Senate, working for Senator Larry Pressler of South Dakota. I also had the privilege of working for Senators Thad Cochran of Mississippi and Susan Collins of Maine. It was during my final four years in the Senate that I served as Deputy Staff Director to Chairman Collins on the Homeland Security and Governmental Affairs Committee (HSGAC).

Together, after countless postal reform hearings and endless bill negotiations, we were able to celebrate passage of the Postal Accountability and Enhancement Act of 2006. In 2007, I moved over to the Postal Regulatory Commission to serve as Chief of Staff to then Chairman Dan Blair. I later became the Commission's public affairs and government relations director, and in 2019 I was appointed by President Trump to serve as a commissioner.

Throughout my career, I have always found tremendous value in meeting with postal employees and various stakeholders within their own environment. This past year, I met with plant managers at postal processing and distribution centers (P&DC) in Sioux Falls, South Dakota, and Fargo, North Dakota. I visited with postmasters at post offices in Sioux Falls, Harrisburg and Brookings, South Dakota. Topeka, Kansas and Kansas City, Missouri. In Topeka, I also toured a new style of facility called a local distribution center (LDC).

At each of my stops, the postal employees I met were all very proud and hardworking people, several with decades of experience at the Postal Service under their belt. Most were familiar with the Postal Service's high-profile Delivering for America (DFA) plan and happy to share the benefits of this plan with me. I sensed their hope that the 10-year DFA plan would deliver what has been prom-

¹The prepared statement of Ms. Fisher appears in the Appendix on page 34.

ised; long-sought financial stability for the Postal Service coupled with service excellence.

The facts are that since 2007 the Postal Service has suffered a history of financial net losses while losing 48 percent of its mail volume. Incredibly, despite the Postal Service Reform Act's (PSRA) removal of the Service's \$57 billion liability for past due retiree health benefits, the Postal Service is still left with a net deficit of \$23.1 billion in Fiscal Year (FY) 2023 due to ongoing financial issues.

Together with my fellow Commissioners, I work to foster a vital and efficient universal mail system. During my interview with committee staff in advance of today's hearing, I was asked how the Commission might help the Postal Service become financially stable. I responded that the Commission has the ability to provide the Postal Service with additional rate setting authority, but that alone is not enough to return the Service to a State of financial viability.

Indeed, there are legitimate questions as to the effects of the much-accelerated pace at which the Postal Service is increasing rates, given how much mail volume it has and is being lost. A key aspect of the Postal Service's financial viability is cost containment and management.

While the Commission has no direct role in Postal Service operations, it can provide transparency and analysis to ensure the Postal Service is doing its due diligence and being held accountable. Currently, at the Commission, we have opened dockets aimed at providing transparency into the DFA plan, inefficiencies in the processing of flat-shaped mail, and service performance measurement.

Ultimately, though, the question of whether financial sustainability can be achieved while maintaining high levels of service will depend on sufficient demand for postal products. This is something that posts around the world are facing right now. It is my hope that the Commission's current review of the Postal Service's price elasticity of demand will allow for a better understanding of the issue.

While my statement has focused on postal finances, the Commission also actively monitors, reports on, and makes recommendations regarding Postal Service performance. In certain parts of the country, DFA-related adjustments have caused historic service performance lows. I expect to hear on this issue from Members of the Committee this morning, and welcome any questions you may have for me.

Again, I thank President Biden for nominating me, and I would be honored to continue my role as one member of a team of Commissioners dedicated to ensuring the transparency and accountability of the U.S. Postal Service.

Senator CARPER. Ms. Fisher, thank you for joining us. Thank you for your service for quite a few years now. And both here as a member of our Senate family, and more recently, in serving on the Postal Regulatory Commission.

Next is Ashley Poling, also nominated for a second term on the Commission. We yield to you. Yes, I think you began your tenure as a Commissioner, I want to say it was in August, 2019, after being confirmed by a Senate vote. Previously, you served in several

senior roles in the U.S. Senate, including Director of Governmental Affairs on this Committee.

Ms. Poling received her Juris Doctor (JD) from Elon University School of Law in North Carolina, and her Bachelor of Arts (BA) degree in English from the College of William & Mary, where our youngest son received his bachelor's degree. We have great memories visiting William & Mary there. I remember my staff back in Delaware, has just been admitted to law school there. The bond there that continues to tighten. Wonderful place to get an education.

Welcome, Ms. Poling, you may proceed with your opening remarks. Thank you for joining us, and thank you for your years of service. You are recognized.

TESTIMONY OF ASHLEY E. POLING,¹ COMMISSIONER, POSTAL REGULATORY COMMISSION

Ms. POLING. Thank you, Senator Carper.

I am also going to say thank you to Chair Peters and Ranking Member Paul, who will probably be joining us later, as well as the other Honorable Members of the Committee. Thank you for inviting me here today to discuss my nomination for a second term as a Commissioner on the United States Postal Regulatory Commission. I would like to thank President Biden and his administration for placing their confidence in me, and I am honored to be here.

I would also like to recognize my incredible support system of family, friends, mentors, and team members who are either here today, in person, or who are watching from all over the country. My parents, Lindy, and Barclay, led incredible careers of their own as public servants, and they have taught me everything I know about doing all that I can to make a difference in the world through their amazing guidance.

I am also particularly grateful for the powerful female friendships in my life, and thank those extraordinary women for their unshakeable support. All of you have made a powerful difference in helping to shape the person I am today.

Finally, I would like to thank the hardworking men and women of the United States Postal Service for their remarkable work in maintaining this essential public service. The Postal Service is a critical piece of national infrastructure and an important lifeline to individual customers and small businesses in all areas of our country that use it to conduct financial transactions, vote in local and national elections, receive essential medical items, and buildup their home businesses.

This organization visits every American address six days per week, and has existed since the time of the Founding Fathers. Yet, in the last several years, the confidence of the American people in their public Postal Service has begun to slip. In 2021, the Postal Service lengthened service standards for a portion of mail and packages, despite having more time to deliver the mail. Service performance began declining in 2023 and has continued its decline this year.

¹The prepared statement of Ms. Poling appears in the Appendix on page 83.

During my first term as a Commissioner, I worked diligently with my colleagues on a variety of initiatives intended to help the mailing community, members of the public, and Congress, better understand why service performance often did not meet their expectations. I believe transparency and accountability in this area is now more essential than ever.

It is important to explain why service is so significant to me, personally. Before coming to the Commission, I worked on postal policy for United States Senators representing rural America. Much of what I learned about the importance of the Postal Service in rural communities came from my time on the ground in the States of Montana, North Dakota, and Michigan, talking to constituents about how much they rely on Postal Services, including access to their local post office. For that reason, I have also been committed to helping resolve issues with suspended post offices.

While some post offices are suspended due to extreme weather events or safety issues, and reopened fairly quickly, others remain in the purgatory of suspended status for years or even decades. While the Commission does not have any direct authority over post office suspensions, my colleagues and I have provided substantial transparency regarding this issue through our annual compliance determination.

If confirmed for a second term, I will commit to continuing to hold the Postal Service accountable for resolving post office suspensions in a timely manner and in accordance with the law.

Despite the ongoing decline in mail volume, the Postal Service delivers nearly half of the world's mail. Total mail and package volume remains in the billions of pieces every year, and the postal stakeholder community continues to be strong, accounting for over \$1 trillion of commerce.

I would be remiss if I did not mention the important role that the Commission plays in giving a voice to Americans' concerns about the future of this essential public service. Frequent engagement with the whole postal community remains crucial.

I would also like to express my belief in the importance of collaboration and bipartisanship in creating and enforcing effective postal regulation. As I am sure all of the Committee Members here know, there is no Republican or Democratic way to deliver the mail. I pledge to continue working with my colleagues in a bipartisan fashion to provide critical oversight of the Postal Service for the benefit of all Americans.

We stand at a meaningful moment in postal history as the Postal Service pursues extensive nationwide reforms to its network and operations. It is critical that the Commission hold the Postal Service accountable for meeting its statutory obligations. Throughout these changes, including maintaining high quality service, there is no more important time than now for a strong and engaged postal regulator.

While my colleagues and I have accomplished a lot during the last five years, there are still substantial changes left to meet and much work to be done to preserve the vital institution that is the United States Postal Service.

I thank you for your time and for considering my nomination. I look forward to answering any questions you may have.

Senator CARPER. Thanks, Ms. Poling. We have been joined by the real Chair of this Committee, Senator Peters. Before I turn the gavel back over to him, I want to thank you both for your presence today and for your service on the Commission.

People say to me, why I have always been really interested in the Postal Service. As the last Vietnam Veteran serving the U.S. Senate, and I remember three tours over there, and the best day of the week was the day the mail came. For my colleagues and me, then it was important for those men and women who are serving in uniform today around the world. They still get mail and they said it's a great lifeline.

I think we are going to turn next to Carmen Iguina Gonzalez. Ms. Gonzalez is currently counsel at Kaplan Hecker & Fink LLP, where she handles complex civil litigation and appellate matters. In addition to maintaining pro bono practice representing individuals in nonprofit organizations, she also serves as Director of the Howard University School of Law Civil Rights Clinic.

Previously, Ms. Iguina Gonzalez served as a senior staff attorney for the American Civil Liberties Union (ACLU) Immigrants' Rights Project. Earlier in her legal career, I am told she worked for the law firm, Jones Day, and for the ACLU of Southern California. Ms. Gonzalez also earned her BA magna cum laude from Harvard University, and her JD magna cum laude from New York University School of Law.

That's pretty impressive. When I was in grad school, I could barely spell those words, or I just pronounce them. But very impressive credentials after law school. She clerked for Judge Kiyo Matsumoto, on U.S. District Court for the Eastern District of New York, and for Judge Steven Reinhardt on the United States Court of Appeals for the Ninth Circuit, and Justice Sonia Sotomayor—never heard of her—on the Supreme Court of the United States.

But we welcome you, Ms. Iguina Gonzalez. You may proceed with your opening remarks.

**TESTIMONY OF CARMEN G. IGUINA GONZALEZ,¹ COUNSEL,
KAPLAN HECKER & FINK LLP**

Ms. GONZALEZ. Thank you, Senator Carper.

Good morning. I am honored and humbled to appear before you today as you consider my nomination to be an associate judge of the District of Columbia Court of Appeals. I thank you for holding this hearing.

I also wish to thank the District of Columbia Judicial Nomination Commission and its chair, the Honorable Marie Johns for recommending me to the White House. I thank President Joseph Biden for nominating me.

I also wish to take a moment to thank the chief judge and the associate judges of the District of Columbia Court of Appeals, who are actually here today, for being so generous with their time.

Senator CARPER. Would they raise their hands? Have them raise their hands. All right. Back in the cheap seats. [Laughter.]

Go ahead.

¹The prepared statement of Ms. Gonzalez appears in the Appendix on page 141.

Ms. GONZALEZ. For being so generous with their time throughout this process.

I am the person and the lawyer I am today because of the people in my life who have supported me along the way, and I want to take a moment to acknowledge them. First, I want to thank my husband, Jason Alcorn, who has been my best friend and partner for over 20 years.

For your love and constant encouragement. I can never thank you enough. To my children, *mis nenes*, Lucas and Gabriela, who are here as well—

Senator CARPER. Would you ask them to raise their hands? How old are they?

Ms. GONZALEZ. Nine and four.

Senator CARPER. Oh, good. Welcome.

Ms. GONZALEZ. You fill my days with joy and laughter. It is the greatest privilege of my life to be your mom, and I am so proud to have you here with me today.

Next, I wish to thank my parents, Dr. Luis Iguina and Dr. Gloria Gonzalez, who traveled from Puerto Rico to be here.

Senator CARPER. Would you ask them to raise your hands. Bienvenido.

Mrs. GONZALEZ. Gracias.

Ms. GONZALEZ. For over 40 years, my father worked as a doctor at the San Juan VA Medical Center—

Senator CARPER. The VA Center.

Ms. GONZALEZ. The VA Center.

Senator CARPER. Good for you. Thank you for your service.

Ms. GONZALEZ. Caring U.S. veterans in Puerto Rico, and my mother's own medical career was dedicated to caring for children. Thank you both for instilling in me the values of hard work and dedication to family.

To my siblings, Antonio, and Elena, one of whom is also here.

Thank you both for being the best cheerleader a little sister could ever have. To my husband's parents, the Reverend Dr. Paul and Shodie Alcorn, you exemplify a life centered around faith and service. And to my extended family in Puerto Rico, Georgia, Pennsylvania, and Maine, and my friends and colleagues all over the country, thank you for your unconditional love and support.

As I sit here today, my mind is on my grandmother, who raised three children on her own, and worked her way through law school by attending classes at night. As a young girl, I sat by her side in her small office and watched as she helped her neighbors. I learned from my grandmother that to practice law is a privilege, and to serve our community is the highest calling. Those values have led me throughout my career and have been shared by so many of the wonderful lawyers I have had the privilege to work for and with.

I had the great privilege to serve as a law clerk for three remarkable jurists. Judge Kiyō Matsumoto, the late Judge Steven Reinhardt, and Justice Sonia Sotomayor. Each in their own ways, taught me what it means to be dedicated to the fair and impartial administration of the law, and committed to that vital promise engraved over the entrance of the Supreme Court, "Equal Justice Under Law." If I am fortunate enough to be confirmed, I very much

look forward to upholding those values as an associate judge on the District of Columbia Court of Appeals.

My own career in the law has been broad. In addition to my clerkships, I have worked in small and large nonprofit organizations and law firms, and taught at a large Midwest public university and a private historically black colleges and universities (HBCU) here in D.C. These experiences have afforded me extraordinary opportunities to work on matters, presenting questions about corporate law, statutory construction, administrative law, criminal law, and more.

Each opportunity has fueled my love for the law and my respect for the institutions charged with upholding it, which now in turn fuels my passion for judicial service. I wish to serve as an associate judge on the District of Columbia Court of Appeals to serve the community of Washington, DC.

I carry with me the lessons of my grandmother helping her neighbors, my parents caring for those who most needed care, and the judges that I have worked for. I became a lawyer because I wanted to be of service. Courts are integral to that work, not only because of their role in maintaining the rule of law, but also in ensuring that every person who walks through the courthouse doors is treated fairly and with dignity. It would be an honor to serve the District of Columbia in that vital role.

Thank you, again, for the opportunity to appear before you today, and I look forward to your questions.

Senator CARPER. Thank you. Thanks for the folks you have mentioned; grandmother, other members of your family, other folks that you have worked for work with who have helped prepare you for this moment.

I used to be Governor Delaware, and as Governor, I was privileged to nominate people to serve on a variety of courts, including court of chancery, which has an international reputation, supreme court, and others. I know how important the role of the judiciary is in our State, and certainly here the district.

For too long, the seats have not been filled, and not been filled properly. They have been, in some cases, left vacant for not just months, but years, which I think is shameful. The Senate has a responsibility to meet, all of Democrats and Republicans and to fill these seats, get with confirmed folks in all.

We have been joined here by Senator from California, Senator Butler, who's just returned from a bipartisan bicameral Congressional Delegation (CODEL) trip to Mexico, where she met with the President of Mexico, and the newly elected President-elect in Mexico. A woman that would be a first, and who's actually Jewish. That would be a first, and Senator Butler, how was that CODEL?

Senator BUTLER. It was an incredibly enlightening experience. I had a wonderful time learning from the leaders of Mexico and spending time with our U.S. Ambassador, former Senator Ken Salazar. I think the partnership that we can build between the leaders of both countries targeting the root causes of migration, and working together on issues of border security are all great opportunities in front of us. Thank you for leading the CODEL, Senator.

Senator CARPER. It was great. We will do it again. Maybe the next time we will actually make it to Columbia, where we are flying military air with and the Army's providing military air support of our congressional delegation. 11 of us and some staff. We made it as far as the first part of our journey, which was to meet with the leadership of Mexico, one of our strongest partners in our most valuable relationships.

The airplane that flew us down to Mexico was downed and could not make it to Columbia, and so, we had to cut short. It's like a day, night double-header. We made it to the first part of the double header where we will have to go back to Columbia some other time. But thanks for being a big part of that and building an even stronger relationship.

Senator Peters is going to be joining us short shortly. But before he does, I think we may get to hear from our final nominee, and that's Joseph Palmore, and he's nominated to be Associate Judge on the District of Columbia Court of Appeals.

Mr. Palmore is currently a partner at the law firm of Morrison Forster, LLP, where he co-chairs the firm's appellate and Supreme Court practice. Previously, Mr. Palmore served as an assistant to the Solicitor General of the United States Department of Justice (DOJ) and held senior legal positions at the Federal Communications Commission (FCC).

He received his AB magna cum laude—some smart people here at this table—and he went on to receive his AB magna cum laude from Harvard, and a JD and MA from the University of Virginia. After law school, Mr. Palmore served as a law clerk for Judge John Gleeson on the U.S. District Court for the Eastern District of New York, Judge Dennis Jacobs on the U.S. Court of Appeals for the Second Circuit, and Justice Ruth Bader Ginsburg on the U.S. Supreme Court.

Welcome Mr. Palmore. Good to see you, and your family, and other guests. You may proceed with your opening remarks.

**TESTIMONY OF JOSEPH R. PALMORE,¹ PARTNER, MORRISON
FOERSTER**

Mr. PALMORE: Thank you, Senator Carper.

I am honored to appear before you today as you consider my nomination to be an associate judge on the District of Columbia Court of Appeals. I thank you and your staff for holding the hearing.

I also want to thank the District of Columbia Judicial Nomination Commission and its chair, the Honorable Marie Johns for recommending me to the White House. I want to thank the chief judge of the court and the judges of the court for being so welcoming through this process, and for coming today. I am also grateful to President Biden for nominating me.

I would like to take a moment to acknowledge some important people in my life, several of whom are here today. I cannot be more fortunate to be married to Dr. Tara Palmore. I would not be sitting here before you today without Tara's steadfast support and encouragement.

¹The prepared statement of Mr. Palmore appears in the Appendix on page 176.

Senator CARPER. Now, would you ask her to raise her hand? Welcome. How are you? Thanks for your willingness to share this with all of us, the people of the District of Columbia.

Mr. PALMORE. We have three sons, two of whom are here today.

Senator CARPER. Would they raise their hands?

Mr. PALMORE. Yes. Simon and Teddy are here.

Charlie is away at summer camp, so could not make it. All right. All three of them make me proud every day.

Senator CARPER. We have three sons as well. People ask me what I am proudest of in my life, and I always say, raising three boys, with a big assist from their mom.

Mr. PALMORE. My mother, Sandra Palmore, is also here today.

Her status is my biggest fan. Gave me the confidence to become the first lawyer in our family. She also taught me the importance of education. She was not able to complete her college education right out of high school because her family couldn't afford it. But she went back to school at night when I was a boy. Attending my own mother's college graduation at the University of Texas at San Antonio is one of my proudest childhood memories.

My father, Russell Palmore, passed away on December 28, 2023. Just as the Judicial nomination Commission process was beginning. Despite the loss, I decided to proceed because I knew that's what my dad would have wanted. He was immensely proud of my professional accomplishments and told me over the years he thought I should consider becoming a judge.

I have been an appellate litigator for more than 20 years. I served as Deputy General Counsel of the Federal Communications Commission, where I oversaw all litigation involving the agency. I then served as an assistant to the Solicitor General, where I had the honor of representing the United States before the Supreme Court. My docket was diverse, and split between civil and criminal cases.

For the last nearly 10 years, I have served as co-chair of the Appellate and Supreme Court practice at Morrison Foerster. I have represented clients in Federal and State appeals all over the country. I have also engaged in substantial pro bono work, and now chair of the firm's pro bono committee.

I would like to finish my remarks by noting where my legal career started by clerking for Judge Dennis Jacobs on the Second Circuit Court of appeals, for John Gleeson on the Eastern District of New York, and for the Honorable Ruth Bader Ginsburg on the United States Supreme Court. They modeled for me what it is to be an excellent judge, hard work, fidelity to precedent, mastery of the factual record, respect for all parties, timely decisionmaking, and clearly written opinions.

I have lived in the District of Columbia for more than 20 years and raised my family here. I love this city and its people. With your advice and consent, it would be an honor for me to return to public service in a new role as an associate judge on the District of Columbia Court of Appeals.

Thank you for the opportunity to appear here today, and I welcome your questions.

Senator CARPER. Yes, you bet. Thanks for that testimony. We have been rejoined by our Chair of the Committee. Before I turn

it over, Senator Marshall, welcome. Glad that that you could join us to today.

Again, I just to say to you and to Ms. Iguina Gonzalez, how important I think it is to fill these vacancies on the bench. I mentioned earlier, Mr. Chair, that in our State, and I know in the State of Michigan, the Governors are very much involved in nominating people. Those nominees, nominations never come before the Congress. So, folks get nominated, goes to the approval process in Michigan, Delaware, or wherever, and folks serve on the bench. To have vacancies that may be not just months, but in some cases years to that have been filled, that justice delayed is justice denied.

We can do a better job. We need to do a better job. I want to applaud this man right here and his staff. We are making sure that we do something about it. Not just talk about it, but actually do something about it. Thank you.

With that, I am happy to turn the gavel back over. Thank you for letting me return to my previous glory as the Chair of the Committee on Homeland Security and Governmental Affairs. Good luck, everybody. I leave you in very good hands. Thank you.

OPENING STATEMENT OF SENATOR PETERS¹

Chairman PETERS [presiding.] Thank you, Senator Carper. Thank you for doing an amazing job. You have done this before, clearly not your first rodeo. Thank you for helping out. You can tell it's a crazy day. We are running around, all of our Members are trying to multitask. Sometimes that goes better than other times. So, appreciate your indulgence.

There are three questions the Committee asks of every nominee. I am going to ask each of you to respond briefly with a yes or no. We are going to start with Ms. Fisher. We will work down the dais there. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. FISHER. No.

Ms. POLING. No.

Ms. GONZALEZ. No, Senator.

Mr. PALMORE. No, Senator.

Chairman PETERS. Second, do you know of anything personal or otherwise that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Ms. FISHER. No.

Ms. POLING. No.

Ms. GONZALEZ. No, Senator.

Mr. PALMORE. No, Senator.

Chairman PETERS. Last, do you agree, without reservation, to comply with any request or summons to appear and testify before any duly constituted Committee of Congress, if you are confirmed?

Ms. FISHER. Yes.

Ms. POLING. Yes.

Ms. GONZALEZ. Yes, Senator.

Mr. PALMORE. Yes, Senator.

¹The prepared statement of Senator Peters appears in the Appendix on page 33.

Chairman PETERS. Very good.

My first question—and Commissioner Poling, by the way, welcome back to the Committee from your extensive experience here. This is not an unfamiliar place for you to be. My first questions for you, as well as Commissioner Fisher, the Postal Regulatory Commission plays a critical role in conducting oversight of the Postal Service, including prices, on-time delivery service, and whether the Postal Service is providing prompt, reliable, and efficient services to every community across our country and to every address across our country as well.

My question for both of you is what steps have you taken to ensure the Postal Service maintains a high level of service and accountability for customers? If confirmed for a second term, how would you continue to ensure the Commission acts as a stronger regulator in conducting oversight for the Postal Service? For this one, I will start with you Ms. Fisher and Ms. Poling after that. OK, Ms. Fisher.

Ms. FISHER. Thank you, Chair Peters. The Commission, while it cannot force the Postal Service to make its service better, we certainly can provide an extensive amount of oversight and transparency in this area. We do, on an annual basis, collect their service performance information from across the country, and make that public, and make recommendations as to how we believe they could improve upon it via our annual compliance determination.

We also collect and report on quarterly data, and most recently, weekly data according to the Postal Services' own website. But what we are doing now that I believe is most important is we have opened a docket to look at how they measure their service performance. This is an area where we can do something. We are in the beginning of examining the extent to which their numbers are accurate, reliable, and representative of the system as a whole.

The DFA has made significant changes to the way the Postal Service transports the mail, moving it around the times of delivery, and we believe that the service measurement system may not be as accurate as it had been previously.

The docket is just in the early stages. If we get to a point where I believe we find that it is not representative of the system as a whole, we could ask for modifications to the way that they measure the service performance. I am committed to staying on top of this services of paramount importance to Members of Congress, and it has not been where it needs to be.

Chairman PETERS. Very good. Thank you. Ms. Poling.

Ms. POLING. Thank you, Mr. Chair. It's good to see you, to be back here in the Senate. Yes, so I guess where I would start is, first of all, I know that there has been a lot of frustration from you—all on the Committee with the level of service that has been occurring since 2023. I really do appreciate that and understand it having worked for Senators from rural America on my time with the Committee, and also just understanding that you need to go back to your constituents and be able to tell them where their mail is.

I would say a few things that I think the Commission has been doing really well particularly on the service front. We do have limited authorities, but I think we are doing as much as we can with what we have. In April 2023, we opened a Delivering for America

public inquiry (PI) docket. In that docket, that's where we are able to examine the scope of what the Postal Service is doing through this plan. As mentioned earlier, this is one of the most extensive changes we have ever seen to the transportation of mail and packages around the country. So, oversight and transparency is critical.

We have opened that docket, we have asked a series of questions through it. Something, I think, that's really innovative that the Commission has done more recently is we actually issued our first show cause order for an advisory opinion. We have never done that before in the Commission's history. In that order, we were asking the Postal Service to either submit an advisory opinion to us.

Just to clarify what that is, whenever there's a nationwide or substantially nationwide change in service, the Postal Service is supposed to submit one of those to us at the Commission for our review. When we filed the show cause order, we gave the Postal Service a period of time to get back to us and neither file one or to tell us why they were not filing one.

Unfortunately, they did not file one. I am hopeful they still will. I know that is something that is still being talked about, but I actually do believe that that advisory opinion process would be the best way for us to continue our service oversight over the Postal Service. I think it will really provide, I think, an ability to have an independent neutral analysis of what is going on with this plan. We really need to understand what's happening with it, and I really believe that we can do a thorough job with our team of experts at the Commission.

You also asked, Mr. Chair, about what would we do in the future as a regulator? I think, we have a lot on our plates. We are trying to do more and more with data and transparency. I am really excited about some of the dashboards we have at the Commission that we have been working on since coming to the Commission and appreciating in my former role as a congressional staffer, how important accessible reports are.

I have worked especially on bringing more mapping and things like that to our reports and making sure infographics are more understandable and just really making sure that people can really take away something in a few minutes from something they are seeing on our website.

In addition, you talked about rate-making. That's a huge part of what we do. Everyone has heard in the postal community and has been talking about the number of rate increases and how they have been going up. We have heard a lot from the mailing stakeholder community. I can tell you we talk to them often.

That is actually one of one of the biggest reasons why I have very much supported us opening our review of the market-dominant rate-making system two years early. That was a unanimous decision by the Commission, and I think we are all looking forward to examining that. We actually just received our first public comments in that docket. In addition, the Postal Service continues to have volume losses and to have significant financial problems. I really think this will be a good opportunity for us at the Commission. Thank you.

Chairman PETERS. Thank you. Senator Carper, you are recognized for your questions.

Senator CARPER. Yes, thanks very much.

I mentioned earlier I am the last Vietnam Veteran serving in the U.S. Senate, and kind of relates to my great affection and interest in the postal issues. We used to fly 12-hour missions. We fly them off to the coast of Vietnam and Cambodia. At the end of the missions, we come back, debrief, and my crew, 13-man crew, oftentimes had dinner together at an outdoor cafe on the base where we were located. They had Armed Forces Radio piped in on the speakers so we could actually hear music from America.

One of the groups that was pretty big at the time, it was a British group, I think, called Led Zeppelin. I think they had a very successful album called The Song Remains the Same. I am channeling that song as I sit here with the Postal Service. The Song Remains the Same. Senator Peters and I have worked for years along with members of our staff, along with you, trying to make sure that we have a Postal Service one that we can be proud of that provides not just mail services for folks that are deployed around the world in our armed forces, to meet the services for our constituents, and across the country.

One of the things that we do, every one of us in the Senate, in the House as well, we all have constituent services operations. As you know, we take a lot of pride in our constituent services operation. We actually send out a survey at the beginning of every month to constituents who contacted my offices in Delaware and ask them about the quality of the service they are getting. It could be from the VA, it could be the Department of Transportation, could be in Postal Service.

The Postal Service usually leads the hit parade in unhappiness that we measure from our constituents in terms of folks that are reaching out to us by phone, by mail, by email, to say that the service is not what it should be. We have worked on legislation to try to help to try to stabilize the operation of the Postal Service and their finances.

We are still facing a situation where the quality of service is evaluated by people who contact my office every month. The quality of service, is not getting better. In many cases, getting worse. We find that we are losing money more, maybe more than ever. That's not a good combination.

It's not all on the Postal Service. It's not all on the people who work there. It's not all on the Commission. It's not all on us on this Committee. But we have to find a way to a better place for the people we serve, and frankly, for the people who work for the Postal Service.

But with that having been said, could both of you Ms. Fisher, Ms. Poling, could you share your insights on strategies of the Commission could adopt to generally improve the financial stability of the Postal Service? How do you envision pushing for innovation and improvements in efficiency within the current regulatory framework to help the Postal Service better serve its customers? Please, Ms. Fisher, would you go first?

Ms. FISHER. I don't know that we could, alone, improve the financial viability of the Postal Service. You laid out what is the significant problem. Their volume continues to decline both in the market-dominant and competitive area. Market-dominant volume has

been decreasing steadily for several years, and this past year, at nine percent decrease. It never rebounded fully from Coronavirus Disease 2019 (COVID-19). Competitive had been growing, but this past year it decreased by two percent, despite the relief of a \$57 billion liability that the PSRA accomplished, which many, I think thought would be a big piece of solving the Postal Services financial problems. They still have a tremendous amount of unfunded liabilities; a huge loan from the Federal financing bank, workers' compensation, and continued serves and FURS liabilities.

We can assist them to a small degree through rate authority, but much of the rest depends upon the public's desire for their product. As I just laid out, that's waning. I wonder if it's time to potentially revisit the entire business model of the Postal Service. That's something the Commission made several recommendations to the Congress several years ago.

It's a tough nut to crack. You need to try and discern what the public truly wants and needs from their Postal Service. A lot of different countries are looking at this right now. Some are considering days of delivery. Some are considering lowering service standards. I am not saying that's the answer here. Lowered service standards certainly does not seem to be what the American public wants, but these are things that it may be time to revisit.

Senator CARPER. OK. Thanks very much. Ms. Poling, take about a minute and respond, and then I am going to say one other thing and turn it back over to our Chair. Go ahead just one minute, please.

Ms. POLING. Thank you, Senator Carper.

Senator CARPER. I will ask you to respond in greater length in responses for the record. Go ahead.

Ms. POLING. OK. That sounds good. Thank you so much. I will just quickly say then, I think when you ask primarily about financial stability of the Postal Service. I think the greatest way that the Commission can have an impact on that is probably through our rate-making authority. I mentioned earlier that we have opened our review of the rate-making system two years earlier.

I really do think the goal of the system is really to find ways, right, to find this balance between keeping the Postal Service self-sustaining and also finding incentives to reduce cost. I think that's something we will be able to examine in greater length as we go into this new rate-making review.

I also think it's important to say that in our recent rate or rate order that we put out, we actually did put in there that we do believe the Board of Governors should exercise their discretion when they are raising these rates. I do believe this system will give us a chance to really look at this in greater detail. But that is something that we have said.

Again, I think one thing that is a real benefit of this enacted system from 2021, the one we are currently under, is that we do have the ability to revisit it every five years, if not earlier. I think that's something we are doing right now.

The last thing I will say is we do have a financial report of the Commission where we are really able to examine the revenue and costs of the Commission on an annual basis. I will be happy to give you even more in my questions for the record. Thank you.

Senator CARPER. Before I turn the gavel back over to our Chair, before he pulls it out of my hand, one of the things we have tried to do for years to find, how the Postal Services is the only entity in the country that goes to, basically, every door, every post box in the country at least five, six days a week. How do we take that and make that part of the business model that actually generates enough revenues to be sustaining?

One of the things that we hear from time to time is vote by mail. Some States, they have a fair amount of vote by mail, in other cases not so much. I felt forever that there's actually revenues opportunities for the Postal Service through vote by mail. Frankly, hopefully at the same time, we will get more people to vote. That would be a good combination; vote by mail, increase revenues of the Postal Service, and make sure more people are reading the constitutional responsibilities as citizens.

With that, I return it to the Chair. Thank you so much for letting me sit in your seat for a while. Thanks.

Chairman PETERS. Thank you, Senator Carper, as always. Senator Butler, you are recognized for your questions.

OPENING STATEMENT OF SENATOR BUTLER

Senator BUTLER. Thank you, Mr. Chair.

Let me take the first minute because I do think there's a little bit of a pattern that you are going to see in our questioning from the Committee. To me, it's just at the top of my remarks, just congratulate Ms. Gonzalez and Mr. Palmore, their families their friends. None of us get in this room by ourselves, and to just know that you all are being supported both physically here in person and also virtually online. Maybe your son is thinking about you at summer camp. If he's anything like my daughter, probably not. But just congratulations to you all.

Congratulations on your nominations by the President. Thank you for your service that has earned you that nomination. You hopefully, if confirmed, will be up an incredibly important part of the judicial system in one of the busiest, most backlogged communities in the country. Your service is definitely in high demand and needed definitely. Appreciate it, and seeing here even if you don't get a lot of questions directed your way. With that, I will turn my questions back to the conversation at hand.

The Postal Service, as you all, you both know, Ms. Fisher and Ms. Poling, it is one of the most present ways in which our government shows up at the door of our constituents. Though for States like mine, California, who today are experiencing thousands of acres on fire, it is an incredibly important service and lifeline for so many. When Postmaster DeJoy was here just a few months ago, he and I had an exchange about a number of post offices in my State that have been closed for several reasons. Nevertheless, it has been in some instances years since those post offices have been reopened. It remains a critical, important point of conversation for me in a way in which I can serve my constituents.

I am trying to get to really quickly, both of you have been serving on the PRC. What I would love to hear about is what have you been doing to ensure that the needs of rural Americans have been considered in the plan and execution of the strategy that Mr.

DeJoy, and the leadership of the postmaster general, have been deploying to ensure that those communities aren't overlooked.

People think about California as this big urban place. It is one of the most diverse States in the country relative to language as well as geography. And so, talk to me about your service up till now focused on rural communities. I am happy to start, Ms. Poling, with you this time.

Ms. POLING. Thank you so much, Senator Butler. Appreciate the question. Rural America is near and dear to my heart. When I was working here on the Committee, I actually worked for Senators from North Dakota and Montana, Senator Heidi Heitkamp and Senator Jon Tester. I have spent a lot of time out in those States really connecting with constituents and understanding what it is that they are dealing with.

The post office matters everywhere. I always think that's important to say, but there is a special connection in rural America that is different, I think, and it really is such a central part of those communities. Rural America has been front of mind for me ever since starting at the Commission because it was a huge part of my work here in the Senate for those Senators.

I think, service is something I have talked about a little bit today with what we are doing with our public inquiry docket on the Delivering for America plan, making sure we are asking questions where we can. There, I already mentioned, I think, an advisory opinion does need to be filed, and I think that gives us a chance to really assess what is going on all over the country, especially in rural America, to your point.

But in terms of something I think personally that I have done at the Commission, specifically related to rural America several years ago, the Postal Service length and service standards for portions of First-Class Mail and periodicals, I supported unanimous advisory opinion for the Commission. But I did provide an additional commentary, and I provided that commentary because the Postal Service did not reach out to examine the impact that this lengthening of service standards would have on rural Americans. They also did not look at how it would impact the elderly or low-income Americans.

I wrote a separate statement about that and saying that that was something I really felt had to be looked at. That's something that still concerns me to this day. We have to understand what's going on in these different communities. I can tell you that I will remain dedicated to this. I really hope we have the opportunity to assess what's going on in this plan through an advisory opinion. I really think the Commission can contribute greatly to your understanding of what's going on in California, but all over the country.

Senator BUTLER. Thank, Ms. Poling. Ms. Fisher.

Ms. FISHER. I agree with you. Every State has a rural part of the State or multiple rural parts of the State, including California. I have visited over the course of my career, a number of different places, small town in Wyoming that was served just maybe three times a week because of the level of rural it was.

When I worked for Senator Collins, there were people who lived on islands and received mail somewhat sporadically by boat. I traveled with my family down into the Grand Canyon once we were

backpacking, and I saw donkeys carrying mail down to the base of Grand Canyon.

The Postal Service makes it happen, but I am concerned as the Postal Service evolves and under the Delivering for America plan. That not enough attention is being paid to how that plan may impact the most remote areas of the country.

They have a new service called local transportation optimization, which has changed the amount of times that the postal trucks will visit the different post offices. The further out a post office is, the less it may be visited and have the mail picked up or delivered. That would directly impact the rural citizens.

I think your concern on behalf of your own constituents, but every member who has rural citizens, has the right to be concerned. They are the ones in the most rural areas who are most reliant upon the Postal Service. They may not have an Amazon delivery driver, the United Parcel Service (UPS), or Federal Express (FedEx) stopping by on a regular basis. That's a heart for me as someone who grew up in South Dakota is very aware of rural needs of citizens. I keep my eye on this, and I am committed to continuing to doing so.

Senator BUTLER. Thank you, Mr. Chair.

Chairman PETERS. Thank you, Senator Butler. Senator Marshall, you are recognized for your questions.

OPENING STATEMENT OF SENATOR MARSHALL

Senator MARSHALL. Thank you, Mr. Chair.

We will start with Ms. Poling. This is your second term, I believe. Over the last four years, Congress has given USPS \$120 billion. How much money will we lose this year and what's the projection for the fiscal year right now?

Ms. POLING. I appreciate the question. I think probably the best people to ask that question is the Postal Service. I want to make sure I get you the right number. We lost \$6.5 billion dollars last year, the Postal Service, which is very concerning.

Senator MARSHALL. Why wouldn't I ask you that question? Do you feel like that's not a fair question?

Ms. POLING. No, I just want to make sure I am getting you the right information. If that's OK, Senator, I would love to get back to you on that.

Senator MARSHALL. OK. What's the fiscal projection for this year of losses?

Ms. POLING. I think we are already at about \$4.5 billion right now.

Senator MARSHALL. Do they present a budget to the Commissioners and then you go through it once a month, item by item?

Ms. POLING. That's a really good question. That is not how the process works currently. As you know, from the PSRA, our budget process changed at the Commission. We actually are right now in the throes of our budget as it stands. We present that budget to the Board of Governors, and that's how we work on our budget for the Commission. But no, they do not present us with a budget every month. We do meet quarterly with the postmaster general.

Senator MARSHALL. They go through the budget then?

Ms. POLING. They do give us basic updates then. Yes.

Senator MARSHALL. Basic?

Ms. POLING. Yes.

Senator MARSHALL. I have never been a part of a board where I did not feel responsibility for that budget and going through it month by month, but that's not—I get it. What is the overall customer satisfaction in the Postal Services the past three or four years? What's the trend?

Ms. POLING. I would say in terms of satisfaction, I think it's been very frustrating these past few years.

Senator MARSHALL. It's the wrong direction?

Ms. POLING. Yes.

Senator MARSHALL. Do you all review the patient—I am a doctor, the customer satisfaction—

Ms. POLING. It's OK. I understand.

We do. We actually have a customer experience metric. We have a report that examines service performance in greater detail than our annual compliance determination, which is our statutorily required report. That is filed every year. We do look at customer experience there, and then constantly, right, we are looking at service metrics throughout the country. We do get quarterly service reporting from the Postal Service—

Senator MARSHALL. Thank you. That's good. I just want to make sure you are reviewing him.

Ms. POLING. Yes.

Senator MARSHALL. Ms. Fisher, Kansas is now the sixth worst in the country when it comes to on-time mail delivery. Sixth worst. It sounds like we are not the only State. Certainly, it's a crescendo of concerns from my folks. There's been a recent inspector general report that audited their operations. They address staffing shortages. We do not need to go into detail on those, but they describe a lack of compliance with standard operating procedures (SOP). A lack of compliance with standard operating procedures. If you were approved for this position, what could you do to hold those people accountable, to get them to follow the standard operating procedures?

Ms. FISHER. Unfortunately, those are operational issues that are solely under the control of the Postal Service. But my hope is that they will file, as they have promised, an advisory opinion with us that will allow us to look in much greater detail in all the major operational changes they are making throughout the country.

I was down in Topeka a couple months ago and had the great fortune to land on the day a series of twisters made its way through the city, which was something new for me. But I visited the local distribution center, which was impressive. But they also spoke of problems they were having with delays, hiring shortages, et cetera. I think there's a great lack of communication from the top-down.

Senator MARSHALL. Thank you. I will go back to Ms. Poling. How can you impact that they are not even following their standard operating procedures? Why haven't you impacted that so far?

Ms. POLING. Thank you, Senator. I would echo, for us, right, we are the regulator. They are the operator. There is definitely a distance between what we can do with some of the things in terms

of operations. What we can do is provide transparency and accountability.

Senator MARSHALL. Tell me about the accountability. What does that look like? How do you hold them accountable?

Ms. POLING. The powers we do have at the Commission exist through our reporting, primarily through our annual compliance determination. That is statutorily mandated by Congress. That was established under the 2006 bill. That allows us to issue directives when the Postal Service is not following things as they should.

Now, primarily, that deals with rates and service. When it deals with standard operating procedures, I think that really is getting squarely into their jurisdiction with operations.

Senator MARSHALL. Who do they answer to then? They do not answer to Congress. They do not answer to you. These people that you are describing, who do they answer to?

Ms. POLING. I think it's an excellent question, Senator. Frankly, I think there should be a lot more oversight of the Postal Service. I think that there needs to be, we have experienced it. I will use service as an example. I know it's been impacting you. I have read about the audit, right, in Kansas City. I understand that you all are dealing with that, and it's very frustrating for your constituents. As I mentioned, I worked for Senators for rural America myself. But that's somewhere, right, where it might be impactful to allow the Commission to potentially have more authority when it comes to the advisory process.

Senator MARSHALL. That would require legislation?

Ms. POLING. It would, indeed.

Senator MARSHALL. OK.

Ms. POLING. Yes.

Senator MARSHALL. Would you agree with me—I think this goes to either one, Ms. Fisher or Ms. Poling, if we have time left to answer the question, that volumes are going down, and there's worse customer satisfaction which leads to less volumes, which leads to worse customer satisfaction. This is a circular problem.

Ms. POLING. Absolutely.

Senator MARSHALL. At the end of the day, if you have a good product, the customer satisfaction's going to go up. We have to have accountability, accept the responsibility, is what I am trying to say here.

Ms. Poling, would you agree with that? That the Postal Service has to accept responsibility for the decreased volume because of customer satisfaction issues?

Ms. POLING. Absolutely. I think it's something that really needs to be looked at in depth. I think the Commission, I know I have said this several times, but I think our ability to analyze what's going on with delivering for America through an advisory opinion would be an excellent way for us to understand what's going on and what the impact is on customers all over this country.

Senator MARSHALL. Mr. Chair, I would just ask for an opportunity to sit down with your staff and our staff, and help me to understand a little bit better how we could make the Postal Service more accountable to somebody. It sounds like right now, that they are not accountable to anybody.

Chairman PETERS. We would be happy to have that conversation.

Senator MARSHALL. Thank you.
 Chairman PETERS We will look forward to that, Senator. Senator Hassan, you are recognized for your questions.

OPENING STATEMENT OF SENATOR HASSAN

Senator HASSAN. Thank you, Chair Peters. I want to thank you and the Ranking Member for holding a very important hearing. To our nominees, thank you for your willingness to serve. I want to say to Ms. Gonzalez and Mr. Palmore, I too am going to be asking questions of the Postal Service, but please know how grateful I am to you for your willingness to share your expertise and your skill. Congratulations to you and your families for stepping up to serve in this way. It's really important.

Let's start with questions to Ms. Fisher and Ms. Poling. Earlier this year, the Postal Service announced its plans to move some operations from the Manchester, New Hampshire processing and distribution plant to Boston, which would cost employees their jobs and likely slow down delivery times. It may be just 50 miles from Southern New Hampshire to Boston, but I can tell you what the traffic looks like, and it's not good. Several other States are facing the same potential challenge of postal operations in their States, being moved out of State.

In response to pressure from Congress, Postmaster General (PG) DeJoy announced that he would pause operational changes until January 2025. I continue to have concerns about any future plans to move operations from Manchester to Boston. As current members of the Postal Regulatory Commission, what have you done to conduct oversight of Postmaster General DeJoy's mail processing facility reviews, including the one in Manchester, New Hampshire? We will start with you, Commissioner Fisher.

Ms. FISHER. Thank you, Senator. We have not directly looked into your situation. Though, I am very well aware. This is a concern that's pretty broad based across the country. The Postal Service services, obviously trying to create efficiencies, but have they looked into, or have they adequately analyzed the impact this is going to have on the customers? Clearly, there's going to be a change in days to delivery if you are taking what came out of a plant in New Hampshire and transporting that elsewhere to neighboring States.

We can best look at it through the filing of an advisory opinion. Commissioner Poling and I have cited that a couple times. They have assured us, and they have assured the Committee that they are going to file an advisory opinion soon. That will give us broad latitude to look at exactly what's happening in New Hampshire and ask many more questions.

Senator HASSAN. Thank you. Ms. Poling.

Ms. POLING. Thank you, Senator Hassan. Yes, I think we have been doing the most that we can. As I have gotten into a little bit today with the authorities we have. Do I think we could do more? Yes. I think that we are doing, as I mentioned earlier, we are pushing as hard as we can to have this advisory opinion filed. That, is really the place, because all of these pieces that you-all are talking about fall under this Delivering for America Plan.

But with that being said, we are still asking questions through the docket. We are still asking chairman's information request (CHIRs), and sometimes Commission Information Requests (CIS), and we will continue to do that. I think we have, though, to make sure that we are getting answers from the Postal Service on what is going on. I know all of you have been very active. I have read all of your letters—

Senator HASSAN. Let me stop you there, just because I have a couple more questions and running low on time. But I just want to make this comment. You also should shine a light on how they are going about making these decisions. It was clear on our earlier hearing that they were not talking to employees, who are not robots. They are actually really well-informed professionals who have been doing this a long time.

Ms. POLING. Yes.

Senator HASSAN. They need to be talking to employees. They need to know how long it takes to drive from Manchester, New Hampshire down to Boston at the height of rush hour, or right now, any time of day. They need to understand the realities on the ground. There has been nothing convincing in their responses to us that they really have done the kind of due diligence they should do before this decision.

Now, let me move on to another issue. Postmaster General DeJoy is also pushing something that you just mentioned, Ms. Fisher, his local transportation optimization plan, which would reduce how frequently trucks pick up mail from a plant. I understand that the Postal Service Inspector General (IG) opened an inquiry into how the Postal Service is implementing this plan, due to concerns that the Postal Service may be working with cheaper contractors who may not be reliable and may not follow Postal Service security protocols.

My office has heard concerns, for example, about the Postal Service terminating several long-standing contracts with a reliable New Hampshire-based trucking company. Has the Postal Regulatory Commission evaluated the impacts of the local transportation optimization plan on the security and timely delivery of the mail? We will start with you, Ms. Poling, and then Ms. Fisher, and please try to be brief.

Ms. POLING. Yes. I would say we have not been able to look at that, in depth, because again, this is a part of the Delivering for America plan. I think I am hopeful that we could get more into that data and those details. One of the features of an advisory opinion process is there is a public hearing as well. It very much mimics the legal process. I think that's one way we could do it.

I also wanted to say I greatly appreciated you sending over some of your questions ahead of time to us. That was very kind. While the Postal Service is really responsible for the people and hiring the people who carry the mail, one way we can ask about that is through our annual compliance determination, if that has an impact on service and how it is delivered in a timely fashion. That is one place we can address it.

Senator HASSAN. All right, thank you. Ms. Fisher.

Ms. FISHER. I understand what you are saying. I echo what Commissioner Poling said. I do know what you are talking about with

the contractors. I have heard at a separate facility, a problem, it was quite rural, with actually finding contractors to bid on the mail. Sometimes they had no one to pick up the mail. That's a problem. I hope we can look into this as part of the advisory opinion process, and really appreciate you raising it.

Senator HASSAN. Thank you. This is drilling down on the details that matter. Again, I am a member from another rural State, too. This is critical.

Last quick question. We are just weeks away from the first mail-in ballots for the November elections going out to voters. In some States, those ballots have to be delivered in a timely way to ensure that they arrive on time and that these votes count. What can the Commission do to help ensure that the Postal Service is prepared to deliver mail-in ballots in a timely manner? Will you commit to working with me in my office in the coming months to conduct appropriate oversight here? I will start with Ms. Fisher and then Ms. Poling.

Ms. FISHER. There really is nothing that we, as the Commission, can do to ensure this. I do know, though, we have asked the Postal Service a series of questions through our Delivering for America Act about their plans for the election cycle.

They are the same as they have been before, as expeditious as possible, movement of the mail; doing all clears in the post offices and the plants at the end of each day, having employees and paying for overtime, running extra trips with the trucks. But I am very concerned about the impact of the slower delivery times with delivering for America and how that may impede election mail delivery.

Senator HASSAN. Right. With your indulgence Mr. Chair, I will just get Ms. Poling to comment quickly.

Ms. POLING. Thank you so much, Senator Hassan. Yes, election mail is incredibly important. We have to be focusing on that. One feature of the PSRA, actually, was creating a dashboard that the Postal Service has. One of the things the Commission recommended for that dashboard was including election mail on it. We can analyze it in a greater fashion when we get to the annual compliance report, but we will be doing all that we can to continue to ask questions through our current PI docket.

Senator HASSAN. I will just note that when I talk to Postal Service employees who are on the ground in the processing rooms, what they know at election time is when they see ballots, they prioritize them. Right? That's why some of the Postal Service's Delivery for America plan is so misguided because by putting in rigid requirements all the time, what they are doing is saying to a group of postal employees who see a stack of ballots coming in and know that there's one more group that needs to come in before the truck should go out.

What the Postal Service is telling them to do is just get the truck out no matter what they know is coming. When in fact, in States like mine, we have been highly successful in getting absentee ballots in on time because Postal Service employees on the ground, citizens of New Hampshire, know what's at stake and they get their job done.

Again, this is about being in touch directly with employees, and I would really hope that the Commission, not just the Service, will focus on that. Thank you, Mr. Chair.

Chairman PETERS. Thank you, Senator Hassan.

Senator Hawley, you are recognized for your questions.

OPENING STATEMENT OF SENATOR HAWLEY

Senator HAWLEY. Thank you very much, Mr. Chair. Thanks to all of the nominees for being here today. Congratulations to you.

Ms. Gonzalez, if I could just start with you. I was just looking at your resume here. It's very full. You look like someone who's very busy. You are a counsel at a law firm presently, Kaplan Hecker & Fink. Is that correct?

Ms. GONZALEZ. Yes, Senator. That's correct.

Senator HAWLEY. Also, a co-director at a civil rights clinic at Howard. Is that correct?

Ms. GONZALEZ. That's correct.

Senator HAWLEY. It does not look like to me you have a lot of free time. I imagine that you choose what you invest your time in very carefully. Is that fair to say?

Ms. GONZALEZ. Yes, Senator.

Senator HAWLEY. You are also on the board of a group called the Immigrant Justice Corps. Do I have that right?

Ms. GONZALEZ. Yes, Senator.

Senator HAWLEY. Let me just ask you about this group that you are a part of, that you are a board of directors, a member of, and the positions they have taken. They have taken a lot of positions. You have taken a lot of positions when it comes to immigration policy, including saying recently that President Biden's recent policy to restrict temporarily some of the flow across our Southern Border—when on a given day there are multiple thousands of illegal migrants crossing. The President said that after there were multiple thousands on any given day, he would temporarily restrict, somewhat, the flow, but which by the way, I think is way too late in the game. He should be doing much more.

Your group, however, has been exceptionally critical of this. They have said that any restriction of the flow across the Southern Border is an abhorrent betrayal of American values and is inhumane, cruel—and inhumane to be precise. Tell me about that. Is it your view that any enforcement of our immigration law, that if we have anything other than an open border, the policy is cruel, inhumane, and an abhorrent betrayal of American values?

Ms. GONZALEZ. Thank you for the question, Senator. I do not believe that statement to reflect a request for open borders. I have never taken that position. I can tell you I am not familiar with that particular statement. I can tell you why I joined the board of the organization, and it is because I believe in its mission to provide quality counsel to individuals who are going through removal proceedings.

It was an idea that was inspired by the late Judge Katzmans' study about the efficiencies of providing such counsel to individuals who are going through removal proceedings. I understand that the organization engages in advocacy and policy, and that if confirmed,

my role as a judge would be to put any such advocacy and policy aside—

Senator HAWLEY. Let me just ask you, I do not mean to interrupt you, but my time is going to tick down here quite quickly. I just want to get clear on this. Is it your position that restrictions on the flow of illegal migrants, just to be—well, let me just ask you this. More fundamentally, do you believe we have a crisis at the Southern Border?

Ms. GONZALEZ. Senator, I do not believe it is my position to opine on such policy questions. I think those policy questions are very important for—

Senator HAWLEY. But you are a member of a board of directors. You are a director at an organization that has taken many such positions. It seems to me you have taken a position. Your organization certainly has. You represent them. You are a member of that board. You choose your time very carefully, as we established just a moment ago.

They say that any restriction on the flow of illegal migrants—I want to be clear about this, illegal migrants—is abhorrent, it is a betrayal of American values. It's cruel and inhumane. Is that your position,

Ms. GONZALEZ. Senator, I am not familiar with that specific statement.

Senator HAWLEY. June 5, 2024. It's a press release from your organization.

Ms. GONZALEZ. My affiliation with the organization does not commit me to every position it takes on law and policy.

Senator HAWLEY. So, this is not your position?

Ms. GONZALEZ. No, Senator.

Senator HAWLEY. You disagree with this?

Ms. GONZALEZ. Senator, I joined the organization to support its mission to provide counsel to individuals going through removal proceedings—

Senator HAWLEY. OK. Let me ask you about that since you bring that up. You have also advocated for providing counsel, in fact, taxpayer-funded counsel to every asylum seeker at our border. Do you know how many credibility and fear determinations the Customs and Immigration Service performs just in 2023 at the Southern Border?

Ms. GONZALEZ. No, Senator, I am not aware of that number.

Senator HAWLEY. 146,000. 146,000 in 2023 alone. You are in favor of taxpayer-funding for attorneys for at least 146,000 illegals. Is that right?

Ms. GONZALEZ. Senator, I was counsel on two matters that advocated for the right of counsel for a limited class of non-citizens—

Senator HAWLEY. This is your organization that you are a member of the board of directors of on May 27, 2022. Your organization submitted this official comment to a Department of Homeland Security (DHS) rule in which you specifically advocated for counsel to be provided at government expense to all asylum seekers. That's quite a position. We are talking about hundreds of thousands illegal migrants are going to get government-funded attorneys under your proposal. Is that right? Is that your position?

Ms. GONZALEZ. Senator, any policy position that I have taken in my role as an advocate, I understand that I would be taking an oath to put that aside and to dedicate myself instead to the fair and impartial application of the law. That is what I commit to you I would do in every case.

Senator HAWLEY. Do you still think that detaining people of the border is motivated by, I am quoting now, “motivated by financial incentives and political calculations rather than any legitimate or evidence evidence-based purpose”?

Ms. GONZALEZ. Senator, I am not familiar with that statement.

Senator HAWLEY. That’s from another statement made by your organization on September 22, 2021. Let me just say it again, “Detaining people at the border is motivated by financial incentives and political calculations, rather than any legitimate or evidenced-base purpose.” That just seems crazy to me, to say that enforcing our laws and detaining folks who are here crossing illegally, is motivated solely by financial incentives and political calculations. Do you agree with that?

Ms. GONZALEZ. Senator, I joined the organization to support its mission to provide counsel.

Senator HAWLEY. Yes. I have heard that answer, but do you agree with this? You are a member of the board of directors of this organization that, frankly, has taken crazy positions over and over. I am just wondering if you agree with these positions. This is just a yes or a no. Do you agree that detaining people to the border is motivated solely by financial incentives and political calculations?

Ms. GONZALEZ. Senator, I am not familiar with that position.

Senator HAWLEY. But do you agree with it? It’s from your organization that you sit on the board of directors of. Just do you agree with it? Yes, or no?

Ms. GONZALEZ. Senator, I’m not familiar with the context.

Senator HAWLEY. Do you agree with it? You are not going to answer my question. Sounds like.

Just say yes if you agree. That’s fine. But say no if you don’t. I would like a yes or a no answer. It’s a simple question. You are on the board of directors. They have issued this. Do you agree? Yes, or no?

Ms. GONZALEZ. Senator, I joined the organization to support its mission.

Senator HAWLEY. Oh, goodness. This is disappointing. I don’t understand why you won’t answer me? Are you afraid of the answer that won’t be popular? Why are you distancing yourself from it now? Aren’t you still a member of this organization? You are still on the board, aren’t you?

Ms. GONZALEZ. Yes, Senator. I still serve on the board.

Senator HAWLEY. Oh, OK. So you don’t agree with any of these positions? You just won’t say now whether you agree or not. Is it because they are so radical?

Ms. GONZALEZ. Senator, my personal position on any policy issue would play no role in the job that I would perform as a judge if I were to be confirmed.

Senator HAWLEY. You have also written a paper in which you say that you do not think police ought to enforce traffic laws because it may lead to inequity. Do you remember that paper from 2023?

Ms. GONZALEZ. Yes, Senator.

Senator HAWLEY. Why is that you don't want police to enforce traffic laws? I am having trouble following your positions here. You do not want the immigration laws to be enforced. You apparently think that any detention of the illegals at the border is motivated by political calculations and is illegitimate. You do not want police to be enforcing traffic laws, but you want to be a judge. How's this going to work?

Ms. GONZALEZ. Senator, the piece that you are citing documented efforts by cities along with police departments, and in some cases actually led by police departments, to move enforcement of things like hanging an air freshener from a rear-view mirror to, for example, ticket by mail or parking enforcement, which would in turn free up police resources to focus on more serious enforcement.

Senator HAWLEY. I am almost done, Mr. Chair. Not just that though. I encourage people to read the paper. In fact, I have it right here. It's 14 pages. Mr. Chair, I would ask consent to enter into the record, *The Road to Driving Equality*.¹

Chairman PETERS. Without objection.

Senator HAWLEY. Frankly, it is full of positions that I think are just nuts. I mean, saying that things like running traffic lights, stop signs. These things cannot be enforced that the police ought to get out of enforcement of traffic laws altogether. I don't understand it.

It sounds like to me you do not want enforcement at the border. You do not want enforcement of our traffic laws. You do not want police enforcement in our cities. I just question whether that is a good set of perspectives to be a judge whose job will be to enforce the law. Thank you, Mr. Chair.

Chairman PETERS. Thank you. Senator Rosen, you are recognized for your questions.

OPENING STATEMENT OF SENATOR ROSEN

Senator ROSEN. Thank you, Mr. Chair.

I guess I will go get right into it. I am going to talk about access to Postal Service state. I want to build a little bit upon what Senator Hassan was alluding to earlier. Ms. Poling, as I am sure you are aware, the Postal Service is attempting to relocate mail out-processing from Reno, Nevada to Sacramento, California. I am extremely concerned by this really misguided decision and the terrible impact it's going to have on Nevada's and Nevadans, including our seniors, our veterans, our small business owners, our rural communities who depend on the post office for on-time service.

As the independent regulatory agency tasked with ensuring transparency and the accountability of the Postal Service, the Postal Regulatory Commission must continue to play a key role in assessing the soundness of major operational changes like the proposed downsizing of the Reno processing and distribution center. As such, it's critically important that the Commission has access to the data.

I am going to say this, we must have access to the data that the Postal Service relies on to inform us of its major operational

¹The paper submitted by Senator Hawley appears in the Appendix on page 00.

changes so we can take a look at that. Ms. Poling, given the Postal Services' continued refusal to provide this Committee any specific data regarding how the Reno proposal will impact mail service delivery, I am going to ask you a couple of questions.

Either before or after the USPS announced it would proceed with the downsizing of the Reno, we call it the P&DC, despite opposition from Nevada's congressional Delegation, our Governor, Joe Lombardo, and Nevada residents, did Mr. DeJoy provide the Commission with any specific data on how these changes to Reno's P&DC would impact service delivery times in Northern Nevada? If the USPS asserted that service delivery would not be impacted, did Mr. DeJoy or his staff provide written justifications explaining how this could be possible, giving the substantial impediments to on-time delivery his plan would be creating?

Ms. POLING. Thank you, Senator Rosen. I greatly sympathize and understand why you are so frustrated. I worked for rural Senators, right, on this Committee for years, and constantly was working to hold the Postal Service accountable. Appreciated our conversation and the staff interview as well.

Senator ROSEN. Yes, people rely on the mail in our rural areas; our veterans, our senior seniors. It's really important.

Ms. POLING. I absolutely agree 100 percent. In terms of that, you were asking about the specifics of if that information was given to the Commission by Mr. DeJoy?

Senator ROSEN. Yes.

Ms. POLING. No. We do not have that specific information. I will say this, and again, I actually know that you are a sponsor of the newest legislation with Chair Peters over here. One of my favorite provisions of that legislation is asking the Postal Service for making sure they are giving us the data we need in an advisory opinion.

That is essential. You are right. And right now, we have an open PI docket on the Delivering for America plan. We are able to ask a number of questions, but I do believe we can probably have access with or without this legislation. I think we will have more ability to get those answers through an advisory opinion because it is a more formal process.

But I just wanted to additionally say, I think that is a really great piece that you guys put in that legislation, that you-all put in this legislation. I really think it would benefit us in our oversight.

Senator ROSEN. Thank you. Postmaster DeJoy needs to show us the data as they say.

Ms. POLING. Yes.

Senator ROSEN. Ms. Fisher, and then again, Ms. Poling, have you or any other members of the Commission seen any weather contingency plan from USPS that include Nevada, specific data accounting for the unique weather challenges presented by snow, wildfires, severe weather that cuts off Interstate 80, of course, going over that Donner Pass from Reno to Sacramento. That's the only way, one way, one highway to get there for days and weeks at a time.

Have you seen any weather data or contingency plans for the weather data? I think we have on averaged per year, over 30 days a year where that pass is closed.

Ms. FISHER. The Commission's well aware of the concerns you have. I watched with great interest your exchange with Postmaster General during the most recent hearing. I am amazed that you have not seen the data that you have been requesting. I fully understand the situations that weather issues can cause and then spread through around surrounding regions.

I often wonder to myself, the best way we could get at this situation that's being brought about by a change in the processing and distribution of your local mail is through an advisory opinion, as we keep mentioning, and you are a co-sponsor of legislation. The law that put into place the advisory opinion process was written in 1970. It gives the Postal Service 100 percent of the power of when to determine they need to file an advisory opinion. They say when something they are going to do is going to impact the service nationwide. I wonder if maybe the regulator should be in charge of determining when the public will be impacted, and then tell the Postal Service, you must file an advisory opinion request.

Senator ROSEN. Ms. Poling.

Ms. POLING. Yes. First to answer your question, no, we did not receive specifics on whether about the Donner Pass. But I would say yes. I actually think even going back, you were speaking about rural America, specifically, Senator. Several years ago, when the Postal Service length and service standards, I made a point to actually draft an additional commentary speaking to rural America. Also, in that, I mentioned that I think greater oversight of the advisory opinion process would be hugely beneficial.

As Commissioner Fisher just mentioned, I think that it would be wonderful if maybe we were more involved in that process of determining when that opinion should be filed. But I really think that the bill you-all have introduced really goes in the right direction. I am hopeful that that will help give us greater oversight, and in turn, give you greater transparency into what's going on.

Senator ROSEN. Thank you. I am not sure that Postmaster has that data, because when I asked him if he knew about how the weather was on the I-80, and how often it was closed—he actually sat there where you are sitting, I believe, Ms. Fisher—and said, “Why would I know that?” I would say, he needs to know that because he's the postmaster general. So, it is really important.

For both of you, quickly, can I finish this question? Thank you. If confirmed, would you support a statutory requirement that USPS submit, just what you asked, major operational changes for the Commission to review? If you ultimately are tasked with issuing an advisory opinion on aspects of the postal network service changes, will you commit to collecting the data on the potential impacts, severe weather, geography, or any other conditions that may have impact on mail service reliability, and performance? You can answer yes or no.

Ms. FISHER. Yes, absolutely.

Ms. POLING. Absolutely.

Senator ROSEN. Thank you. Appreciate you being here today.

Chairman PETERS. Thank you, Senator Rosen.

Starting to wrap this up. I will have to have a couple questions for our judicial nominees here. [Laughter.]

Senator ROSEN. We are all about the post office.

Chairman PETERS. It's all about the post office today. But that's either good or bad depending on your—

Senator ROSEN. We love our mail.

Chairman PETERS. We love our mail. This again, Ms. Gonzalez and Mr. Palmore these questions are for you. We will start Mr. Palmore and then Mr. Gonzalez, you both have extensive appellate litigation experience, which is great. My question for both of you is, what challenges do you anticipate facing as you shift from your role as an advocate to your role as a impartial adjudicator? Basically, how are you preparing to make that transition, if you are confirmed?

Mr. PALMORE. Thank you for this question, Senator Peters. I had the privilege of clerking for three different judges at the outset of my legal career, who really modeled for me what it was to be a neutral arbiter every day; the hard work, the integrity, the ability to listen to parties. I have held that model before me throughout my career as an advocate. But of course, as an advocate, it's a fundamentally different role. My job and my ethical obligation has been to zealously represent the interests of my clients. As a judge, if I'm so fortunate to be confirmed, I would swear an oath to impartially apply the law and to be scrupulously neutral. That's an oath that I would seek to fulfill every single day if I was fortunate enough to be confirmed to the job.

Chairman PETERS. Very good.

Ms. GONZALEZ. Thank you for the question, Senator. I am very aware of the differences between the role of an advocate and the role of a judge. As an advocate, my job has been every day to zealously advocate for the positions of my client. That has been my duty. I understand that the role of a judge would be very different.

Like Mr. Palmore, I have had the privilege of, throughout my career, serving for judges who have modeled that for me, who have modeled what it means to come into a case with an open mind without having prejudged the issues, and looking at the law, and letting the law and the facts fact guide the analysis. That is what I would aim to do. Every day I would take that oath, and I would take it seriously and do that every day, if confirmed as a judge.

Chairman PETERS. Very good. As, you may know, this Committee has recently focused on considering and advancing several nominations for Superior Court for the District Court of Columbia, which is the local trial court. But it handles one of the highest volumes of cases in the country. It's struggling right now to keep up with that workload, because the vacancies on the bench. We have that in the Court of Appeals as well, which you have been nominated for.

How do you see the role of court of appeals in promoting a more effective judicial system in the district right now, which is, as I mentioned undergoing significant challenges. Ms. Gonzalez, you want to start, and Mr. Palmore you can take the second?

Ms. GONZALEZ. Thank you for the question, Senator, and for the opportunity to address this very important issue. I am very aware of the need for the courts to work through the backlog of cases, some of which have been pending for many years. But to balance that with the need to give every case the attention and care that it deserves, I think the way that I would do that I would contribute

to those efforts at the court, would be to bring the skills and the management style that have served me well as a litigator.

As a litigator, I am not unfamiliar with having a heavy caseload and having competing deadlines. What I would do is make sure that I am setting very clear internal deadlines within chambers about when a decision will be circulated and reviewed, that I work with my colleagues to do the same for the external process, and that I play my role by responding promptly to my colleagues' circulated opinions.

That is the way that I see both the court in advance, the court of appeals its own backlog, but also help with the superior court's backlog because those opinions provide guidance to the judges on that court so that they can move their cases forward promptly and efficiently.

Chairman PETERS. Very good. Mr. Palmore.

Mr. PALMORE. Thank you, Senator. Yes, the backlog is a big problem on the court of appeals because as you mentioned, there have been vacancies for many years. I think particularly with the docket of this court, with a heavy number of criminal cases, with family law cases involving child custody and parental rights. These cases really matter to the parties involved. They may be probably the most important thing in the world to those parties, and it may be their only encounter with the judicial system.

I like my colleague, I have many years of a busy appellate practice where I have always had to juggle multiple matters and meet deadlines. I would commit myself to working with my colleagues on the court to help reduce the backlog, and to make sure that my own work is done expeditiously because the parties to these cases, they need answers. They need the right answers, of course, but they need answers in an expeditious fashion.

Chairman PETERS. Very good. Thank you. I want to thank each of our nominees for joining us here today, and for your willingness to serve in all of these important positions that that you are up for.

The nominees have filed responses to biographical¹ and financial questionnaires.² Without objection, this information is going to be made part of the hearing record³ with the exception of financial data, which is on-file and available for public inspection in the committee offices.⁴

The hearing record will remain open until 12 p.m. tomorrow, July 26th, for the submission of statements and questions for the record.

This hearing is now adjourned.

[Whereupon, at 11:40 a.m., the hearing was adjourned.]

¹The information on Ms. Fisher appears in the Appendix on page 36.

²The information on Ms. Poling appears in the Appendix on page 87.

³The information on Ms. Gonzalez appears in the Appendix on page 143.

⁴The information on Mr. Palmore appears in the Appendix on page 178.

A P P E N D I X

**Chairman Peters Opening Statement as Prepared for Delivery
Full Committee Hearing: DC Judges
July 25, 2024**

The Committee will come to order.

Today, we are considering four nominations: Ann Fisher and Ashley Poling to serve as Commissioners on the Postal Regulatory Commission for additional terms, and Carmen Iguina González and Joseph Palmore to be Associate Judges on the District of Columbia Court of Appeals.

Welcome to each of our nominees and to those joining them for today's hearing. Congratulations on your nominations and thank you for your willingness to serve in these important positions.

The Postal Regulatory Commission – or “P-R-C” – is a bipartisan body that provides independent oversight of the Postal Service. The Postal Service plays an essential role connecting communities across the nation. And the PRC plays an essential role in ensuring that the Postal Service is effectively carrying out its public service mandate.

Commissioners Fisher and Poling – I am glad to see you both back before this committee. We are grateful for your work on the Commission over the past five years. I'll add that that we are also glad to welcome you both back as former Committee staff.

Turning to our judicial nominees – welcome Ms. Iguina González and Mr. Palmore. The District of Columbia Court of Appeals serves as the highest state-level appellate court here in the nation's capital. Currently two of the court's eight Associate Judge seats are vacant – slowing cases and delaying resolutions for the parties before the court.

Welcome again to all four of you. Today's hearing is an important opportunity for the committee to learn more about your qualifications and how you plan to serve in these important roles.

**Opening Statement of Ann C. Fisher
Nominee, Commissioner, Postal Regulatory Commission
July 25, 2024**

Chairman Peters, Ranking Member Paul, and members of the Committee, I am honored to appear before you today as a nominee for a second term at the Postal Regulatory Commission. I am also grateful to President Biden and Leader McConnell for nominating me.

Though my family was not able to join me today, I want to thank my husband, Dave, and my daughters, Dagny and Regan, for their endless support and love. I would also like to thank my parents, Paul and Cathryn Rehffuss of Yankton SD, who led the way for me as long-time civil servants: my dad as a counselor for the South Dakota Department of Labor and my mom as a registered nurse for the South Dakota Department of Social Services.

This May marked my 31st year of federal employment — all but 2 of those years involving work on postal issues. My career began in the U.S. Senate, working for Senator Larry Pressler of South Dakota. I also had the privilege of working for Senators Thad Cochran of Mississippi and Susan Collins of Maine. It was during my final four years in the Senate that I served as Deputy Staff Director to Chairman Collins on the Homeland Security and Governmental Affairs Committee. Together, after countless postal reform hearings and endless bill negotiations, we were able to celebrate passage of the Postal Accountability and Enhancement Act of 2006.

In 2007, I moved over to the Postal Regulatory Commission to serve as chief of staff to then- Chairman Dan Blair. I later became the Commission's public affairs and government relations director, and in 2019 I was appointed by President Trump to serve as a commissioner.

Throughout my career, I have always found tremendous value in meeting with postal employees and various stakeholders within their own environment. This past year, I met with plant managers at postal processing and distribution centers in Sioux Falls, South Dakota and Fargo, North Dakota. I visited with postmasters at post offices in Sioux Falls, Harrisburg and Brookings, SD; Topeka, Kansas and Kansas City, Missouri. In Topeka, I also toured a new style of facility called a local distribution center, or LDC.

At each of my stops, the postal employees I met were all very proud and hard-working people — several with decades of experience at the Postal Service under their belt. Most were familiar with the Postal Service's high-profile Delivering for America plan and happy to share the benefits of this plan with me. I sensed their hope that the 10-year DFA plan would deliver what has been promised — long-sought financial stability for the Postal Service coupled with service excellence.

The facts are that since 2007 the Postal Service has suffered a history of financial net losses while losing 48 percent of its mail volume. Incredibly, despite the Postal Service Reform Act's removal of the Service's \$57 billion liability for past due retiree health benefits, the Postal Service is still left with a net deficit of \$23.1 billion in FY 2023 due to ongoing financial issues.

Together with my fellow commissioners, I work to foster a vital and efficient universal mail system. During my interview with committee staff in advance of today's hearing, I was asked how the Commission might help the Postal Service become financially stable. I responded that the Commission has the ability to provide the Postal Service with additional rate setting authority, but that alone is not enough to return the Service to a state of financial viability. Indeed, there are legitimate questions as to the effects of the much-accelerated pace at which the Postal Service is increasing rates, given how much mail volume has, and is being, lost.

A key aspect of the Postal Service's financial viability is cost containment and management. While the Commission has no direct role in Postal Service operations, it can provide transparency and analysis to ensure the Postal Service is doing its due diligence and being held accountable. Currently at the Commission we have opened dockets aimed at providing transparency into the DFA plan, inefficiencies in the processing of flat-shaped mail, and service performance measurement. Ultimately, though, the question of whether financial sustainability can be achieved while maintaining high levels of service will depend on sufficient demand for postal products. This is something that posts around the world are facing right now. It is my hope that the Commission's current review of the Postal Service's price elasticity of demand will allow for a better understanding of the issue.

While my statement has focused on postal finances, the Commission also actively monitors, reports on, and makes recommendations regarding Postal Service performance. In certain parts of the country, DFA-related adjustments have caused historic service performance lows. I expect to hear on this issue from members of the committee this morning, and welcome any questions you may have for me.

Again, I thank President Biden for nominating me and I would be honored to continue my role as one member of a team of commissioners dedicated to ensuring the transparency and accountability of the U.S. Postal Service.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
<u>Commissioner, Postal Regulatory Commission</u>	

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Ann	Christine	Fisher	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			901 New York AVE NW, Suite 200		
Harrisburg	SD	57032	Washington	DC	Zip:20268

<i>Other Names Used</i>

<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	Check k.f. Maid en Name	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Ann	Christine	Reh fuss		X	05/1966 Est <input type="checkbox"/>	05/2000 Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1966	Yankton SD

<i>Marital Status</i>					
Check All That Describe Your Current Situation:					
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>

<i>Spouse's Name</i> (current spouse only)			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
David	Nile	Fisher	

<i>Spouse's Other Names Used</i> (current spouse only)						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Dagny	Cathryn	Fisher	
Regan	Ann	Fisher	

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
University of South Dakota	university	01/1992	12/1993	M.A.	12/1993
Minnesota State University at Mankato	university	09/1986	06/1989	B.S.	06/1989
South Dakota State University	university	08/1984	05/1986		
		Est <input type="checkbox"/>	Est Present <input type="checkbox"/> <input type="checkbox"/>		

3.

Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other)	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Government	Postal Regulatory Commission	Commissioner	Washingt on DC	07/2019	Present
Government	Postal Regulatory Commission	Director, Public Affairs and Govt.	Wash. DC	12/2002	07/2019
Government	U.S. Senate HSGAC	Deputy Staff Director	Wash. DC	12/2002	01/2007
Government	U.S. Senate Subcmte. on Intl. Security, Proliferation and Fed. Services	Professional Staff	Wash. DC	02/2001	12/2002
Government	U.S. Postal Service	Government Relations Manager	Wash. DC	12/1998	02/2001
Government	U.S. Senate Subcmte. on Intl. Security, Proliferation and Fed. Services	Professional Staff	Wash. DC	01/1997	12/1998
Government	Office of U.S. Senate Larry Pressure (R-SD)	Legislative Aide/ Economist	Wash. DC	01/1995	01/1997
Government	U.S. Senate Committee on Small Business	Economist	Wash. DC	05/1993	01/1995

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
Romney Transition Team 2012 (Romney Readiness Project)	Volunteer advisory position on postal matters that may come before a new Administration	Summer 2012 <input type="checkbox"/> Est <input type="checkbox"/>	Fall 2012 <input type="checkbox"/> Est <input type="checkbox"/> Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>

4. **Potential Conflict of Interest**

(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

NONE

(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

NA

5. **Honors and Awards**

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Three service awards received during my tenure at the U.S. Postal Service

"NAPUS Champ" award received at 2007 National Association of Postmasters of the U.S. Leadership Conference

6. **Memberships**

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/ consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
Women in Logistics and Delivery Services	01/2007 - present	steering committee member
Executive Women in Government	2023 - present	
St. Peter's Catholic Church, Capitol Hill, DC	2004 - 2023	

7. **Political Activity**

(A) Have you ever been a candidate for or been elected or appointed to a political office?

NO

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

Title	Place/Audience	Date(s) of Speech
President Trump's Postal Service Task Force	Lexington Institute Forum on Capitol Hill	06/2018

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) YES
 - Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? NO
- Have you been charged, convicted, or sentenced of a crime in any court? NO
- Have you been or are you currently on probation or parole? NO
- Are you currently on trial or awaiting a trial on criminal charges? NO
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? NO

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

A) Date of offense: Winter 1989

- a. Is this an estimate (Yes/No): YES
- B) Description of the specific nature of the offense: I drove a highly intoxicated friend home from a party, in his car. I had also been drinking, but to a lesser extent. I noticed a police car nearby and was nervous. My friend thought it would be funny to jerk the steering wheel. The car swerved and I was pulled over by the police officer. I was given a breathalyzer and found to have a 0.10 blood alcohol level. I was charged with a DUI. After securing a public defender, the charge was reduced to Reckless Driving, Alcohol Related. I received an approximately \$100 fine, which I paid immediately. I was also required to meet with a counselor to discuss the ramifications of drinking and driving.
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes/No
 - 2) Firearms or explosives: Yes (No)
 - 3) Alcohol or drugs: Yes/No
- D) Location where the offense occurred (city, county, state, zip code, country): Mankato, Blue Earth County, MN 56001, USA
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No
- 1) Name of the law enforcement agency that arrested/cited/summoned you: Mankato City Police
 - 2) Location of the law enforcement agency (city, county, state, zip code, country): Mankato, Blue Earth, County, MN, USA
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: Yes/No
- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: Yes/No
- H) Provide a description of the sentence:
- I) Were you sentenced to imprisonment for a term exceeding one year: Yes/No
- J) Were you incarcerated as a result of that sentence for not less than one year: Yes/No
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: Yes / No

N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

NO

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/ Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/ Proceeding</u>

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

NO

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/ Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/ Proceeding</u>

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

11. **Breach of Professional Ethics**

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

NO

<u>Name of Agency/ Association/ Committee/Group</u>	<u>Date Citation/ Disciplinary Action/ Complaint Issued/ Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

NO

12. **Tax Compliance**

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State)

NO

14. Outside Positions

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



This 3rd day of Mar., 2024

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



April 18, 2024

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Ann Fisher, who has been nominated by President Biden for the position of Commissioner, Postal Regulatory Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2024.04.18 17:18:21
-04'00'

David J. Apol
General Counsel

Enclosures **REDACTED**



April 12, 2024

David A. Trissell
General Counsel and Designated Agency Ethics Official
Postal Regulatory Commission
901 New York Ave., Suite 200
Washington, DC 20268-0001

Dear Mr. Trissell:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position Commissioner at the Postal Regulatory Commission. It is my responsibility to understand and comply with commitments outlined in this agreement.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine.
- Any general partner of a partnership in which I am a limited or general partner.
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds .

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my

Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government.

I will not modify this ethics agreement without your approval and the approval of the U.S Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – SPOUSE EMPLOYMENT

My spouse works as a consultant for the American Clinical Lab Association, for which he receives consulting fees. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for as long as my spouse continues to provide these services, I will not participate personally and substantially in any particular matter involving specific parties in which I know the American Clinical Lab Association is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d)

SECTION 3 – RETAINED POSITIONS

I will retain my position as a trustee of my revocable family trust. I will not receive any fees for the services that I provide as a trustee during my appointment to the position of Commissioner. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the revocable family trust, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

SECTION 4 – PUBLIC POSTING

I have been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Ann Fisher

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Ann Fisher to be
Commissioner, Postal Regulatory Commission**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to serve an additional term as a Commissioner on the Postal Regulatory Commission (“PRC” or “the Commission”)?

No, though White House PPO staff noted my extensive background in postal policy, having worked at the Postal Service, the U.S. Senate, and the Postal Regulatory Commission.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Commissioner of the PRC? If so, what are they, and to whom were the commitments made?

No.

4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

No.

5. Have you or any organization of which you were an officer, director, board member, owner, or have or had significant financial interest in, been the recipient of any Federal grants, loans, or other financial assistance (such as, but not limited to, Paycheck Protection Program Loans, Economic Injury Disaster Loans, Restaurant Revitalization Grants, etc.) within the past 10 years. If so, please list the program, amount, and date of receipt.

No.

6. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

Not applicable.

II. Background of the Nominee

7. Why do you want to serve an additional term as a Commissioner of the PRC?

The ongoing financial, operational, and service challenges faced by the Postal Service are monumental. I care deeply about the state of the Postal Service, as evidenced by the 28 years I have worked on postal issues. I want to continue to be part of the Postal Regulatory Commission effort to ensure the long-term viability of the Service.

8. What specific background, experience, and attributes qualify you to be a Commissioner of the PRC?

My background as an economist allows me to better understand issues such as the analysis behind rate adjustments, changes in cost attribution and product movement between classes. My 28 years of employment devoted to postal issues at the USPS, PRC and U.S. Senate allow me to look at postal issues from the point of view of the operator, regulator and congress.

9. Please describe:

- a. Your leadership and management style.

My leadership and management style emphasizes openness, teamwork, commitment to mission, and delivering a high-quality work product. I work closely with my staff and always want to hear their opinions. I strongly advocate additional training and learning opportunities for staff, to enrich their career.

- b. Your experience managing personnel.

I have directly managed several different people throughout my career.

- b. What is the largest number of people that have worked under your supervision?

Approximately 25 people worked under me during my tenure as the deputy staff director on the Senate Homeland Security and Governmental Affairs Committee.

10. What would you consider your greatest successes as a leader?

My greatest success would be seeing the Postal Accountability and Enhancement Act of 2006 (PAEA) signed into law. The bill's enactment was the result of numerous Senate hearings, countless negotiations with Senate, House, White House and Treasury staff, and finally, Senate floor consideration. At the time, I was the lead Senate Republican aide working on the issue, so played an instrumental role in moving the bill through all stages of the legislative process.

11. What would you consider your greatest failure as a leader? What lessons did you take away from that experience?

I would point back to my management of the postal reform bill in 2006. My occasional lack of communication/transparency with my superior caused unnecessary delays in negotiating at times. I have learned that clear and open communication always is a priority of any work process.

12. Please give examples of times in your career when you disagreed with your superiors and advocated your position. Were you ever successful?

I have experienced such a situation numerous times throughout my 30 year career – with mixed results. In general, the more experience I gained, the more successful my efforts. It was often less a matter of a position on an issue and more about how to get to our desired goal.

13. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

I regularly seek out dissenting views and engage in a dialogue to better understand the rationale behind the view. I will frequently modify my original position after better understanding the opposing viewpoint.

14. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country or your organization.

During the development and ultimate congressional passage of the PAEA, I made occasional decisions that I was politically uncomfortable with but were necessary to gain passage. As an example, I had hoped to include modest workers compensation reforms in the legislation, but the issue was too politically fraught at the time. The issue was set aside.

15. Please describe how you build credibility and trust among staff as a leader.

I work to build credibility and trust through open and frequent communication with my peers and staff.

16. During your career, has your conduct as a government employee ever been subject to an investigation or audit by the Office of Special Counsel, Department of Justice, agency Equal Opportunity office or investigator, agency Inspector General, or any other similar federal, state, or local investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

No.

17. Please describe your responsibilities during your tenure as a Commissioner for the PRC to date. What do you believe are your greatest accomplishments?

My role generally revolves around consideration and approval of a multitude of negotiated service agreements, market dominant and competitive rate increases, occasional advisory opinions, changes to analytical principles, and development of the PRC's Annual Compliance Determination. To date, my greatest accomplishment would be issuing a final order in 2020 to modify the rate making system put into place by the PAEA. It was not perfect, and needs updates, but it took a tremendous amount of work and negotiation among colleagues, mailers and the Postal Service. I personally learned a great deal from the process.

III. Role of the PRC and its Commissioners

18. Please describe your view of the Commission's core mission and an individual Commissioner's role in achieving that mission.

The Commission's core mission is to ensure transparency and accountability of the Postal Service and foster a vital and efficient universal mail system. Commissioners must dedicate themselves to fairness and impartiality, and the provision of timely and rigorous analysis. A commissioner must proactively respond to a rapidly changing postal environment.

19. What do you believe are the most important responsibilities of the PRC, and what is your opinion of how those responsibilities have been fulfilled?

Ongoing development and occasional modification of the system for regulating market dominant rates is of incredible importance to the Postal Service and the mailing community. Finding a way to appropriately balance all necessary factors and objectives while ensuring long-term financial stability for the Postal Service is extremely

complicated. I also believe the extensive transparency PRC provides related to USPS service performance and financial health/stability are critical to the public.

20. In your view, what are the major challenges facing the PRC?

The ongoing financial challenges of the Postal Service are daunting, and market dominant mail volume continues its steady decline. The commission is challenged with modifying and overseeing a market dominant rate system that will ensure long-term financial viability for the Postal Service, maintain high levels of service performance, and encourage mailers to stay in the system. Additionally, advisory opinions that should be filed related to the Delivering for America Plan have not been filed. The commission is unable to force this action by the Postal Service, but certain aspects of the DEA demand PRC review, such as fewer daily pickups of mail at the post office.

21. What do you believe should be the PRC's top three priorities over the next five years?

Updating the market dominant rate setting system; updating the internal service measurement system used by the Postal Service to improve service measurement for market dominant products; and helping Congress to define the universal service obligation.

22. Generally, what approaches do you advocate that the PRC take in regulating the Postal Service and why?

The PRC must demonstrate courage in making tough decisions that prioritize the long-term well-being of the Postal Service and consumers. The PRC must also apply rules consistently across different cases and enforce rules vigorously. We must also operate independently from political influence.

23. The PRC's regulatory responsibilities require robust input from the public and postal stakeholders. What is your approach to effectively engaging postal customers?

For every commission docket opened, a public representative is appointed to represent the interests of the public. Additionally, all PRC proceedings allow for a robust period of public comment. I take great interest in the filings submitted by the PR and general commenters.

I also place great faith in what is learned via the Commission's consumer relations specialist. The PRC's consumer relations specialist fields thousands of emails, letters and calls from members of the public each year; many of whom are seeking resolution of a postal delivery or service problem. During my time as the commission's public affairs and government relations director, I hired two consumer relations specialists. It was a priority of mine that the consumer relations specialists possess broad postal experience that

would enable her to either rapidly resolve the complaint or refer them to someone who could.

24. If confirmed, how will you coordinate and communicate with PRC staff to accomplish the PRC's goals?

I have regularly scheduled weekly meetings with my fellow commissioners and bi-weekly meetings with senior staff to discuss commission priorities, workload and strategic goals.

25. The PRC's workforce handles broad responsibilities such as technical and data analysis, managing public input, and ensuring system security. What is your approach to maintaining a talented workforce?

I support the PRC's established commitment to its small, dynamic workforce. Goal 4 of the PRC's 2023-2028 Strategic Plan focuses on the recruitment, development, and retention of a diverse, high-performing workforce. I strongly support the PRC's commitment to equal employment opportunity and representation in the PRC's initiatives to recruit, develop, and retain a skilled, high-achieving, and diverse workforce. I also have embraced our hybrid work environment which supports meaningful in-office collaboration and efficient remote work.

26. What lessons, if any, can the PRC learn from the work of other regulatory agencies in the United States and postal regulators in other countries?

The PRC regularly looks to other similarly sized agencies for best practices in a variety of areas such as: human resources, IT practices, consumer outreach, and budgeting, to name a few. It is interesting to learn of foreign regulators' practices with respect to days of delivery and service expectations, universal obligations, and regulation of private sector business with the postal industry.

27. The Commission is an independent agency. How do you understand that obligation of independence? How does such independence affect your approach to the evaluation and decision of cases?

I consider an independent agency as one intended to be free from political influence. I intend to serve fairly and impartially with respect to all cases brought before the Commission.

28. As the mailing and shipping industries evolve over the next 10 years, how do you believe the role of the PRC may evolve?

The PRC may need to reconsider package needs of those in highly remote areas and how well they are served. Are the packages they receive competitive in some instances and is that appropriate? The way packages are delivered by the Postal Service could change, and that would require new cost attribution studies. If vote-by-mail proves problematic during the ongoing DFA implementation, might an oversight role be created for the PRC?

IV. Policy Questions

Postal Ratemaking

29. What is the role of rate regulation in ensuring the Postal Service remains sustainable into the future and maintains service for customers who rely on it?

The statute governing the market dominant rate making system, 39 U.S.C. 3622, gave the Postal Regulatory Commission (PRC) the responsibility to establish a system for regulating rates of Market Dominant products that is designed to achieve nine specific objectives and 14 factors. In designing the initial ratemaking system, the PRC had to balance these sometimes-competing objectives and factors while implementing an inflation-based price cap. The statute also required the PRC to conduct a review of this rate system ten years after passage of the Postal Accountability and Enhancement Act (PAEA) to determine if the system established was meeting the objectives and factors and, if not, to create a new system. The PRC completed this review and created a new system of regulating rates and classes for market dominant products at the end of 2020. The PRC also indicated it would conduct another review of the rate-making system in five years or sooner.

In its review of the market dominant rate system, the PRC found that the prior system was not achieving some of the objectives. One of those objectives is to "maintain high quality service standards" (objective 3). High quality service comes at a cost, and the PRC found that the Postal Service's focus on aggressively managing costs had a negative impact on achieving this objective. By granting additional forms of authority that account for underlying drivers of costs, the PRC sought to relieve some of that pressure to aggressively pursue cost-cutting in a way that negatively impacted service. As the PRC stated, "rate authority addressing near-term financial pressures puts the Postal Service in a position to increase its revenue and thereby potentially have additional funds to address service performance." Additional reporting requirements sought to ensure that service considered in cost benefit analyses of potential operational changes.

To address what the PRC described as the prior rate regulation system's lack of effective incentives to meaningfully analyze its service performance, the PRC also considered a performance incentive mechanism as part of the new forms of rate authority that would be available to the Postal Service. This would have made available 1 percentage point of performance-based rate authority, conditional on the Postal Service exceeding an

operational efficiency-based requirement and adhering to service standard-based criteria, but this was not codified into the regulations due to the numerous stakeholder comments opposed to the proposal. The PRC subsequently created a separate docket to further evaluate and refine the proposal, which was then rolled into the current review of the system for rate regulation of market dominant products. The PRC initiated the current review of the rate system sooner than 5 years due to concerning trends in the Postal Service's financial performance, volume trends, and stakeholder comments. During this review, the PRC will consider whether the current system is achieving the objective of high-quality service standards and, if not, how the system could be changed to ensure the Postal Service remains reliable and provides sustainable service for its customers.

30. The Postal Accountability and Enhancement Act of 2006 (PAEA) required the PRC to review the Market Dominant rate and classification system 10 years after enactment to determine if the system achieved the PAEA's nine objectives, including predictability in rates and adequate revenues, considering the 14 factors established by Congress. The PAEA allowed the PRC to make modifications or adopt an alternative system as necessary to achieve the objectives. What is your view of the PRC's role in carefully balancing the objectives and factors for the ratemaking system?

The PRC took all views under consideration when it balanced the objectives and factors and modified the original for the ratemaking system. The PRC's evaluation of the objectives and factors was upheld by the DC Circuit Court of Appeals, which held that, "Commission acted within its authority under the [Postal] Accountability [and Enhancement] Act, and that its predictive judgments and economic conclusions satisfy the Administrative Procedure Act's requirement of reasoned decision-making."

- a. In November 2020, the PRC adopted final rules to modify the system for regulating rates and classes for Market Dominant products. The Postal Service has increased rates using its authorities under this system. On April 5, 2024, the PRC initiated a review of this modified ratemaking system, citing the Postal Service rate increases, Market Dominant volume declines, and stakeholder concerns. How would you approach the PRC's responsibilities to the public regarding this system and this review?

I plan to approach the PRC's responsibilities regarding this review as we did in our initial effort that led to the 2020 rule change. By conducting a transparent and open process—available to all mailers and USPS customers—I believe the PRC will be able to make an informed decision. We will plan to follow a robust process of public notice and comment for this rulemaking effort, ensuring that all stakeholders have a chance to provide input into the PRC's decision-making process.

31. In regulating Market Dominant rates, the PRC must take into account factors including "the effect of rate increases upon the general public" and "the importance of pricing

flexibility to encourage increased mail volume and operational efficiency.” In your work, how would you focus on the impacts of rate increases on customers and volume, compared to their impacts on Postal Service revenues?

Regarding these specific factors, the current market dominant rate system considers the effect of rate increases on the public by keeping market dominant rates capped at the class level, and still largely based on CPI, to limit the size of the increases. These increases also include additional authorities, which give the Postal Service additional cap space to attempt to raise revenue which could then be used to support meeting high quality service standards (objective 3), make investments that increase efficiency (objective 1), or retain earnings to promote financial stability (objective 3). These authorities were also designed to address cost drivers that are not entirely within the control of the Postal Service, specifically: (1) density rate authority to address the increase in per-unit cost resulting from declines in mail density and (2) retirement rate authority to address the statutorily mandated amortization payments for retirement costs. To achieve pricing flexibility, the PRC left it to the Postal Service's Board of Governors to set the rates and choose how much authority to use within each class in each rate increase and to determine the specific rate increases for each product.

32. The Postal Service and mail users may request that the PRC change the Market Dominant and Competitive product lists by adding new products, removing current products, or transferring products between the lists. How should the PRC consider customer needs in this process?

39 U.S.C. § 3642 instructs the PRC to give due regard to competitors (other entities delivering the product), users of the products, and small business concerns. In practice this means the PRC opens any potential change to public comment and considers comments regarding the statutory criteria.

33. How can the PRC ensure rates for Market Dominant and Competitive products are compliant and transparent, as the mix of Market Dominant and Competitive products changes?

Market dominant and competitive products are subject to different criteria regarding compliance and transparency. Competitive products predominantly feature a price floor, but no ceiling (under the theory that as competitive products the market sets the ceiling price). Given the nature of competition in the competitive product marketplaces, transparency is balanced against likely commercial harm when assessing transparency of data concerning competitive products. Market dominant products, conversely, are subject to a price ceiling (cap), with mechanisms attempting to ensure those products are also compensatory (at minimum cover their attributable costs). Market dominant products have more publicly available data that are reported as the likelihood of commercial harm from disclosure of those data is outweighed by the public interest in financial

transparency. As the mix of products changes, different criteria become applicable to the products (depending on the direction of the shift).

34. In accordance with 39 U.S.C. § 407, the PRC submits views (the view) to the Secretary of State on any treaty, convention, or amendment that alters rate or classification for a Market Dominant mail product. In your view, how should the Secretary of State consider U.S. law and the views of the Commission when concluding such treaties, conventions, or amendments?

The current process is adequate for consideration of the PRC's views. It has allowed the PRC to implement regulations for a fully transparent process that makes relevant proposals publicly available, seeks comments from stakeholders, and makes the view itself publicly available. While the secretary of state may not follow the PRC's views, he must provide reasons of national security or foreign policy in writing that the Commission has also made publicly available. The PRC's statutory role has enabled it to play an active part in advising State in negotiating rate and classification proposals in the Universal Postal Union before they are finalized for adoption.

In considering the PRC's views, the secretary of state must balance several U.S. international postal policy goals in addition to those for rates for market dominant products. The State Department may not be able to pursue these other policy objectives if it does not sign on to the relevant international treaty (UPU Acts) so that the U.S. citizens and businesses have access to a seamless and secure international postal network.

35. The PRC reviews proposed changes to rates not of general applicability, offered by the Postal Service to specific mailers through negotiated service agreements (NSAs). What do you believe the PRC can do to provide timely and thorough reviews of NSAs?

It is very important for NSAs to be reviewed in a timely and thorough manner and in accordance with all applicable statutory requirements. Competitive NSAs and Market Dominant NSAs are subject to different statutory requirements. They are reviewed under different standards and on different timeframes.

For Competitive NSAs, under the PRC's current process, the minimum time to review a new Competitive NSA is 7 business days. However, when Competitive NSA proposals raise questions or are incomplete, thoroughness requires the PRC to inquire further, even if doing so extends the time for the review. In Docket No. RM2023-5, the PRC proposed a new streamlined procedural option that would consolidate review of common elements of typical Competitive NSAs into rulemakings. If approved, review of subsequent Competitive NSAs using those common elements would be conducted expeditiously as informal adjudications.

For Market Dominant NSAs, review is typically more complex because, to approve such an agreement, the Commission is statutorily required to find that the agreement would, among other things, either "improve the net financial position of the Postal Service" or enhance operation performance. This means that any Market Dominant NSA that does not enhance operational performance must not only cover its costs, but also leave the Postal Service better off financially than it would have been absent the agreement. This is a much more involved analysis than the review of Competitive NSAs. Per the PRC's regulations, the soonest a Market Dominant NSA could be implemented would be 45 days after the Postal Service files a request with the Commission. This includes appointing a public representative and providing the public with notice and an opportunity to comment on the request. The Commission endeavors to review requests within that 45-day time period, provided that the Postal Service provides all of the required information with its initial request. However, as with Competitive NSA proposals, when Market Dominant NSA proposals raise questions or are incomplete, thoroughness requires the PRC to follow up to inquire further, even if doing so extends the time for the PRC's review.

36. With the planned July rate increases, the cost of a First Class stamp will have risen 31% under Postmaster General DeJoy's tenure. What actions can the PRC take to study the effects of rate increases on Market Dominant volume and help ensure USPS adequately serves customers who use Market Dominant products? In your opinion, are the PRC's existing authorities sufficient to effectively monitor these programs?

Over the past couple of years, several commenters have raised significant concerns related to the effects of the modifications to the ratemaking system adopted in Order No. 5763, which took effect in January 2021. Some of these concerns include the magnitude of recent and future price increases and the frequency of rate adjustment proceedings, among others. In response to these concerns, the PRC is currently analyzing the impact of rates on volume including analyzing price elasticity and volume forecasting. The PRC has also initiated the holistic assessment of the effects of the Commission's rule changes regarding the system of ratemaking earlier than initially anticipated (Order No. 7032). This earlier initiation is in part due to concerns expressed by market dominant mailers in recent dockets.

Service Standards and Performance Measures

37. What do you believe should be the Commission's role in establishing performance standards for postal products and services and monitoring the Postal Service's results in meeting these standards?

The Commission's authority over postal performance standards and results is governed by statute. Specifically, pursuant to 39 U.S.C. § 3652, and as part of its review of the Postal Service's Annual Compliance Report (ACR), the Commission "makes[s] a written determination" (the Annual Compliance Determination, or ACD) as to "whether any

service standards in effect during such year were not met.” As part of this process, the Commission has the authority to regulate “the content and form” of the report and supporting material, as well as the “methodologies” by which quality of service is measured. 39 U.S.C. § 3652(a)(1), (d), (e). Further, where the PRC finds that service standards have not been met and makes a finding of noncompliance, the PRC has the authority to “order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance.” See U.S.C. § 3662(c).

Outside of the ACD process, the PRC has the responsibility of evaluating, and advising the Postal Service on, any “change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis.” 39 U.S.C. § 3661. Additionally, the PRC monitors the service performance system via the complaint process pursuant to 39 U.S.C. § 3662 under which the PRC may exercise broad remedial powers in response to a complaint brought by a member of the public when the Commission determines that the Postal Service “is not operating in conformance” with its statutory and regulatory service performance responsibilities. 39 U.S.C. § 3662(a), (c).

38. The PRC evaluates service performance against the Postal Service’s service standards and also approves its service performance measurement systems. In your view, how can the PRC support the Postal Service in collecting more accurate and complete service data, and in providing such information to the public?

Please refer to responses 37 and 39 of the questionnaire. As part of the ACD process, the PRC has the authority to regulate “the content and form” of the report and supporting material, as well as the “methodologies” by which quality of service is measured. 39 U.S.C. § 3652(a)(1), (d), (e). Pursuant to this authority (and that granted in other statutes), the PRC may revise the public reporting requirements for service performance data, as it did most recently in 2023 (Order No. 6439). See 39 U.S.C. §§ 503, 3652, 3653, 3692 and 3705. Furthermore, the Commission intends to open a public docket exploring the quality of the data used in the service performance measurement system and evaluating whether the current system can produce accurate, reliable, and representative results.

39. The Postal Service Reform Act required the Postal Service to create a publicly available online “dashboard” that provides weekly, local service performance data to customers. The Act required the PRC to provide reporting requirements for this dashboard that are consistent with Postal Service structure and reflect a granular geographic level of data. The PRC promulgated requirements on February 16, 2023, and the Postal Service debuted the public dashboard on May 19, 2023. How will you approach the PRC’s ongoing responsibility to ensure the Postal Service measures and publishes accurate service performance information?

The PRC is responsible for ensuring that the service performance measurement system produces accurate, reliable, and representative results. The Commission has dedicated significant resources to improving transparency on service performance by district. In the Fiscal Year (FY) 2023 ACD the Commission developed a novel analysis of on-time service decline in Single-Piece First-Class for specific service standards using weekly performance data. The PRC is also very concerned with the quality-of-service data and the potential impact of operational changes on the service measurement system. The PRC intends to open a docket exploring the quality of the data used in the service performance measurement system and to re-evaluate whether the current system can produce accurate, reliable, and representative results.

The USPS Office of Inspector General is tasked with regularly auditing the Postal Service's data collection systems and procedures (39 U.S.C. § 3652(e)(2)), and the PRC does not have the resources to perform a full audit of the billions of scan records used in the production of the service performance results. The PRC is very focused on ensuring that the methodologies approved by the PRC meet the statutory requirements.

40. The Postal Service delivered 84% of all First Class mail on time (as measured against the service standard) in Q2 of FY 2024, compared to 91% during the same period last year. How can the PRC work to examine and address these types of service performance problems and understand the causes, including the impacts of Postal Service operational changes?

In general, the PRC's focus is on transparency and oversight rather than operational control. The PRC analyzes data provided by the Postal Service to identify service performance issues, and attempts to understand their causes, including the impacts of operational changes. However, our role is primarily to monitor and report on service performance, provide recommendations based on our findings, and promote transparency by making our reports publicly available. The PRC has required more robust reporting from the Postal Service and is in the process of analyzing service performance and other relevant data and is attempting to quantify the impact of DFA on service performance.

Postal Service Oversight and Operations

41. The Postal Service Reform Act of 2022 altered the PRC's budget procedure, allowing the PRC to be funded directly with a transfer from the Postal Service Fund, similar to the PRC budget process before 2006. How do you believe the PRC can evaluate the impacts of this change on its funding process and work?

The PRC actively sought a return to the 1970 process of direct funding from the Postal Service Fund. We were pleased to see the provision included in the Postal Service Reform Act of 2022. In my opinion, our "new" budget process is appropriately balanced, allowing better opportunity for growth while at the same time, providing a check on

unlimited or unnecessary spending. To date, the process has worked well. The work of the PRC has not suffered due to the new budget process. Under the process put in place by the PAEA, our budget had remained flat for several years in a row.

42. Postmaster General DeJoy has repeatedly made negative assertions regarding the PRC's authorities, such as stating that "[t]he commission is not empowered to infringe on the Postal Service's well-recognized strategic, managerial, and operational independence." However, the PRC has significant statutory authorities as the Postal Service's regulator, including oversight responsibilities. How can the PRC meaningfully work with the Postal Service given their respective roles?

The PRC stays well within the boundaries of the law, and within those constraints we can regularly seek information related to postal decision-making. With the rollout of the Delivering for America Plan in particular, we have been able to help identify system weaknesses and offer suggestions for improvement. For postal products that require PRC approval, we push to ensure the impact upon the public has been considered and that appropriate analyses have been used in postal decision-making. This results in a better product.

43. The PRC has significant jurisdiction as the Postal Service's regulator, including oversight over the Postal Service's financial accounting and reporting, and its overall compliance with postal laws. What role should the PRC have in monitoring the Postal Service's financial health and helping ensure its long-term stability?

The Commission has considered the Postal Service's financial health and long-term stability in several of its endeavors. First, the PRC has considered the Postal Service's financial health in its evaluation and revision of the Postal Service's market dominant ratemaking system. The PRC must balance this concern, however, with the other objectives and factors applicable to the system. Second, the PRC issues an annual Financial Report focusing on providing transparency into the Postal Service's financial condition. Third, the PRC attempts to foster prudent pricing decisions by requiring the Postal Service to address loss making products.

44. The Postal Service is required to seek an advisory opinion from the PRC for any "change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis." What are your views on this process and its usage during your tenure at the PRC?

The Postal Reorganization Act of 1970 requires the Postal Service to file a request with the Commission for an Advisory Opinion on major changes to postal services within a "reasonable" time period before instituting the changes, 39 U.S.C. 3661. The PRC's role

within this advisory opinion process is quite limited, yet it requires a tremendous amount of work by the PRC. Our final opinion is advisory in nature. In other words, the law does not give the PRC authority to veto the service changes proposed by the Postal Service. And as such, the Postal Service is not required to implement or take any further action with regard to the PRC's opinion. What we do is to carefully comb through the proposal, ask a multitude of questions, and allow any interested member of the public to do so as well. I consider the PRC's goal to be highlighting areas of the plan we consider potential weaknesses.

I believe the process could be improved, at the very least, by requiring the Postal Service to provide the PRC and Congress with detailed justifications for any Commission recommendations the Postal Service does not adopt. This should greatly improve the transparency of postal decision-making behind nationwide service changes.

45. The PRC conducts oversight of Postal Service operations, including monitoring Postal Service compliance with applicable laws and promoting transparency. What approach do you believe the PRC should take to oversight of the Postal Service, as the Postal Service undertakes its mission to provide prompt, reliable, and efficient services to customers?

The PRC provides transparency through several different methods. By statute, the PRC must determine whether the Postal Service has met its service performance targets in the Annual Compliance Determination. However, the PRC goes beyond determining compliance and provides transparency by analyzing various aspects of service performance measurement including regional differences in service performance, mail in measurement, and the reasons that the Postal Service has not met its service performance targets.

The PRC also prepares a review of the Postal Service's finances in the Annual Financial Analysis of United States Postal Service Financial Results and 10-K Statement. This report provides an in-depth review of Postal Service efficiency through analysis of labor costs, cost segments and Total Factor Productivity.

The PRC further provides transparency in its Analysis of the Postal Service's Annual Performance Report and Performance Plan. This report reviews the Postal Service's performance goals and indicators and plans for improving performance. In addition, the PRC is currently conducting a public inquiry into the Postal Service's Delivery for America Plan.

46. On April 26, 2024, the PRC issued Order 7061 asking the Postal Service to either show cause within 20 days of the Order as to why an advisory opinion is not warranted for recent initiatives being implemented under the Delivering for America Plan (DFA), or request an advisory opinion within 40 days. The Postal Service filed a response on May 16, 2024. While the Postal Service made assertions that an advisory opinion would be

unnecessary for certain initiatives, it also stated the Postal Service is determining “whether to seek any additional advisory opinions from the Commission concerning the implementation of DFA Plan initiatives.” In addition, a May 8 letter signed by 26 Senators urged the Postal Service to request “a comprehensive Advisory Opinion” from the PRC, addressing “the intersecting changes to facilities across the nation (conversions to Regional Processing and Distribution Centers, Sorting and Delivery Centers, and Local Processing Centers) and local transportation optimization.” How would you approach consideration of an advisory opinion regarding DFA initiatives, to ensure the impacts of such changes are fully studied?

In the current DFA Public Inquiry docket (Docket No. PI2023-4), the PRC has asked a series of questions designed to elicit information on the current Postal Service processing and delivery network and the changes to that network anticipated in the DFA plan. As a part of this PI docket, Commission staff have been researching current operations, including through site visits, modeling the network, and analyzing the impact operational changes may have on costs and service. It is the PRC's expectation that if an Advisory Opinion were filed, we would supplement our current understanding of the anticipated operational changes through additional questions and potential contracts with outside experts.

In general, through the Advisory Opinion process the PRC has greater latitude to gather information and analyze data than it might in other types of dockets. Different lines of questioning or facts raised throughout the process may lead the PRC down different paths of research. If an Advisory Opinion is sought, the PRC will ensure that it has the necessary resources to thoroughly analyze all relevant aspects of the DFA. It should be noted, however, that the Commission work is based upon data provided to it by the Postal Service. This can be a limiting factor on the depth of analysis the PRC is able to provide.

47. As the Postal Service contemplates or makes significant changes to its products and services, how can the PRC work to ensure a high level of service and accountability?

Please refer to responses to questions 37 and 38 of the questionnaire. As explained above, the PRC has the authority to evaluate annual service performance results as part of its ACD and, when appropriate, may mandate remedial action on the part of the Postal Service. See 39 U.S.C. §§ 3653, 3662(c). Further, the PRC has the responsibility of evaluating any “change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis” and issuing public advisory opinions giving its recommendations regarding these changes. 39 U.S.C. § 3662(a), (c).

48. The PRC’s oversight role includes enforcing requirements for quality, accuracy, and completeness of Postal Service data and data analysis. What role can the PRC play in

ensuring Postal Service data is actionable and accessible? How can the PRC also improve its own transparency by making PRC information accessible to the public?

The PRC created its Chief Data Officer (CDO) department in February 2022. The CDO's main objective is to build, maintain and update a database of postal data. The database ensures data accuracy and quality by aggregating each source of data from disparate excel and pdf files into a single table. Each table is consistently formatted, updated and checked for accuracy by the CDO. Once this table is presented to the analysts it not only saves them the time of extracting relevant information from each excel file or pdf, but also eliminates unnecessary errors. In other words, the CDO handles the aggregation of data and ensures its quality, completeness, and accuracy, while the analysts focus on the data analysis.

With respect to making the information more accessible to the public and improving transparency, the PRC has launched several different dashboards on its website presenting postal data in a more friendly and accessible manner to the public. For example, with the release of its FY 2023 Financial Analysis Report, the PRC simultaneously presented the data in a fully accessible dashboard with downloadable data that provides a visual snapshot of key components of its analysis, including balance sheet and mail volume trends from 2007 to 2023. Other dashboards include a Rate Authority Dashboard and an NSA dashboard.

49. The PAEA set forth a process for the PRC to adjudicate customer complaints against the Postal Service. What do you believe must be done to ensure the PRC reviews and resolves complaints promptly and fairly?

The PRC, under 39 U.S.C. § 3662, is required to provide responses to complaints within 90 days after receiving the complaint (determining whether it continues because there exists a material issue of fact or law, or whether it is dismissed). The PRC independently evaluates each complaint that is filed, determines whether the complaint raises issues with the PRC's jurisdiction, and evaluates whether the materiality standard is met and the complaint should continue. In cases where complaints move beyond the materiality standard, the PRC provides a legal framework for discovery, evidence including testimony, and briefing before issuing an opinion on the complaint.

All PRC docketed proceedings, including complaints, are available via the PRC's public docketing system and any party is free to access that information without registration or charge. Only information that is proprietary and subject to protective conditions is not available within the PRC docketing system but can be accessed by motion from interested members of the public under protective conditions.

50. The PAEA allows any person served by a post office to appeal its closing or consolidation to the PRC. What is your experience with this responsibility and do you believe the PRC has been effective in exercising it?

Congress provided for the PRC to hear timely appeals of Postal Service decisions to close or consolidate post offices. 39 U.S.C. 404(d). By statute, the Postal Service may not close a facility while the process, including any appeal, is ongoing. The PRC's role, however, is limited to ensuring that the proper procedures for closing or consolidating a post office have been followed by the Postal Service. While the PRC may remand a decision to close for failure to adhere to the statutory process, it may not modify a decision to close a post office and require that the post office remain open. 39 U.S.C. 404(d)(5). The PRC has issued numerous orders related to post office closings, many of which were remanded for failure to follow procedures. The PRC also provides transparency on Post Office suspensions in its Annual Compliance Determination.

51. Cost and efficiency are key considerations as the Postal Service seeks to provide postal services across the nation. In your opinion, how can the PRC help the Postal Service improve efficiency while ensuring robust service?

In Order No. 5763, the Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, the PRC included new rules to enhance the transparency of Postal Service costs, efficiency and cost saving initiatives. The PRC will be reviewing the efficiency of the Postal Service as part of its holistic assessment of Order No. 5763. The PRC may implement new rules to monitor efficiency and balance efficiency and service performance going forward. In the meantime, the PRC continues to monitor service performance results and plans to increase transparency regarding these results through enhanced reporting.

V. Accountability

Whistleblower Protections

52. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.
- a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

I have not had such an experience in my history.

- b. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at the PRC?

I strongly support the protection of whistleblowers and believe the issues they bring to light deserve the full and fair consideration of our IG.

- c. If confirmed, what steps will you take to ensure that whistleblowers at the PRC do not face retaliation, that whistleblower identifiers are protected, and that complaints of retaliation are handled appropriately?

The PRC's Workplace Harassment Policy clearly states that an employee will be protected from reprisal or retaliation should they participate in an investigation, proceeding or hearing. Additionally, the PRC EEO policy states that the Civil Service Reform Act of 1978, 5 U.S.C. 2302, applies to PRC employees and prohibits reprisal against employees or applicants for whistleblowing.

Cooperation with Inspectors General

53. What is your view of the role of the U.S. Postal Service Office of Inspector General (OIG)? Please describe what you think the relationship between a PRC Commissioner and the OIG should be. If confirmed, what additional steps would you take to foster a working relationship with the Inspector General?

I greatly respect Inspector General Hull and the work carried out by the IG's office. We five commissioners meet quarterly with IG Hull to hear updates on current IG investigations/audits and present any offers for future work. Most recently, I have greatly appreciated the DFA-related audits carried out by the IG.

If confirmed, do you commit to ensuring that all recommendations made by the OIG to the PRC are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

Yes.

54. If confirmed, do you commit without reservation to ensuring the OIG receives timely access to PRC records and to interview PRC employees?

Yes.

55. If confirmed, what steps will you take to ensure all PRC offices and employees cooperate fully and promptly with OIG requests?

The commissioners are regularly updated on IG audits of commission activities. I will continue to encourage full and prompt cooperation with all audits.

Cooperation with GAO

56. If confirmed, do you commit without reservation to ensuring the Government Accountability Office (GAO) receives timely, comprehensive responses to requests for information, including for records and meetings?

Yes.

57. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

Yes.

58. If confirmed, what steps will you take to ensure all PRC functions and employees cooperate fully and promptly with GAO requests?

During my time working in the Senate, I developed a strong appreciation for and reliance upon the work of GAO, especially on postal matters.

Commissioners are routinely briefed by commission staff of any ongoing GAO work. We review and approve the final commission response to any GAO report. I will continue to stress the importance of fully responding to all GAO inquiries.

VI. Relations with Congress

59. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes.

60. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

Yes.

61. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

Yes.

62. If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?

If I am contacted directly by a congressional office, I always ask if a deadline exists, and if so, I make sure to meet it. I completely understand the rapidly moving timelines of work on Capitol Hill.

63. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes.

64. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes.

VII. Assistance

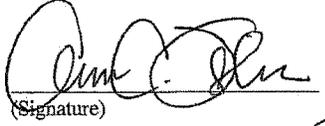
65. Are these answers completely your own? If not, who has provided you with assistance?

They are my own answers, though I sought assistance from PRC legal staff for appropriate legal terminology and cites; information from the CDO's staff regarding preparation of unique databases; and information from PRC technical staff regarding status of a possible study on mail elasticity.

66. Have you consulted with the PRC, or any other interested parties? If so, please indicate which entities.

See above.

I, Ann C. Fisher, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 26 day of June, 2024



National Postal Mail Handlers Union

Paul V. Hogrogian
National President

Kevin P. Tabarus
National Secretary-Treasurer

June Harris
*Vice President
Central Region*

John A. Gibson
*Vice President
Eastern Region*

David E. Wilkin
*Vice President
Northeastern Region*

Lawrence B. Sapp
*Vice President
Southern Region*

Don J. Sneesby
*Vice President
Western Region*

July 24, 2024

The Honorable Gary Peters
Chairman, Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

The Honorable Rand Paul
Ranking Member, Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Chairman Peters and Ranking Member Paul:

On behalf of the National Postal Mail Handlers Union (NPMHU), which represents over 50,000 mail handlers in postal facilities throughout the country, I write in support of the renomination of Ann Fisher to the Postal Regulatory Commission (PRC).

Commissioner Fisher has a long career dedicated to the sustainability of the Postal Service in a wide array of capacities. During her time on Capitol Hill with Senator Collins of Maine, she worked on postal policy issues to ensure not only to promote the viability of the Postal Service, but also ensure the USPS meets the demands of postal customers. During her time in the PRC, she has continued this work to elevate the need for reliable service to every American household and business.

The NPMHU appreciates her work, and urges the Senate Homeland Security and Governmental Affairs Committee to vote in favor of Ms. Fisher's renomination, and move it to the floor for a full Senate vote.

If you have any questions, please contact NPMHU Legislative Director Katie Maddocks at kmaddocks@npmhu.org or 202-227-8810.

Thank you for your consideration on the matter.

Sincerely,

Paul V. Hogrogian
National Postal Mail Handlers Union

National Headquarters: 815 16th Street, NW, Suite 5100, Washington, D.C. 20006
(202) 833-9095 FAX (202) 833-0008 www.npmhu.org



Opening Statement of Ashley E. Poling
Nominee, Commissioner, Postal Regulatory Commission
July 25, 2024

Chairman Peters, Ranking Member Paul, and honorable members of the committee. Thank you for inviting me here today to discuss my nomination for a second term as Commissioner on the United States Postal Regulatory Commission. I would like to thank President Biden and his administration for placing their confidence in me and I am honored to be here.

I would also like to recognize my incredible support system of family, friends, mentors and team members who are either here today in person or are watching from all over the country. My parents, Lindy and Barclay, led incredible careers of their own as public servants, and they have taught me everything I know about doing all that I can to make a difference in the world through their amazing guidance. I am also particularly grateful for the powerful female friendships in my life and thank those extraordinary women for their unshakeable support. All of you have made a powerful difference in helping to shape the person I am today.

Finally, I would like to thank the hard-working men and women of the United States Postal Service for their remarkable work in maintaining this essential public service. The Postal Service is a critical piece of national infrastructure and an important lifeline to individual customers and small businesses in all areas of our country that use it to conduct financial transactions, vote in local and national elections, receive essential medical items, and build up

their home businesses. The organization visits every American address six days per week and has existed since the time of the Founding Fathers.

And yet, in the last several years, the confidence of the American people in their public postal service has begun to slip. In 2021, the Postal Service lengthened service standards for a portion of mail and packages. Despite having more time to deliver the mail, service performance began declining in late 2023 and has continued its decline this year.

During my first term as a Commissioner, I worked diligently with my colleagues on a variety of initiatives intended to help the mailing community, members of the public, and Congress better understand why service performance often did not meet their expectations. I believe transparency and accountability in this area is now more essential than ever.

It is important to explain why service is so significant to me personally. Before coming to the Commission, I worked on postal policy for United States Senators representing rural America. Much of what I learned about the importance of the Postal Service in rural communities came from my time on the ground in the states of Montana, North Dakota, and Michigan talking to constituents about how much they rely on postal services, including access to their local post office.

For that reason, I also have been committed to helping resolve issues with suspended post offices. While some post offices are suspended due to extreme weather events or safety issues and reopened fairly quickly, others remain in the purgatory of suspended status for years or even decades. While the Commission does not have any direct authority over post office suspensions, my colleagues and I have provided substantial transparency regarding this issue through our Annual Compliance Determination. If confirmed for a second term, I will commit to continuing to hold the Postal Service accountable for resolving post office suspensions in a timely manner and in accordance with the law.

Despite the ongoing decline in mail volume, the Postal Service delivers nearly half of the world's mail. Total mail and package volume remains in the billions of pieces every year, and the postal stakeholder community continues to be strong, accounting for over a trillion dollars of commerce. I would be remiss if I did not mention the important role that the Commission plays in giving a voice to Americans' concerns about the future of this essential public service. Frequent engagement with the whole postal community remains crucial.

I would also like to express my belief in the importance of collaboration and bipartisanship in creating and enforcing effective postal regulation. As I am sure all of the committee members here know, there is no Republican or Democratic way to deliver the mail. I pledge to continue working with my colleagues in a bipartisan fashion to provide critical oversight of the Postal Service for the benefit of all Americans.

We stand at a meaningful moment in postal history. As the Postal Service pursues extensive nationwide reforms to its network and operations, it is critical that the Commission hold the Postal Service accountable for meeting its statutory obligations throughout these changes, including maintaining high-quality service. There is no more important time for a strong and engaged postal regulator.

While my colleagues and I have accomplished a lot during the last five years, there are still substantial challenges left to meet and much work to be done to preserve the vital institution that is the United States Postal Service. I thank you for your time and for considering my nomination. I look forward to answering any questions you may have.

REDACTED

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
Commissioner, Postal Regulatory Commission	April 11, 2024

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Ashley	Jay Elizabeth	Poling	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 901 New York Avenue, Suite 200		
<u>City:</u>	<u>State:</u>	<u>Zip:</u>	<u>City:</u>	<u>State:</u>	<u>Zip:</u>
			Washington	D.C.	20268

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
Year of Birth (Do not include month and day.)	Place of Birth
1987	Raleigh, North Carolina

<i>Marital Status</i>						
Check All That Describe Your Current Situation:						
Never Married	Married	Separated	Annulled	Divorced	Widowed	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

<i>Spouse's Name (current spouse only)</i>			
<u>Spouse's First Name</u>	<u>Spouse's Middle Name</u>	<u>Spouse's Last Name</u>	<u>Spouse's Suffix</u>
N/A			

<i>Spouse's Other Names Used (current spouse only)</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Maiden Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
N/A					Est <input type="checkbox"/>	Est <input type="checkbox"/>
					Est <input type="checkbox"/>	Est <input type="checkbox"/>

<i>Children's Names (if over 18)</i>			
First Name	Middle Name	Last Name	Suffix
N/A			

2. Education

List all post-secondary schools attended.

<u>Name of School</u>	<u>Type of School</u> (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	<u>Date Began School</u> (month/year) (check box if estimate)	<u>Date Ended School</u> (month/year) (check box if estimate) (check "present" box if still in school)	<u>Degree</u>	<u>Date Awarded</u>
Elon University School of Law	Law School	August/2010 <input type="checkbox"/> Est	May/2013 <input type="checkbox"/> Est <input type="checkbox"/> Present	Juris Doctor	May 25, 2013
College of William & Mary	University	August/2005 <input type="checkbox"/> Est	May/2009 <input type="checkbox"/> Est <input type="checkbox"/> Present	Bachelor of Arts	May 17, 2009
		<input type="checkbox"/> Est	<input type="checkbox"/> Est <input type="checkbox"/> Present		
		<input type="checkbox"/> Est	<input type="checkbox"/> Est <input type="checkbox"/> Present		

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

<u>Type of Employment</u> (Active Military Duty Station, National Guard/Reserve, USPS Commissioned Corps, Other Federal employment, State Government (Non-Federal Employment), Self-employment, Unemployment, Federal Contractor, Non-Government Employment (excluding self-employment), Other	<u>Name of Your Employer/Assigned Duty Station</u>	<u>Most Recent Position Title/Rank</u>	<u>Location</u> (City and State only)	<u>Date Employment Began</u> (month/year) (check box if estimate)	<u>Date Employment Ended</u> (month/year) (check box if estimate) (check "present" box if still employed)
Other Federal Employment	Postal Regulatory Commission	Commissioner	Washington, DC	August 2019 <input type="checkbox"/> Est	Present <input type="checkbox"/> Est
Other Federal Employment	Postal Regulatory Commission	Vice Chairwoman	Washington, DC	January 2021 <input type="checkbox"/> Est	December 2021 <input type="checkbox"/> Est
Other Federal Employment	United States Senate, Homeland Security & Governmental Affairs Committee	Director of Governmental Affairs & Senior Counsel, Ranking Member Gary Peters (D-MI)	Washington, DC	January 2019 <input type="checkbox"/> Est	August 2019 <input type="checkbox"/> Est
Other Federal Employment	United States Senate, Homeland Security & Governmental Affairs Committee	Senior Policy Counsel, Subcommittee on Regulatory Affairs and Federal Management, Ranking Member Heidi Heitkamp (D-ND)	Washington, DC	October 2017 <input type="checkbox"/> Est	January 2019 <input type="checkbox"/> Est
Other Federal Employment	United States Senate, Homeland Security & Governmental Affairs Committee	Counsel, Subcommittee on Regulatory Affairs and Federal Management, Ranking Member Heidi Heitkamp (D-ND)	Washington, DC	March 2015 <input type="checkbox"/> Est	October 2017 <input type="checkbox"/> Est

Other Federal Employment	United States Senate	Legislative Aide, Office of Senator Jon Tester (D-MT)	Washington, DC	January 2015	Est □	March 2015	Est □
Other Federal Employment	United States Senate, Homeland Security & Governmental Affairs Committee	Counsel, Subcommittee on the Efficiency and Effectiveness of Federal Programs & the Federal Workforce, Chairman Jon Tester (D-MT)	Washington, DC	April 2014	Est □	January 2015	Est □
Other Federal Employment	United States Senate	Staff Assistant, Office of Senator Jon Tester (D-MT)	Washington, DC	April 2014		April 2014	
Other Federal Employment	United States Senate	Senate Intern, Office of Senator Jon Tester (D-MT)	Washington, DC	September 2013		April 2014	
Unemployment	Period between end of law school/end of clerkship and when I started job in Senate.		Raleigh, NC	July 2013		September 2013	
State Government (Non-Federal Employment)	University of North Carolina School of Government/Elon University School of Law	Clerk for Criminal Subcommittee of North Carolina Pattern Jury Instructions Committee	Chapel Hill, NC	August 2011		July 2013	
Other	International Rights Advocates	Spring Intern (externship in my final semester of law school for academic credit)	Washington, DC	January 2013		May 2013	
Other	Friends Unite (nonprofit organization)	Head of Human Rights Issues & Advocacy/Volunteer	Raleigh, NC	March 2012		May 2013	
Other	Santa Clara University School of Law (International Law, Humanitarian Law, and Human Rights Law Program)	Study Abroad Program Student, after 1 st year of law school for academic credit (7-week program)	Geneva, Switzerland & Strasbourg, France	June 2011		July 2011	

Other	Elon University School of Law	Full time Student	Greensboro, NC	August 2010	May 2013
Nongovernment Employment	Martin & Jones, PLLC	Asbestos Claims Assistant	Raleigh, NC	June 2009	July 2010
Nongovernment Employment	G. Bates Studio	Part-Time Sales Associate	Williamsburg, VA	January 2009	May 2009
Other	College of William & Mary – Reves Center for International Studies	Study Abroad Program Student, Christ's College, before final year of college for academic credit (5-week program)	Cambridge, United Kingdom	July 2008	August 2008
Nongovernment Employment	Poyner Spruill, LLP	Summer Intern	Raleigh, NC	May 2008	June 2008
Nongovernment Employment	Raleigh Racquet Club	Lifeguard/Swim Coach	Raleigh, NC	May 2007	August 2007
Nongovernment Employment	Raleigh Racquet Club	Lifeguard/Swim Coach	Raleigh, NC	May 2006	August 2006
Other	College of William & Mary	Full time Student	Williamsburg, VA	August 2005	May 2009
Nongovernment Employment	Raleigh Racquet Club	Lifeguard	Raleigh, NC	May 2005	August 2005

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
N/A		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>

4. Potential Conflict of Interest

(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

N/A

(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

N/A

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

- **September 2016: *Golden Buffalo Award***
 - Awarded by Senator Heitkamp's office for "outstanding service in the planning, execution and follow up of terrific events in North Dakota as we continue to work to improve mail delivery for all North Dakotans." This was largely the result of the development, coordination, planning, and execution of the visit of former Postmaster General, Megan Brennan, to North Dakota in 2016.
- **April 2009: *William & Mary Benjamin Stoddert Ewell Award***
 - One of 40 members selected from the undergraduate and graduate classes of 2009 (approximately 2,160 students total) to be honored with this award "for outstanding participation and leadership in campus and community activities and for service and contribution to the College."
- **Spring 2009: *Kappa Kappa Gamma Outstanding Senior Award***
 - Voted upon by a chapter of approximately 90 women.
- **Spring 2006: *Kappa Kappa Gamma Outstanding New Member Award***
 - Voted upon by a chapter of approximately 90 women.

- **Spring 2005: Family Circle Cup/L’Oreal Personal Best Scholarship, North Carolina Recipient**
 - Awarded to three women from South Carolina, Georgia, and North Carolina for “outstanding charitable and volunteer achievements in their respective communities.”

- **Spring 2005: Lion’s Club International Local Scholarship Recipient**
 - Awarded to three women from South Carolina, Georgia, and North Carolina for “outstanding charitable and volunteer achievements in their respective communities.”

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years.

Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam’s Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> <u>(You may approximate.)</u>	<u>Position(s) Held</u>
Dupont Row Condominium Board	September 2023-Present	Member-at-Large
William & Mary Society of 1918	March 2019 – Present	Member
Foundry United Methodist Church Washington, DC	September 2018 – April 2023	Young Adult Leader (September 2021 – April 2023) Member
William & Mary Washington, DC Alumni Chapter Board	June 2016 – June 2022	Scholarship Committee Co-Chair (June 2019-June 2022) Scholarship Committee Chair (September 2017 – June 2019) Events Committee Co-Chair (September 2016 – September 2017) Chapter Board Member (June 2016 – June 2022)

William & Mary Young Guards Council	May 2009 – June 2019	Vice Chair (May 2016 – June 2019) Class of 2009 Representative (May 2009 – June 2019)
-------------------------------------	----------------------	--

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office?

<u>Name of Office</u>	<u>Elected/Appointed/ Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
N/A			

(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>
Heidi for Senate	Voter Protection Volunteer	Handled hundreds of calls on the Dem-NPL North Dakota Voter Protection hotline and helped educate voters on what documents they would need to vote successfully via absentee ballot, early voting, or on Election Day. Also poll watched during early voting at multiple polling locations in Fargo to ensure voters were being given accurate information to vote successfully by Election Officials.	October 23, 2018 – November 6, 2018

Heidi for Senate	Phone Banking Volunteer	Made calls on behalf of North Dakota Democratic statewide candidates for the 2018 midterm election.	June 27, 2018
Planned Parenthood Advocates of Montana	Phone Banking Volunteer	Made calls on behalf of Montana Democratic candidates for Governor and Supreme Court.	October 6, 2016
Kay Hagan for Senate	Phone Banking Volunteer	Made calls on behalf of Senator Kay Hagan (D-NC) for the 2014 midterm election.	October 28, 2014

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
N/A		

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

Title	Publisher	Date(s) of Publication
“What does Tribe Pride mean to you?”	College of William & Mary, Alumni University Advancement Gale Blog Post	November 21, 2017
“Study Abroad presents law students with international opportunities”	Elon University School of Law, contributed to reporting for this article	February 20, 2013
“A New Way of Seeing Things: Report on the Fall 2012 Study Abroad/International Panel”	Elon University School of Law, Student Report on International Panel/Benefits of International Study	December 20, 2012
“Saving Babies: One Foot at a Time”	Friends Unite nonprofit volunteer Blog Post	July 29, 2012
“The Impact of Introductions”	Friends Unite nonprofit volunteer Blog Post	July 29, 2012

Podcast/Radio Interviews:

March 25, 2024, Federal News Network Tom Temin Interview with Chairman Kubayanda:
<https://federalnewsnetwork.com/workforce/2024/03/behind-every-postal-service-move-theres-a-postal-regulatory-commissioner/>

October 29, 2021, NAPS (National Association of Postal Supervisors) Chat with Bob Levi:
<https://naps.org/files/galleries/Episode%20145%20October%2029%202021.mp3>

October 12, 2021, News & Views with Joel Heitkamp (North Dakota KFGO radio station):<https://omny.fm/shows/news-views-with-joel-heitkamp/the-postal-regulatory-commission-with-ashley-polin>

November 3, 2020, R Street Institute "Why Public Service?" Podcast with Kevin Kosar:
<https://www.rstreet.org/commentary/why-public-service-episode-11-ashley-poling/>

September 13, 2019, NAPS (National Association of Postal Supervisors) Chat with Bob Levi:
<https://naps.org/files/galleries/Episode%2044%20September%2013%202019.mp3>

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

Title/Topic	Place/Audience	Date(s) of Speech
National Association of Presort Mailers (NAPM) Speech at 2024 Annual Conference	TradeWinds Resort 5500 Gulf Blvd. St. Pete Beach, FL 33706	February 13, 2024
National Postal Policy Council (NPPC) Speech	Renaissance Arlington Capital View Hotel 2800 Potomac Avenue Arlington, VA 22202	December 14, 2023
National Postal Forum Panelist, "Finding Your Superpower: How to make an impact in your workplace"	National Postal Forum Charlotte Convention Center Room E220D Charlotte, NC	May 24, 2023
National Postal Mail Handlers Union (NPMHU) Legislative Conference Speech	Hyatt Regency Capitol Hill 400 New Jersey Avenue NW Washington, DC 20001	May 2, 2023
Women in Logistics and Delivery (WILDS) Speech	Postal Regulatory Commission 901 New York Avenue, Suite 200 Washington, DC 20268	October 27, 2022
National Retail Federation and Package Coalition Remarks	Virtual	September 28, 2022
Leaders in Logistics Keynote Speech	Crystal Gateway Marriott 1700 Richmond Hwy Arlington, VA 22202	September 26, 2022
Leaders in Logistics Speech	Virtual	October 21, 2021
National Postal Policy Council (NPPC) Speech	Virtual	February 23, 2021
National Newspaper Association Keynote Speech	Virtual	October 1, 2020

American Catalog Mailers National Forum Speech/Panel	Virtual	September 9, 2020
USPS Office of Inspector General Rural Postal Event Speech	Virtual	July 30, 2020
Alliance of Nonprofit Mailers Remarks	National Wildlife Federation Advocacy Center 1200 G Street NW, Suite 900 Washington, DC 20005	December 11, 2019
National Postal Policy Council (NPPC) Speech	Renaissance Arlington Capital View Hotel 2800 Potomac Avenue Arlington, VA 22202	December 4, 2019
PostCom Study Day Speech	Embassy Suites Alexandria 1900 Diagonal Road Alexandria, VA USA	October 1, 2019
Senate Nomination Hearing to be Postal Regulatory Commissioner	U.S. Senate Homeland Security & Governmental Affairs Hearing Room – SD-342	July 16, 2019
United Postmasters and Managers of America Legislative Summit Congressional Staff Panelist	G-50 Dirksen Senate Office Building, Washington, DC 20510/ Audience made up of UPMA members from across the country	January 28, 2019

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
The Rural/Urban Divide: Package Delivery in the 21 st Century Panel	USPS Office of Inspector General Headquarters, 1735 N. Lynn Street, Arlington, VA 22209/Audience made up largely by members of postal stakeholder community	August 7, 2018
A Grand Alliance to Save our Public Postal Service/Postal Heritage Day Panelist	385 Russell Senate Office Building, Washington, DC 20510/Audience made up of congressional staff, members of postal stakeholder community	July 26, 2018
The Capitol Forum: USPS Last Mile Policy Conference Panelist	The National Press Club, 529 14 th Street NW, Washington, DC 20045/Audience made up of members of the postal stakeholder community	June 13, 2018
American Catalog Mailers Association National Conference Panelist	The Dupont Circle Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036/Audience made up of members of the ACMA from across the country	May 22, 2018

National Rural Letter Carriers Association Legislative Seminar Panelist	Hyatt Regency on Capitol Hill, 400 New Jersey Avenue NW, Washington, DC 20001/Audience made up of NRLCA members from across the country	May 21, 2018
American Postal Workers Union State Convention	C'Mon Inn, 3051 32 nd Avenue S, Grand Forks, ND 58201/Audience made up of North Dakota APWU members from across the state	April 21, 2018
National Association of Postal Supervisors Legislative Seminar Congressional Staff Panelist	Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, VA 22202/Audience made up of NAPS members from across the country	March 12, 2018
United Postmasters of America Legislative Summit Congressional Staff Panelist	Capitol Visitor Center Auditorium in U.S. Capitol/Audience made up of UPMA members from across the country	February 26, 2018
Partnership for Public Service Schaeffer Fellows Program "Values and Vision" Session Panelist	1100 New York Avenue, Suite #200 East, Washington, DC 20005/Audience made up of Schaeffer Fellows who are selected from four elite universities across the country. Focus of program is to help participants become engaged citizens and to develop an informed view of government service and operations.	June 9, 2017
National Active and Retired Federal Employees Association Legislative and Training Conference Congressional Staff Panelist	Hilton Alexandria Mark Center, 500 Seminary Road, Alexandria, VA 22311/Audience made up of NARFE members from across the country	March 13, 2017
William & Mary Alumni Capitol Hill Panel Discussion with Congressional Staff who are alums	385 Russell Senate Office Building, Washington, DC 20510/Audience made up of current students enrolled at William & Mary Washington Center	January 13, 2017
William & Mary Alumni Capitol Hill Panel Discussion with Congressional Staff who are alums	385 Russell Senate Office Building, Washington, DC 20510/Audience made up of current students enrolled at William & Mary Washington Center	January 14, 2016

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.)

- No.
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?
 - No.
- Have you been charged, convicted, or sentenced of a crime in any court?
 - No.
- Have you been or are you currently on probation or parole?
 - No.
- Are you currently on trial or awaiting a trial on criminal charges?
 - No.
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation?
 - No.

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

N/A for all in this section

A) Date of offense:

- a. Is this an estimate (Yes/No):

B) Description of the specific nature of the offense:

C) Did the offense involve any of the following?

- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: **Yes / No**
- 2) Firearms or explosives: **Yes / No**
- 3) Alcohol or drugs: **Yes / No**

D) Location where the offense occurred (city, county, state, zip code, country):

E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: **Yes / No**

- 1) Name of the law enforcement agency that arrested/cited/summoned you:
- 2) Location of the law enforcement agency (city, county, state, zip code, country):

F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: **Yes / No**

- 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):

2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:

3) If no, provide explanation:

G) Were you sentenced as a result of this offense: **Yes / No**

H) Provide a description of the sentence:

I) Were you sentenced to imprisonment for a term exceeding one year: **Yes / No**

J) Were you incarcerated as a result of that sentence for not less than one year: **Yes / No**

K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:

L) If conviction resulted in probation or parole, provide the dates of probation or parole:

M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: **Yes / No**

N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/Proceeding</u>
N/A				

--	--	--	--	--

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

N/A

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>
N/A			

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

NO.

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

NO.

14. Outside Positions

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3)

continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Penelope Elizabeth Gouge

This 14 day of May, 2024

REDACTED

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



April 18, 2024

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Ashley Poling, who has been nominated by President Biden for the position of Commissioner, Postal Regulatory Commission.

We have reviewed the report and have obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

DAVID APOL

Digitally signed by DAVID
APOL
Date: 2024.04.18 17:19:17
+0400

David J. Apol
General Counsel

Enclosures

REDACTED



April 12, 2024

David A. Trissell
General Counsel and Designated Agency Ethics Official
Postal Regulatory Commission
901 New York Ave., Suite 200
Washington, DC 20268-0001

Dear Mr. Trissell:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner at the Postal Regulatory Commission. It is my responsibility to understand and comply with commitments outlined in this agreement.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the particular matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me:

- Any spouse or minor child of mine;
- Any general partner of a partnership in which I am a limited or general partner;
- Any organization in which I serve as an officer, director, trustee, general partner, or employee; and
- Any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

In the event that an actual or potential conflict of interest arises during my appointment, I will consult with an agency ethics official and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset.

If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

I will receive a live ethics briefing from a member of the ethics office after my confirmation but not later than 15 days after my appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will submit my Certification of Ethics Agreement Compliance which documents my compliance with this ethics agreement.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of federal, state and local government. I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – PUBLIC POSTING

I have been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,



Ashley Poling

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-hearing Questionnaire
For the Nomination of Ashley Poling to be
Commissioner, Postal Regulatory Commission**

I. Nomination Process and Conflicts of Interest

1. Did the President give you specific reasons why he nominated you to serve an additional term as a Commissioner on the Postal Regulatory Commission (“PRC” or “the Commission”)?

No.
2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No.
3. Have you made any commitments with respect to the policies and principles you will attempt to implement as Commissioner of the PRC? If so, what are they, and to whom were the commitments made?

No.
4. Are you aware of any business relationship, dealing, or financial transaction that could result in a possible conflict of interest for you or the appearance of a conflict of interest? If so, please explain what procedures you will use to recuse yourself or otherwise address the conflict. And if you will recuse yourself, explain how you will ensure your responsibilities are not affected by your recusal.

No.
5. Have you or any organization of which you were an officer, director, board member, owner, or have or had significant financial interest in, been the recipient of any Federal grants, loans, or other financial assistance (such as, but not limited to, Paycheck Protection Program Loans, Economic Injury Disaster Loans, Restaurant Revitalization Grants, etc.) within the past 10 years. If so, please list the program, amount, and date of receipt.

No.
6. Please provide the name of any individual, law firm, consulting firm, lobbying firm, public relations firm, or other entity you have formally retained or contracted with regarding this nomination, including any amounts paid in fees or otherwise.

N/A

II. Background of the Nominee

7. Why do you want to serve an additional term as a Commissioner of the PRC?

I care deeply about the future of the United States Postal Service and about the customers who depend on this critical service every day. I believe that the United States Postal Service is at a critical crossroads in our nation's history, and I want to continue to preserve and improve this vital public service for the benefit of the American people and the small businesses it serves in rural and urban areas across our country. I have learned a great deal in my first term as a Commissioner and know I can continue to contribute significantly in this position. I am an effective communicator and have worked to further strengthen the relationships that I began building with the entire postal stakeholder community while working as a policy staffer in the United States Senate. Frequent engagement with the community is vital to understanding what different stakeholders are dealing with and how I can best work with them through my role as a Commissioner. I always follow through to the best of my ability on the ideas that I put forward within the Commission. I have advanced a number of initiatives related to quality of service during my first term, and I believe transparency and accountability in this area are now more important than ever.

8. What specific background, experience, and attributes qualify you to be a Commissioner of the PRC?

I believe my passion for postal issues, my collaborative spirit, my ability to build strong bipartisan relationships, my trusted and balanced reputation in the postal stakeholder community, and my creative problem-solving approach continue to make me an excellent fit for this position. My interest in postal policy issues developed while working for Senators from the largely rural states of Montana and North Dakota on the Homeland Security and Governmental Affairs Committee. During my first term at the Commission, I have pushed to increase the prominence of service issues within the Commission, have conducted extensive stakeholder outreach, and have contributed significantly to the modernization and accessibility of Commission reports and communications.

9. Please describe:

- a. Your leadership and management style.

I would describe my leadership and management style as highly engaging, collaborative, interactive, supportive, and empowering. I strongly believe that being an active listener and always treating colleagues and team members with respect leads to increased morale and productivity in an office environment. As a leader, I also believe it is important to be approachable, compassionate, self-aware, and to conduct yourself with the highest integrity at all times. In my role as a Commissioner, I work closely with two members of my team, four fellow Commissioners and their respective staffs, and the Commission staff as a whole on a daily basis. Spending

time understanding where people are coming from helps me greatly in understanding the best ways to find areas of agreement and how to problem-solve effectively.

b. Your experience managing personnel.

I manage a team of two in my role as a Commissioner. I have a Senior Economic & Public Policy Advisor and a Confidential Assistant. When serving in my last position as the Director of Governmental Affairs for the then Ranking Member on this Committee, I managed a team of 10 people. I have always had an open door policy and believe that my team members always feel comfortable coming to me to discuss anything that is important for them to have the best work experience possible. As a supervisor, I have always been a strong advocate for my team and make it clear that we will work through any challenge together.

c. What is the largest number of people that have worked under your supervision?

I managed 10 people while serving as the Director of Governmental Affairs for the then Ranking Member on this Committee.

10. What would you consider your greatest successes as a leader?

I believe my greatest success as a leader is my ability to make the people around me feel empowered and valued for their abilities in a way that promotes higher productivity, morale, and team-building. In my prior role as the Director of Governmental Affairs, I was constantly required to prioritize and triage among a number of issues that were emerging at any given moment in a number of different policy areas. While this could certainly be a challenge at times, I felt it was incumbent upon me as a supervisor to insulate my team from as much stress as possible and to navigate difficult situations with a positive attitude. I bring this same mindset to my current role as a Commissioner in my approach with my small team, as well as with my colleagues and staff members across the organization. I think it is very important that people are recognized for their contributions, and I consistently make sure to express my appreciation for a job well done.

Mentoring is also extremely important to me as a leader. In my most recent job on the Hill, I remember being so excited to have the opportunity to manage and guide such a wonderful team. I feel honored that my former team members have continued to stay in touch throughout the years and have looked to me as a mentor as they have encountered both challenges and opportunities in their career paths – from how to negotiate a salary to finding a job that truly is the right fit. Within the past year, a young woman who worked as a fellow on my Government Affairs team and is now a Professional Staff Member on that same Committee reached out to tell me that a bill she started working on as a fellow had been signed into law. I was proud of her for this accomplishment, but even more so for her resilience in sticking with this bill through a number of twists and turns to get it across the finish line. It also brought me a great sense of joy to know that I had helped this young person on her journey to this point.

11. What would you consider your greatest failure as a leader? What lessons did you take away from that experience?

One of my greatest failures as a leader is not always recognizing that mistakes shape our work and who we become as much, if not more so, than our successes. I have incredibly high standards for the work that I do and have those same standards for my team members. While it is my job to guide and advocate for my team members, I also find that I constantly want to protect them and our team from making mistakes. While this is inherent in the role of a supervisor to some extent, it is also important to step back and realize that mistakes are not fatal and that they can ultimately make us all better in the work that we do. As our team learned to navigate the Commission in the early days of my term, we hit a number of speedbumps along the way in learning each other's work styles and the best ways to communicate. While I remember finding those experiences to be frustrating at the time, I am so grateful now that they happened. It helped our whole team develop better practices for our work as a unit that we still use to this day.

12. Please give examples of times in your career when you disagreed with your superiors and advocated your position. Were you ever successful?

A time that specifically comes to mind is from my time working on postal policy on the Hill. As people who work in Washington, DC are aware, the two years leading up to an election are critical and members have limited time to focus on multiple issue areas. In the fall of 2017, I made a pitch to the leadership in one of my former offices as to why it was important for my boss to continue to advocate strongly on postal issues as one of the few voices committed to a bipartisan approach. While the work the Senator had done in this realm was certainly appreciated, there was concern over how much time she would have to devote to the area in the coming months. I came to the meeting with a proposal and a strategy for how the Senator could continue her leadership on this issue while maximizing staff involvement. I aggressively advocated for this position and was successful, and later the Senator introduced one of the most widely supported bipartisan postal bills in the spring of 2018, along with her bipartisan colleagues in the Senate.

13. Do you seek out dissenting views and encourage constructive critical dialogue with subordinates? Please provide examples of times in your career when you have done so.

I think working with people who challenge me every day is absolutely essential to being the best supervisor and leader I can be. I often have discussions with my Senior Economic & Public Policy Advisor about how important it is for him to always share his perspective with me—even if he thinks it is something that I may not want to hear. We have had a number of experiences where he has pushed me to be better at my job by challenging me to think outside of the box about a number of orders I have worked on at the Commission. We have very complimentary skillsets, and I am always appreciative of how different views encourage me to create the best work product possible.

14. Please list and describe examples of when you made politically difficult choices that you thought were in the best interest of the country or your organization.

I view my role engaging with stakeholders in the postal community to be one of the most important things that I do in my position. It is through these interactions that I am able to gauge emerging issues in the industry, as well as the impact they are having on different groups. In the fall of this past year, I pushed to approve a limited-time incentive for mail volume growth that was proposed by the Postal Service, in spite of concern from our staff about the novel nature of this incentive. After investigating the issue thoroughly with my team and asking a number of questions to ensure the legality of this approach, I determined that the value to the Postal Service and Mailers of incentivizing an increase in volume in the face of semi-annual price increases outweighed my concerns about the long-term cost coverage trajectory of these products. I brought this approach to my other colleagues, and we ultimately agreed to approve the incentive. It is important for us to recognize what is actively going on in the community around us and to be able to adapt our regulations, to the extent we can and within their legal bounds, to meet the moment we are facing.

15. Please describe how you build credibility and trust among staff as a leader.

I believe approachability is key to building a trusted relationship with staff. I also think it is critical that staff knows where you are coming from in terms of your priorities. I make a conscious effort to meet all of our new staff at the Commission and to learn about who they are and what they care about. I also make sure they understand my background, as well as what drives me in the work I do every day at the Commission. Truly understanding people is critical to building strong relationships. I apply the same approach with my small team every day. If there are issues that need to be resolved, I never let them fester and deal with them head-on. I think so much confusion and misunderstanding come from people not being direct in their communication. I also think it is important to make sure people know what they are doing well and to recognize those efforts consistently. It is very important that the members of my team feel comfortable coming to me with anything they need to discuss, and I think I inspire that level of comfort through the trusted relationships I have built.

16. During your career, has your conduct as a government employee ever been subject to an investigation or audit by the Office of Special Counsel, Department of Justice, agency Equal Opportunity office or investigator, agency Inspector General, or any other similar federal, state, or local investigative entity? If so, please describe the nature of the allegations/conduct and the outcome(s) of the investigation(s) or audit(s).

No.

17. Please describe your responsibilities during your tenure as a Commissioner for the PRC to date. What do you believe are your greatest accomplishments?

I have a number of responsibilities at the Commission that include:

- Making determinations that affect service provided by the United States Postal Service to customers across the country, including Nature of Service cases related to service standards for First-Class Mail and Periodicals and ensuring Americans have access to postal services by hearing appeals of post office closures and resolving post office suspensions;
- Being responsible for making regulatory decisions that affect the United States Postal Service and postal customers across the country, including rate changes for market dominant and competitive products, mail classification changes, market tests related to new postal products, complaints on major service or price issues, and public inquiries;
- Annually assessing the Postal Service's compliance with provisions of the law, including legal requirements on rates and service, financial performance, and their ability to meet service targets and service performance, with a targeted focus on enhancing both accessibility and approachability of these reports for all stakeholders in the postal community;
- Engaging with stakeholders across the postal industry to explain the work of the Commission and better understand the needs and perspectives of the users of the Postal Service. This engagement comes in a number of forms including by participating in industry conferences, attending presentations by stakeholders at the Commission's offices, and delivering numerous speeches, with a focus on ensuring that the Postal Service is held accountable for delivering essential mail and packages quickly, reliably, and on-time in every area of the country; and
- Effectively negotiating in a bipartisan manner to build consensus among colleagues at the Commission to benefit the mail and service needs of the American people.

I believe my greatest accomplishments in my first term have been in the area of providing increased transparency and accountability for the quality of service provided by the Postal Service. Since arriving at the Commission, I have worked diligently to elevate the prominence of service performance issues. First-Class Mail had already been deemed out-of-compliance for 5 consecutive years by the time I joined the Commission in 2019. In the FY 2020 Annual Compliance Determination (ACD), I supported finding all Market Dominant products that missed their service performance targets out-of-compliance, opening a pathway to more public visibility about how and why these products consistently miss their targets. In addition, I pushed to require the Postal Service to submit details to the public about how and when it will achieve its self-imposed 95 percent on-time service performance targets for all Market Dominant mail products in one of our ACD reports. I have also promoted the study of a potential Performance Incentive Mechanism related to service performance in the future ratemaking system.

I have also taken a strong stand when it comes to nationwide changes the Postal Service has made to its service standards. When the Postal Service lengthened delivery times for portions of First-Class Mail and Periodicals in July of 2021, I provided a separate view highlighting the impact of those changes on rural postal customers and stating clearly that the Postal Service should not go forward with service standard changes until serious issues with the plan identified by the Commission's Advisory Opinion were addressed.

III. Role of the PRC and its Commissioners

18. Please describe your view of the Commission's core mission and an individual Commissioner's role in achieving that mission.

I believe the Commission's core mission is to promote the accountability and transparency of the United States Postal Service, and it is our job, as written in our mission statement, to "foster a vital and efficient universal mail system." The Commission is an independent agency that has exercised regulatory oversight over the Postal Service since its creation as the Postal Rate Commission in 1970. We annually assess the Postal Service's compliance with provisions of the law, including legal requirements on rates and quality of service. I believe it is also vital that the policy objectives of Congress for the Commission are achieved. For me, the preservation and the promotion of the "universal mail system" is incredibly important and means making sure that rural America receives service that is as reliable and as frequent as anywhere else in the country. I believe my dedication to this mission is demonstrated through the care and thorough approach I take in analyzing all matters that come before the Commission.

19. What do you believe are the most important responsibilities of the PRC, and what is your opinion of how those responsibilities have been fulfilled?

It is important to remember that the Postal Service is a fully government-owned agency with two legal monopolies (a letter and a mailbox monopoly) that operates in a dynamic and rapidly changing market. In addition, the Postal Service has a Universal Service Obligation that provides an essential service to the American people that is both accessible and affordable. I believe that one of the most important responsibilities of the PRC is to protect fast and reliable universal mail service to the fullest extent possible under the current law. Multiple sections of Title 39, including section 101(a), emphasize the need of the American people for mail service that is both prompt and reliable. Section 101(a) of Title 39 explicitly states that the Postal Service "shall provide prompt, reliable, and efficient services to patrons in all areas. . ." Meeting service standards is critical to the value of the mail, and mail that is slow or unreliable harms the sender, the recipient, and the Postal Service by making mail less attractive to customers.

The Commission employs some of the nation's top experts in postal law and economics and provides valuable and neutral advice to the Postal Service while also providing postal stakeholders a forum to have their voices heard. Since I have been at the Commission, it has released four Advisory Opinions on Postal Service proposals to change service on a nationwide or substantially nationwide basis and has also opened a Public Inquiry docket into the Delivering for America (DFA) plan being pursued by the Postal Service to provide important transparency on the nature, scope, and impacts of these changes.

In addition, the Commission holds a central role when it comes to rate regulation, enforcing a price cap on Market Dominant mail and ensuring that prices for Competitive package products are fair and do not result in market distortions. Over the past few years, we have heard from many postal customers, both individual citizens and businesses, that are impacted by the current Market Dominant ratemaking system, which is why the Commission has decided to open its next review of the rate system two years earlier than initially planned.

20. In your view, what are the major challenges facing the PRC?

One of the major challenges facing the PRC is how we can continue to adapt to the needs of a rapidly changing postal industry with the resources we have at our disposal. As a micro-agency with a staff of about 90 people and a budget that is 0.04 percent of the Postal Service's budget, it is essential that we prioritize the ways in which our agency can be most helpful to the entire community. At present, the DFA plan being pursued by the Postal Service is one of the most extensive changes to how mail and packages are processed and transported around the country that has occurred in recent memory. It is important that these changes result in cost savings while not providing a disruption to service, and at this time, we do not have hard numbers showing that either of those things is occurring. Therefore, the Commission's role when it comes to transparency and accountability as it relates to service performance and cost control measures is more important than ever, and its pursuit of initiatives like the Public Inquiry docket and the related Show Cause order demonstrate its commitment to doing all that it can in the face of these challenges.

21. What do you believe should be the PRC's top three priorities over the next five years?

I believe the PRC's top three priorities over the next five years should be the following:

- 1) Monitoring DFA implementation and helping to incentivize service performance to return to pre-pandemic levels in all areas of the country.
- 2) Promoting the financial stability of the Postal Service to the greatest extent possible under current law.
- 3) Embracing and expanding a modern approach to regulation that prioritizes adaptability and relevancy in its response to the ever-evolving postal industry.

22. Generally, what approaches do you advocate that the PRC take in regulating the Postal Service and why?

When Congress created the Postal Rate Commission in 1970, it created a regulator with a very narrow statutory responsibility. However, after 36 years of that regulatory regime, Congress saw fit to expand the scope of the authorities and responsibilities of the new Postal Regulatory Commission. Despite that expansion of duties, the regulatory approach of the PRC has centered on allowing competitive forces (or simulated competitive forces in the case of the Market Dominant price cap) to incentivize the behavior of the Postal Service. The Commission's role has been to monitor the market, stepping into action

when there is evidence of potential market failure, providing transparency to the public about the Postal Service's activities, and holding the Postal Service accountable when it fails to meet its statutory responsibilities. Generally this approach has worked well.

It is critical that we stay aware of emerging issues in the industry so that we can be sure to have the most relevant impact as we try to keep up with the scale and pace of changes being pursued by the Postal Service. To do all of this, we must drastically modernize our approach to regulation. We can do this by modernizing and expanding our IT infrastructure to provide enhanced cybersecurity and improve our own data analytics capabilities. It is through the analysis of the vast quantities of Postal Service data that a regulator with fewer staff and resources can hope to bring outsized insights to the postal community. It is also important for us to continue to enhance our data visualization techniques, moving beyond data tables and bar graphs towards increased use of mapping for geographic data and innovative infographics for complex concepts. All of these approaches will allow us to engage with the public in different and more effective ways.

23. The PRC's regulatory responsibilities require robust input from the public and postal stakeholders. What is your approach to effectively engaging postal customers?

During my first term at the Commission, I have dedicated myself to reaching out to a wide variety of postal industry stakeholders to create a more open and informed Postal Regulatory Commission. Throughout my term, I have given speeches or remarks publicly to 20 different groups/audiences, including labor unions, industry groups, professional development organizations, and the general public. I have also attended several industry-wide conferences, including the National Postal Forum. In addition to these more public-facing events, I frequently meet with members of the postal community either individually or with my fellow Commissioners and make sure I am staying up to date on all of the latest trends in the industry. In addition, the Commission operates using notice and comment proceedings, which means that it must follow certain rules for obtaining and addressing comments from the public before taking action. In my opinion, this public input has increased the quality of Commission decisions in many cases.

24. If confirmed, how will you coordinate and communicate with PRC staff to accomplish the PRC's goals?

Relationship-building has always been incredibly important to me at the Commission, and I have made it a priority to frequently interact with our staff. Strong, clear, and frequent communication is crucial, both verbally and in writing, for implementing goals, and I would plan to do this from start to finish on any new initiatives the Commission takes on, if confirmed. As I am one of five Commissioners, it is always important for me to work with my colleagues to find common ground amongst our ideas and to problem-solve with each other wherever possible.

25. The PRC's workforce handles broad responsibilities such as technical and data analysis, managing public input, and ensuring system security. What is your approach to maintaining a talented workforce?

Any government agency is only as good as its whole staff, from top to bottom. Bringing in and maintaining a talented workforce takes finding the right people, providing the incentives and resources that will allow them to develop in their roles and even expand their capabilities, and establishing a culture of clear, open communication and professionalism. I believe it is important for employees to always be growing, innovating, creating, strategizing, and collaborating as our agency works to evolve with the rapidly changing postal world. We already have talented staff members throughout our agency's four offices, which include our Office of General Counsel (OGC), Office of Accountability & Compliance (OAC), Public Affairs & Government Relations (PAGR), and our Office of the Secretary & Administration (OSA). As I have mentioned before, I believe it is very important to be in constant communication with our staff as we work to implement different initiatives at the Commission. It is critical that communication flow in two directions and that staff feels comfortable bringing ideas and concerns to leadership.

I also believe regular, on-going training is very important to develop and maintain important skills and knowledge. I have also strongly encouraged Commission staff to gain first-hand knowledge of postal operations by conducting site visits to postal and other logistics-industry facilities.

26. What lessons, if any, can the PRC learn from the work of other regulatory agencies in the United States and postal regulators in other countries?

The PRC is very different from postal regulators in other countries, as it regulates a Postal Service that processes and delivers nearly half of the world's mail. There is no real comparison in size our scope between us and other regulators. With that being said, trends in mail and package volumes affect all postal operators around the world. Seeing the issues faced by other operators and regulators can inform the scope of potential strategies for addressing continued mail volume declines or handling the continuing rapid growth of package volumes. Therefore, I believe it is important to research what is happening in other postal markets and the strategies regulators in other countries use to address those issues. I support the Commission's continued efforts to communicate with and learn from foreign postal regulators.

In terms of lessons we can learn from other regulatory agencies in the United States, postal law and economics have histories and applications that are unique to the postal industry. However, there is overlap between some themes embraced by other regulatory agencies and the responsibilities of the Commission. For example, the Federal Communications Commission has a number of programs aimed at providing universal service for telecommunications and broadband internet service, ensuring that rural areas are not forgotten. I believe that the PRC should be open to learning from other U.S. regulators and engage them in areas where we find overlapping or related issues.

27. The Commission is an independent agency. How do you understand that obligation of independence? How does such independence affect your approach to the evaluation and decision of cases?

I understand the Commission's obligation of independence to mean that it must be immune from political and outside influence as it conducts its regulatory oversight authority over the Postal Service. An individual Commissioner's role is to be fair and impartial in all matters brought before the Commission and to help carry out the PRC's mission of transparency and accountability of the Postal Service. A good example of my approach is through the approval of Negotiated Service Agreements, which are contractual agreements between the Postal Service and specific mailers. When reviewing these agreements, my approach is a blind one, which means that I do not know the mailers who are involved in the specific NSA's. I have done this for impartiality purposes ever since joining the Commission.

28. As the mailing and shipping industries evolve over the next 10 years, how do you believe the role of the PRC may evolve?

In many ways, the Postal Regulatory Commission faces immense challenges in regulating such a large government agency. While we have a dedicated staff of around 90 public servants, many of whom are some of the industry's foremost experts in postal law and economics, we are responsible for regulating the Postal Service's nationwide network of over 600,000 employees and 30,000 facilities. I believe we must continue to evolve with the industry and be willing to adapt in ways that best serve the American public and the postal customers we protect. Collaboration among all stakeholders in the postal sector will continue to be essential as we move forward and as technology continues to change. We must continue to do all that we can with the resources that we have to meet each current moment as it arises.

IV. Policy Questions

Postal Rate-making

29. What is the role of rate regulation in ensuring the Postal Service remains sustainable into the future and maintains service for customers who rely on it?

Rate regulation is one of the most important things we do at the Commission. The Postal Service is a fully government-owned agency with two legal monopolies (a letter and a mailbox monopoly) that operates in a dynamic and rapidly changing market, and it is important to make sure that its customers and the underlying market in which it operates are protected. As a monopolist, one of the Postal Service's primary incentives is to extract maximum revenue from its Market Dominant mail customers. Incentives like this one can become even stronger during a time of financial decline and could lead to the Postal Service charging excessively high rates, diminishing the quality of service, or even doing both at the same time.

I think it is also important to make sure the Commission's role in rates is understood. In 2006, Congress limited the Commission's role to determining the total amount of available rate authority, which depends on a number of factors and is capped. The goal of imposing a price cap on postal rates is to provide the Postal Service with sufficient revenue to finance its operations while preventing excessive rate increases on its customers. It is also important to understand that the Board of Governors and the Postmaster General decide whether to use some, all, or none of the rate authority that is available to them – not the Commission.

In terms of the Competitive package market, the Postal Service is incentivized to win market share from competitors by charging excessively low prices or subsidizing its package operations with the revenue from its Market Dominant products. The Commission prevents this type of unfair competition by analyzing competitive product rates to ensure they cover their costs and provide sufficient revenue to contribute to institutional costs. This helps maintain a fair and robust competitive marketplace. Rate regulation continues to serve a very important role for the American people and the postal and delivery market as a whole.

30. The Postal Accountability and Enhancement Act of 2006 (PAEA) required the PRC to review the Market Dominant rate and classification system 10 years after enactment to determine if the system achieved the PAEA's nine objectives, including predictability in rates and adequate revenues, considering the 14 factors established by Congress. The PAEA allowed the PRC to make modifications or adopt an alternative system as necessary to achieve the objectives. What is your view of the PRC's role in carefully balancing the objectives and factors for the ratemaking system?

Title 39, Section 3622(b) and (c) are a direct representation of Congressional intent for the ratemaking system that was enacted by PAEA. It is important to look at the objectives and factors holistically when considering whether they are being achieved, meaning that it is important to evaluate each objective and factor individually before balancing them against one another to see how they work together as a whole. Postal stakeholders and the public play a crucial role in helping the Commission to assess whether the current ratemaking system is achieving its goals. I am always in favor of data-driven and evidence-based policymaking, and I believe that this is the approach that should be taken if it is determined that modifications to the ratemaking system need to be made in order to better achieve the statutory public policy objectives and factors.

- a. In November 2020, the PRC adopted final rules to modify the system for regulating rates and classes for Market Dominant products. The Postal Service has increased rates using its authorities under this system. On April 5, 2024, the PRC initiated a review of this modified ratemaking system, citing the Postal Service rate increases, Market Dominant volume declines, and stakeholder concerns. How would you approach the PRC's responsibilities to the public regarding this system and this review?

An important feature of the new ratemaking system that was adopted in 2020 included a regular reassessment of how the rules are achieving the statutory objectives and factors every five years, and potentially even sooner if determined necessary by the Commission. I think this provision demonstrated the reality of an ever-changing industry and the Commission's commitment to careful and timely evaluation of how the ratemaking system was actually working. In 2023 and 2024 alone, we met with more stakeholders from the mailing community as a group than we have in any other year since I have been a Commissioner. Both hearing from these organizations about how their businesses and customers were being impacted by the Postal Service's pricing strategy and carefully watching and considering how the Postal Service was using these new rate authorities were both very important factors in my decision to strongly support reviewing the ratemaking system two years earlier than initially planned. As stated earlier, I am very supportive of data-driven and evidence-based policymaking and think public input will be very important in this review.

31. In regulating Market Dominant rates, the PRC must take into account factors including "the effect of rate increases upon the general public" and "the importance of pricing flexibility to encourage increased mail volume and operational efficiency." In your work, how would you focus on the impacts of rate increases on customers and volume, compared to their impacts on Postal Service revenues?

In 2006, Congress limited the Commission's role to determining the total amount of available rate authority, which depends on a number of factors and is capped. Prior to the new ratemaking system that was adopted in 2020, this meant that rate increases were limited to the Consumer Price Index (CPI). This effectively meant that the Postal Service did not have a real rate increase when adjusted for inflation for 15 years and the Commission was left with no clear data at the end of this period on how a real rate increase might impact volume and customers. Since the new ratemaking system was enacted in January of 2021, we have experienced six rate cycles in three years, and now have real data we can analyze as a part of our recently opened rate system review. It is important for us to understand the real impact of these rate increases and to also disentangle them from declines in mail volume that are due to other factors such as electronic diversion, to the extent we can, in order to balance the statutory objectives and factors most effectively. I am unable to get into specifics regarding how the Commission will or should balance the objectives in this review due to our *ex parte* rules limiting what I can say about a pending docket.

I can say that during my first term as a Commissioner, I have been open to exploring areas where both the Postal Service and postal customers stood to benefit from the Postal Service's use of its pricing flexibility. In the fall of 2023, I strongly supported the Commission's approval of a volume growth incentive (referenced in an earlier question) and also was very supportive of the Commission's approval of the first Market Dominant NSA in nine years. While in the past it had taken the Commission substantial time to approve such agreements, in this case, understanding the importance of this agreement to

the Postal Service and their customer, the Commission embraced an innovative approach to approving such an agreement.

32. The Postal Service and mail users may request that the PRC change the Market Dominant and Competitive product lists by adding new products, removing current products, or transferring products between the lists. How should the PRC consider customer needs in this process?

Title 39 gives the Commission authority over the Market Dominant and Competitive product lists. Any consideration of adding, removing, or transferring products on these lists involves the impact it will have on postal customers and the public. Specifically, Section 3642 requires the Commission to consider the availability of similar products in the market, the views of users of the product, and the likely impact on small businesses. In addition, the Commission operates using notice and comment proceedings, which means that it must follow certain rules for obtaining and addressing comments from the public before taking action. Public input is incredibly important to my overall decision-making process, particularly in this area.

33. How can the PRC ensure rates for Market Dominant and Competitive products are compliant and transparent, as the mix of Market Dominant and Competitive products changes?

The Commission is consistently engaged in ensuring the compliance and transparency of Market Dominant and Competitive rates both before and after they go into effect. Our notice and comment proceedings are an effective tool for public engagement in our rate proceedings and consistently serve as an important source of input. While information about Competitive Products is often sealed from public view, the Commission does have available processes for the public to gain access to this information in a protected manner. In addition, compliance and transparency for both of these kinds of rates are included and promoted in our ACD, as well as through frequent data reporting requirements. If the Commission determines that a rate is out of compliance, it is critical that we take decisive action within our statutory authority to return the product to compliance. In the past, this has included requiring rate increases for particular products that fail to cover their costs in the next relevant rate proceeding.

34. In accordance with 39 U.S.C. § 407, the PRC submits views to the Secretary of State on any treaty, convention, or amendment that alters rate or classification for a Market Dominant mail product. In your view, how should the Secretary of State consider U.S. law and the views of the Commission when concluding such treaties, conventions, or amendments?

The Commission plays an important advisory role to the State Department when it comes to negotiating treaties, conventions, and amendments for international postal services. I think it is important for the State Department to give due consideration to U.S. law and the Commission's international views when navigating treaties, conventions, or

amendments, along with the objectives of international policy found in Title 39, Section 407(a).

35. The PRC reviews proposed changes to rates not of general applicability, offered by the Postal Service to specific mailers through negotiated service agreements (NSAs). What do you believe the PRC can do to provide timely and thorough reviews of NSAs?

While Commission regulations require the Postal Service to file NSAs with the Commission 15 days before they go into effect, the majority of these agreements are consistently approved ahead of that timeline. Our review of NSAs is essential to ensuring that the rates charged under these agreements meet the statutory requirements of Title 39, Section 3633 as created by Congress. The Commission should continue to provide both thorough and timely review of these NSAs, as intended under the law. In addition, as the Postal Service is a government entity operating in a competitive commercial market, the Commission has an important role to play in promoting fair competition among package delivery providers.

36. With the planned July rate increases, the cost of a First Class stamp will have risen 31% under Postmaster General DeJoy's tenure. What actions can the PRC take to study the effects of rate increases on Market Dominant volume and help ensure USPS adequately serves customers who use Market Dominant products? In your opinion, are the PRC's existing authorities sufficient to effectively monitor these programs?

I think the most important thing the Commission can be doing to study the effect of these rate increases on Market Dominant volume and on postal customers more broadly is through our recently opened review of the ratemaking system. Over the past few years, the Commission has heard from many postal customers, both individual citizens and businesses, that are impacted by the current ratemaking system, which is why the Commission has decided to open its next review of the rate system two years early. It is also important to note that recent years have seen higher-than-expected levels of inflation, with the CPI rate authority accounting for approximately 54 percent of the Postal Service's overall rate authority. The data that now exists from the last six cycles of rate increases since the new ratemaking system went into effect will be essential to our review. This docket will also consider whether to include a Performance Incentive Mechanism linking the Postal Service's rate authority to its performance—something that is important to think about at a time when rate increases are occurring simultaneously with slower service.]

Service Standards and Performance Measures

37. What do you believe should be the Commission's role in establishing performance standards for postal products and services and monitoring the Postal Service's results in meeting these standards?

Under Title 39, Sections 3691 and 3692 govern the establishment of service standards and service performance targets. Other than a consultation between the Postal Service

and the Commission when the first set of modern service standards were established, the Commission does not currently have a formal role in this process. As the operator, the Postal Service creates their service standards, sets their targets, and has a direct relationship with the customer to resolve any specific service issues.

As the regulator, our job is to “foster a vital and efficient universal mail system.” For service, we try to do this by making sure the Postal Service is transparent about whether they are meeting their service performance targets. This includes evaluating actual nationwide service performance results in our ACD and publishing quarterly service performance data at the national, area, and district levels on our website. Our notice and comment process also provides a forum for businesses, public interest groups, and individual citizens to have their voices heard in various proceedings. Because the Commission already has such extensive experience monitoring the Postal Service’s performance, I believe we could potentially take on a more direct role in helping the Postal Service to establish service standards and targets in order to meet Congress’s objective of maintaining high quality service standards.

38. The PRC evaluates service performance against the Postal Service’s service standards and also approves its service performance measurement systems. In your view, how can the PRC support the Postal Service in collecting more accurate and complete service data, and in providing such information to the public?

I think it is always important for the Postal Service to be building on its abilities to collect the most accurate and complete service data it possibly can. Under the Code of Federal Regulations, Chapter 39 Section 3055.5, the Postal Service is required to file notice with the Commission describing all changes to the measurement systems, service standards, service goals, or reporting methodologies. The Commission also has the ability under this section to initiate a proceeding at any time should it appear that the changes might have a material impact on the accuracy, reliability, or utility of the reported measurement, or if the changes might have a material impact on the characteristics of the underlying product. We take our role approving service measurement systems very seriously and are constantly considering and evaluating whether changes to these systems are necessary. The Commission discusses the quality of the service performance data annually in our ACD. If the Commission were to find that the current internal measurement system is no longer providing accurate results, or could be significantly improved, the Commission could initiate a proceeding updating the current system. I am also pleased that we have recently developed an updated interactive Service Performance Dashboard that will be published on the Commission website for the public and is based on the data in our Annual Compliance Review dockets. Additionally, as stated earlier, the Commission makes a significant amount of service performance data available to the general public through our ACD and quarterly service performance reports.

39. The Postal Service Reform Act required the Postal Service to create a publicly available online “dashboard” that provides weekly, local service performance data to customers. The Act required the PRC to provide reporting requirements for this dashboard that are consistent with Postal Service structure and reflect a granular geographic level of data.

The PRC promulgated requirements on February 16, 2023, and the Postal Service debuted the public dashboard on May 19, 2023. How will you approach the PRC's ongoing responsibility to ensure the Postal Service measures and publishes accurate service performance information?

I think it is essential for the Commission to ensure that the Postal Service measures and publishes accurate service performance information. Providing the public with the most accurate and timely data about service in their local area is incredibly important to postal customers all over this country, and personally very important to me having worked directly with constituents all over Montana and North Dakota while working as a policy staffer in the Senate. While the data on the "dashboard" is managed by the Postal Service, the Commission helped to set the requirements it follows based upon public comments, as instructed by the PSRA. We continue to evaluate the evolving needs of the public and the capabilities of the Postal Service to provide both more granular data and more frequent updates.

40. The Postal Service delivered 84% of all First Class mail on time (as measured against the service standard) in Q2 of FY 2024, compared to 91% during the same period last year. How can the PRC work to examine and address these types of service performance problems and understand the causes, including the impacts of Postal Service operational changes?

I believe the PRC has a critical role to play when it comes to service performance accountability and transparency. Service performance of First-Class Mail began to fall in late 2023 and has continued to decline throughout 2024, as noted in our FY 2023 ACD, so our role is now more important than ever. The DFA plan being pursued by the Postal Service is one of the most extensive changes to how mail and packages are processed and transported around the country that has occurred in recent memory. Our Public Inquiry docket is intended to provide some important transparency on the nature, scope, and impact of these changes. In addition to requesting important data and information that will help the Commission understand the big picture of these nationwide changes, Vice Chairman Day and I visited the Atlanta, Georgia Regional Processing and Distribution Center and the Athens, Georgia Sorting and Delivery Center in January of this year so we could see first-hand some of the facility-level changes that the Postal Service is undertaking. As previously stated, the Commission's annual ACD evaluates the Postal Service's compliance with service standards in the previous fiscal year, analyzes causes for poor service performance, and provides directives to the Postal Service to correct service issues. Fast and reliable service is a key part of the value of the mail, and we must be doing all that we can to get this back on track for the American people.

Postal Service Oversight and Operations

41. The Postal Service Reform Act of 2022 altered the PRC's budget procedure, allowing the PRC to be funded directly with a transfer from the Postal Service Fund, similar to the PRC budget process before 2006. How do you believe the PRC can evaluate the impacts of this change on its funding process and work?

I think the best way for the Commission to evaluate the impacts of this budget change is to closely examine the effect it has had on our resources and our ability to meet the moment we are facing now in the postal industry. As a micro-agency with a staff of about 90 people and a budget that is 0.04 percent of the Postal Service's budget, it is essential that we prioritize the ways in which our agency can be most helpful to the entire community. Additionally, it is important to acknowledge that much of the Commission's workload throughout the year is statutorily required or determined by the needs of the Postal Service. For example, when the Postal Service decides to make changes to the nature of postal services that impact service on a nationwide or substantially nationwide basis, the law requires the Postal Service to request an Advisory Opinion from the Commission.

Ensuring that we have the proper capacity and enough employees to complete both present and future tasks is essential and something we can consistently evaluate throughout the year. In addition, I think it is very important that we benchmark ourselves against similar micro or small regulatory agencies to see what lessons or best practices we may learn from them. I believe we have made tremendous strides in the technology and information security space, and I think it is important for us to ensure we are ultimately achieving full compliance with government standards on both of these fronts.

42. In a March 25, 2024 podcast interview with Federal News Network's Tom Temin, you were asked about the status of PRC relations with the executive branch of the Postal Service. You responded that you meet in person with Postmaster General DeJoy on a quarterly basis, acknowledged the interest from Congress and stakeholders, and said that you hope to see more "working together and collaborating" in the future, given that the Postal Service "is a system we all care about so much." Postmaster General DeJoy has repeatedly made negative assertions regarding the PRC's authorities, such as stating that "[t]he commission is not empowered to infringe on the Postal Service's well-recognized strategic, managerial, and operational independence." However, the PRC has significant statutory authorities as the Postal Service's regulator, including oversight responsibilities. How can the PRC meaningfully work with the Postal Service given their respective roles?

I think this is an incredibly important and timely question. As stated above, the Commission does have "significant statutory authorities as the Postal Service's regulator, including oversight responsibilities." I do not think it is uncommon for a regulator and an operator to have a healthy level of tension. In fact, I think it would be rather strange if the operator was thrilled with everything that its regulator was doing—this would tell me that something was wrong. Both the Postal Service and the Commission have well-established statutory roles, and it helps the whole postal community when those roles are respected in both directions. I have long been accustomed in my career to working with people who think differently than me, and I have always felt that it makes me better at my job. During my time in the Senate, I was frequently reaching across the aisle in the postal arena to build on commonalities where we faced similar issues. We were most successful doing this with fellow rural-state members, as they dealt with a number of the same

problems that we did. It has always been my philosophy that even if you can only find a small amount in common, it is important to make the most of those areas and work together where you can. I have always been an incredibly collaborative person, and I hope we can work more with the Postal Service in the future in places where the two agencies do align. And even when we do not, I believe it is my responsibility as a regulator to push the Commission to use its maximum statutory authority to provide transparency and accountability for the Postal Service, especially related to the DFA plan.

43. The PRC has significant jurisdiction as the Postal Service's regulator, including oversight over the Postal Service's financial accounting and reporting, and its overall compliance with postal laws. What role should the PRC have in monitoring the Postal Service's financial health and helping ensure its long-term stability?

I think the Commission has an important oversight role in monitoring the Postal Service's financial health. The Postal Service faces immense financial challenges and posted an operating loss of \$6.5 billion just one year after the Postal Service Reform Act provided them significant financial relief. The Commission recently released our FY 2023 Financial Analysis report, which provides a robust analysis of the financial performance of the Postal Service for the previous fiscal year. In addition, our upcoming annual report on service targets and service performance (2803/2804 Report) includes a section that examines the Postal Service's financial health. In addition, it is important to recognize how important the short, medium, and long-term financial health of the Postal Service is to our consideration of the objectives and factors in the Market Dominant ratemaking system. As previously stated, the Commission has opened up a docket to review that ratemaking system two years earlier than originally planned.

44. The Postal Service is required to seek an Advisory Opinion from the PRC for any "change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis." What are your views on this process and its usage during your tenure at the PRC?

I think the Advisory Opinion process is an incredibly important one and an essential responsibility of the Commission. Since joining the Commission in 2019, we have conducted four different Advisory Opinion proceedings, also known as N-cases. The most prominent among these was in 2021 when the Postal Service proposed lengthening service standards to as many as five days for portions of First-Class Mail and Periodicals. The Commission conducted a very thorough analysis of this proposal and identified a number of gaps in what the Postal Service was putting forward.

It is important to note that any recommendations made by the Commission in the Advisory Opinion process are non-binding, meaning that the Postal Service has the ability to go forward with its proposal without making changes if it decides to do so. While I believe the Commission did an excellent job in the underlying opinion for this particular N-case, it did not go far enough for me so I submitted separate views. In creating this proposal, the Postal Service did not specifically take into account the views of important groups of Americans that often have a greater reliance on mail in their daily

lives, including people that live in rural areas, the elderly, and people with lower incomes. My view is that these changes risk leaving behind some Americans, and the Postal Service should have put a pause on this plan until the impact on these various groups was studied. While it is important that an individual commissioner has the option to express herself in this way, I believe the current service declines only show why more oversight of the Postal Service's plans is necessary.

I believe more effective guardrails need to be built into the Advisory Opinion process to protect the American people from service reductions that will substantially impact mail service in our country for years to come. Some ways of doing this might be to require the Postal Service to respond to the Commission's advice before moving forward with changes, as well as potentially allowing the Commission to play a role in deciding whether and when an Advisory Opinion should be filed by the Postal Service. Ultimately it is up to Congress to make any changes to the Advisory Opinion process under the law, but I think it is more important than ever that potential improvements to this process be considered.

45. The PRC conducts oversight of Postal Service operations, including monitoring Postal Service compliance with applicable laws and promoting transparency. What approach do you believe the PRC should take to oversight of the Postal Service, as the Postal Service undertakes its mission to provide prompt, reliable, and efficient services to customers?

I think the Commission's oversight role of the Postal Service in regards to service issues is more important than ever before. As previously stated, the PRC consistently monitors whether or not the Postal Service is meeting its service performance targets. This includes evaluating actual nationwide service performance results in our ACD and publishing quarterly service performance data at the national, area, and district levels on our website. In the FY 2020 ACD, I supported finding all Market Dominant products that missed their service performance targets out-of-compliance, opening a pathway to more public visibility about how and why these products consistently miss their targets. In addition, I pushed to require the Postal Service to submit details to the public about how and when it will achieve 95 percent on-time service performance targets for all Market Dominant mail products in line with its public commitment made when it lengthened service standards for First-Class Mail and Periodicals in docket N2021-1. The Commission has also continued internally developing an interactive Service Performance Dashboard for our website that will be publicly accessible soon. I think the Public Inquiry docket we opened into the Delivery for America plan is a great example of our commitment to transparency and is something that we continue to pursue.

46. On April 26, 2024, the PRC issued Order 7061 asking the Postal Service to either show cause within 20 days of the Order as to why an advisory opinion is not warranted for recent initiatives being implemented under the Delivering for America Plan (DFA), or request an advisory opinion within 40 days. The Postal Service filed a response on May 16, 2024. While the Postal Service made assertions that an advisory opinion would be unnecessary for certain initiatives, it also stated the Postal Service is determining "whether to seek any additional advisory opinions from the Commission concerning the

implementation of DFA Plan initiatives.” In addition, a May 8 letter signed by 26 Senators urged the Postal Service to request “a comprehensive Advisory Opinion” from the PRC, addressing “the intersecting changes to facilities across the nation (conversions to Regional Processing and Distribution Centers, Sorting and Delivery Centers, and Local Processing Centers) and local transportation optimization.” How would you approach consideration of an advisory opinion regarding DFA initiatives, to ensure the impacts of such changes are fully studied?

I believe the Advisory Opinion process is an essential one whenever the Postal Service has made a nationwide or substantially nationwide change in service. The Commission carefully analyzed the best way to address the myriad of service issues that have been cropping up since late last year, and ultimately felt that a Show Cause Order would be a strong approach. This is the first time in the Commission’s history that we have issued an order like this one, which I believe shows not only our commitment to transparency of the Postal Service’s operations, but also to being innovative in the face of unique circumstances. While I was disappointed by the Postal Service’s response, we have continued to probe them for answers through this docket. I think fully understanding the impact of the DFA plan before the Postal Service makes further decisions that impact service is critical, and I am hopeful that they will file an Advisory Opinion. I believe our analysis should be robust, extensive, and data-driven in any analysis we potentially do in an Advisory Opinion. We have been collecting information on the changes being made under DFA since we opened our Public Inquiry docket over a year ago, and I am certain that information will be very helpful in our work. I think public participation is critical in the Advisory Opinion process, and we should think of ways to maximize this given the level of interest in these changes and the number of people impacted by them. Any Advisory Opinion we have the chance to undertake should provide a neutral, honest, and thorough assessment and provide actionable recommendations to the Postal Service.

47. As the Postal Service contemplates or makes significant changes to its products and services, how can the PRC work to ensure a high level of service and accountability?

I think the Commission must continue to use all of the tools in its toolbox to promote transparency and accountability. I believe that any changes the Postal Service plans to make that affect service on a nationwide or substantially nationwide basis should be filed before the Commission as an Advisory Opinion before they are implemented, as stated in Title 39, Section 3661.

As previously stated, I believe the PRC does a lot to consistently monitor whether or not the Postal Service is meeting its service performance targets. This includes evaluating actual nationwide service performance results in our ACD and publishing quarterly service performance data at the national, area, and district levels on our website. In addition, producing accessible and understandable information about service, such as through the creation of interactive dashboards for our website and infographics and maps found in Commission reports continues to be critically important. I also believe we should continue exploring additional ways to incentivize the Postal Service’s improvement of service performance, such as through our examination of the

Performance Incentive Mechanism in our recently opened review of the Market Dominant ratemaking system.

48. The PRC's oversight role includes enforcing requirements for quality, accuracy, and completeness of Postal Service data and data analysis. What role can the PRC play in ensuring Postal Service data is actionable and accessible? How can the PRC also improve its own transparency by making PRC information accessible to the public?

The Commission has taken a number of steps to improve data availability and accessibility since I joined the Commission in 2019. While I have covered how I currently believe the Commission is making the most of our oversight and transparency abilities regarding data in the question above, I think it might be helpful to discuss additional progress we can continue to make. Here are some areas where I think we can focus going forward: modernizing the public interface with our docket system and our website, hiring data experts to format data reports received by the Postal Service in a publicly accessible format, increasing the use of interactive data dashboards, and increasing the use and public availability of geographic data and maps. In addition, the Commission recently conducted interviews with a wide variety of stakeholders regarding how we can provide more relevant information to the public as part of our five-year Strategic Plan. Those interviews resulted in a number of actionable recommendations including making data easier to find and access on the Commission's website and improving the readability, accessibility, and timeliness of existing Commission reports.

49. The PAEA set forth a process for the PRC to adjudicate customer complaints against the Postal Service. What do you believe must be done to ensure the PRC reviews and resolves complaints promptly and fairly?

I believe it is important for the Commission to do everything it can to resolve any customer complaints against the Postal Service as promptly and as fairly as possible, which means that there also must be strong communication. Our approach often attempts to remedy complaints with the Postal Service and parties before a formal complaint proceeding is initiated. If this is not possible, the Commission does its best to follow the procedural schedule outlined in our regulations. Relatively few complaints have been filed during my time at the Commission and most have been resolved quickly.

50. The PAEA allows any person served by a post office to appeal its closing or consolidation to the PRC. What is your experience with this responsibility and do you believe the PRC has been effective in exercising it?

Because I have worked for members of Congress from rural America during my time in the Senate, I know how important post offices can be to the communities they serve. If the Postal Service wants to close a post office in a single community, Title 39 sets out clear criteria for the Postal Service's decision and creates an appeal process where the Commission, short of halting the process, can at least determine where the Postal Service's proposal is lacking and remand that decision to the Postal Service for reconsideration. My experience with this type of proceeding has been relatively limited

in my time at the Commission. There have only been six post office closure appeals during this time and in five out of six cases, the Commission lacked jurisdiction (the petitioner withdrew their appeal petition in the other case).

51. Cost and efficiency are key considerations as the Postal Service seeks to provide postal services across the nation. In your opinion, how can the PRC help the Postal Service improve efficiency while ensuring robust service?

In 2006, Congress limited the Commission's role to determining the total amount of available rate authority for the Postal Service, which depends on a number of factors and is capped. The goal of imposing a price cap on postal rates is to provide the Postal Service with sufficient revenue to finance its operations while preventing excessive rate increases on its customers. It is also the hope that because of this cap, the regulated entity will have an incentive to control costs, since their ability to raise revenues is also restricted. Because the Postal Service must meet a unique Universal Service Obligation, which included serving 154 million residential delivery points in 2023 with 1.7 million new delivery points added, cost reductions are not always easy to achieve due to the high amount of institutional costs required to maintain such a large network. Under PAEA, the Commission was given expanded authority to regulate quality of service because an operator of any network with higher institutional costs may be incentivized to reduce costs through diminishing service quality. I am looking forward to exploring whether a Performance Incentive Mechanism linking the Postal Service's rate authority to its performance in a variety of areas, including service and efficiency, is needed in our upcoming work on the ratemaking system review docket. I personally think that this is something important to consider when rate increases are occurring simultaneously with slower service.

V. Accountability

Whistleblower Protections

52. Protecting whistleblowers and their confidentiality is of the utmost importance to this Committee.
- a. Please describe any previous experience with handling whistleblower complaints. What steps did you take to ensure those individuals did not face retaliation and that their claims were thoroughly investigated?

In my current role as a Commissioner and in my former role as both a congressional staffer and supervisor, I have always placed the highest value on whistleblower complaints. While I did not work on these issues often very directly on the Hill, I recall them coming up the most in the constituent context through casework in my previous position. I learned about some complaints directly when I was out in the

state and/or speaking with my state colleagues. After gaining a thorough understanding of what the circumstances entailed from the relevant parties, our office would work to draft a request for the Postal Service Office of the Inspector General to investigate the issues that arose. We were always cognizant of protecting whistleblower confidentiality, and our state staffers did an excellent job of interacting regularly with all of those who reached out to our state offices for help. While I have not had to deal with a whistleblower complaint in my time at the Commission thus far, I would take a similar approach in terms of making sure all of the proper procedures are followed and that whistleblower confidentiality is protected.

- b. If confirmed, what steps will you take to ensure that whistleblower complaints are handled appropriately at the PRC?

If confirmed, I would ensure that I understand how our agency handles whistleblower complaints and make sure that I am as fully educated as possible. As the Chairman would be the one to directly handle issues of this nature with our respective office heads, it is not necessarily something I would be directly involved in. However, I think it is important to understand what our process is, and I will be sure to do so.

- c. If confirmed, what steps will you take to ensure that whistleblowers at the PRC do not face retaliation, that whistleblower identifiers are protected, and that complaints of retaliation are handled appropriately?

If confirmed, I would work to make sure that all policies are communicated clearly to employees within the Commission so that they would have the best chance of being followed as fully and as accurately as possible. I would also do my best to make employees aware of the fact that constructive suggestions are important and that they should never be in fear of reprisal.

Cooperation with Inspectors General

53. What is your view of the role of the U.S. Postal Service Office of Inspector General (OIG)? Please describe what you think the relationship between a PRC Commissioner and the OIG should be. If confirmed, what additional steps would you take to foster a working relationship with the Inspector General?

I believe the USPS Office of Inspector General serves an incredibly important role within the postal community of ensuring the efficiency, accountability, and integrity of the Postal Service through its various audits, evaluations, research, and investigations. Since the passage of the PSRA, the USPS OIG now directly oversees our agency (prior to this time, we had our own PRC OIG). Because of this new relationship, the commissioners now meet quarterly with the Inspector General and her staff to discuss upcoming audits, etc. as they relate to the Commission. I think these consultations are very important and allow both the Commission and the OIG to discuss how to make our working relationship as productive as possible and maintain a high level of cooperation between the two agencies. I will continue to pay important attention to this if confirmed.

54. If confirmed, do you commit to ensuring that all recommendations made by the OIG to the PRC are reviewed, responded to, if necessary, and, unless the agency justifies its disagreements with the recommendations, implemented to the fullest extent possible within a reasonable time period?

Yes.

55. If confirmed, do you commit without reservation to ensuring the OIG receives timely access to PRC records and to interview PRC employees?

Yes.

56. If confirmed, what steps will you take to ensure all PRC offices and employees cooperate fully and promptly with OIG requests?

To date, I have made sure to always be aware of what current audits and studies are being conducted by the USPS OIG about our agency. I frequently check in with the office heads involved in working on those audits and ask a lot of questions about the process. I have been impressed by how our small staff has addressed these requests, and I appreciate them always sharing how the process is going with me when I ask. I will continue promote a high degree of cooperation and engagement moving forward, if I am confirmed.

Cooperation with GAO

57. If confirmed, do you commit without reservation to ensuring the Government Accountability Office (GAO) receives timely, comprehensive responses to requests for information, including for records and meetings?

Yes.

58. If confirmed, do you commit to fully cooperate in a timely manner with any audits, investigations, and other reviews and related requests for information from GAO?

Yes.

59. If confirmed, what steps will you take to ensure all PRC functions and employees cooperate fully and promptly with GAO requests?

I know that GAO periodically reaches out to us about reports they are working on that involve the Commission and often briefs our technical and government relations staff in the course of this process. Our staff then conveys to the commissioners what was discussed, and they allow us to share any suggestions or concerns we may have about an upcoming report. I have always found our staff to be very timely in responding to GAO requests, and I will make sure that continues to be the case, if I am confirmed.

VI. Relations with Congress

60. Do you agree without reservation to comply with any request or summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Yes.

61. Do you agree without reservation to make any subordinate official or employee available to appear and testify before, or provide information to, any duly constituted committee of Congress if you are confirmed?

Yes.

62. Do you agree without reservation to comply fully, completely, and promptly to any request for documents, communications, or any other agency material or information from any duly constituted committee of the Congress if you are confirmed?

Yes.

63. If confirmed, how will you make certain that you will respond in a timely manner to Member requests for information?

Having worked in Congress for my entire professional life before coming to the Commission, I have a deep appreciation and understanding of the importance of agencies being responsive in a timely manner to Member requests for information. If confirmed, I would do everything I could to work with my fellow Commissioners to ensure that we are doing everything in our power to address Member requests in a thorough and timely fashion.

64. If confirmed, will you direct your staff to adopt a presumption of openness where practical, including identifying documents that can and should be proactively released to the public, without requiring a Freedom of Information Act request?

Yes.

65. If confirmed, will you keep this Committee apprised of new information if it materially impacts the accuracy of information your agency's officials have provided us?

Yes.

VII. Assistance

66. Are these answers completely your own? If not, who has provided you with assistance?

Yes.

67. Have you consulted with the PRC, or any other interested parties? If so, please indicate which entities.

I have consulted with my own staff at the Commission for review of my answers.

I, Ashley Jay Elizabeth Poling, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.


(Signature)

This 26 day of June 2024



National Postal Mail Handlers Union

Paul V. Hogrogian
National President

Kevin P. Tabarus
National Secretary Treasurer

June Harris
*Vice President
Central Region*

John A. Gibson
*Vice President
Eastern Region*

David E. Wilkin
*Vice President
Northeastern Region*

Lawrence B. Sapp
*Vice President
Southern Region*

Don J. Sneesby
*Vice President
Western Region*

July 24, 2024

The Honorable Gary Peters
Chairman, Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

The Honorable Rand Paul
Ranking Member, Homeland Security and Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Chairman Peters and Ranking Member Paul:

On behalf of the National Postal Mail Handlers Union (NPMHU), which represents over 50,000 mail handlers in postal facilities throughout the country, I write in support of the renomination of Ashley Poling to the Postal Regulatory Commission (PRC).

Throughout her career, Commissioner Poling has worked towards the sustainability of the Postal Service. During her time as a Senate staffer, she advocated for the needs of rural delivery service and was instrumental in developing early drafts of what became the Postal Service Reform Act. She continues this legacy of the need to improve the Postal Service in her role on the PRC.

The NPMHU appreciates her work, and urges the Senate Homeland Security and Governmental Affairs Committee to vote in favor of Ms. Poling's renomination, and move it to the floor for a full Senate vote.

If you have any questions, please contact NPMHU Legislative Director Katie Maddocks at kmaddocks@npmhu.org or 202-227-8810.

Thank you for your consideration on the matter.

Sincerely,

Paul V. Hogrogian
National Postal Mail Handlers Union

National Headquarters: 815 16th Street, NW, Suite 5100, Washington, D.C. 20006
(202) 833-9095 FAX (202) 833-0008 www.npmhu.org





Hon. Gary Peters
 Chairman of the Senate Homeland Security and Governmental Affairs Committee
 340 Dirksen Senate Office Building
 Washington, DC 20510

Hon. Rand Paul
 Ranking Member of the Senate Homeland Security and Governmental Affairs Committee
 340 Dirksen Senate Office Building
 Washington, DC 20510

Dear Chairman Peters and Ranking Member Paul,

The Package Coalition writes in support of the prompt confirmation of Commissioner Ann Fisher and Commissioner Ashley Poling for reappointment to the Postal Regulatory Commission.

The Package Coalition is a diverse group of America's most recognizable retail and e-commerce companies and business associations. The Coalition was formed so that policymakers could hear directly from the businesses that use the Postal Service about the importance of preserving affordable access to competitive USPS package delivery services. The Package Coalition opposes legislative or regulatory changes that would force the Postal Service to raise its prices for package delivery services above market rates which would harm small businesses and consumers throughout the nation.

A fully subscribed Commission is crucial to ensure balanced decision-making and effective oversight. Commissioners Fisher and Poling have consistently demonstrated their knowledge and expertise of postal issues and their understanding of the importance of the Postal Service to all Americans, including those in rural areas, seniors and small businesses. Their confirmation will ensure the Commission continues to have the expertise needed to effectively address the issues of affordability, access, and service performance. The Commission's role in ensuring transparency and accountability is especially important given the scope and impact of the proposed changes accompanying the Postal Service Delivering for America plan.

Sincerely,

Hon. John M. McHugh
 Chairman, Package Coalition
 Former Member of Congress (1993-2009)
 Former Secretary of the Army (2009-2015)



Opening Statement of Carmen G. Iguina González
Nominee to be an Associate Judge of the District of Columbia Court of Appeals

Good morning, Chairman Peters, Ranking Member Paul, and members of the Committee. I am honored and humbled to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you for holding this hearing. I also wish to thank the District of Columbia Judicial Nomination Commission and its chair, the Honorable Marie Johns, for recommending me to the White House. And I thank President Joseph Biden for nominating me.

I am the person and lawyer I am today because of the people in my life who have supported me along the way. I want to take a moment to acknowledge them. First, I want to thank my husband, Jason Alcorn, who has been my best friend and partner for over twenty years. For your love and your constant encouragement, I can never thank you enough. To my children, *mis nenes*, you fill my days with joy and laughter. It is the greatest privilege of my life to be your mom, and I am so proud to have you here with me today.

Next, I wish to thank my parents, Dr. Luis Iguina and Dr. Gloria González. For 40 years, my father worked as a doctor at the San Juan VA Medical Center, caring for U.S. veterans in Puerto Rico. My mother's own medical career was dedicated to caring for children. Thank you both for instilling in me the values of hard work and dedication to family. To my siblings, Antonio and Elena, thank you for being the best cheerleaders a little sister can ever have. To my husband's parents, the Rev. Dr. Paul and Shodie Alcorn, you exemplify a life centered around faith and service. And to my extended family in Puerto Rico, Georgia, Pennsylvania and Maine, and my friends and colleagues all over the country, thank you for your unconditional love and support.

As I sit here today, my mind is on my grandmother, who raised three children on her own and worked her way through law school by attending classes at night. As a young girl, I sat by her side in her small office and watched as she helped her neighbors. I learned from my grandmother that to practice law is a privilege, and to serve our community is the highest calling.

Those values have led me throughout my career and have been shared by so many of the wonderful lawyers that I have had the opportunity to work for and with.

I have had the great privilege to serve as a law clerk for three remarkable jurists: Judge Kiyoko Matsumoto, the late Judge Stephen Reinhardt, and Justice Sonia Sotomayor. Each in their own ways taught me what it means to be dedicated to the fair and impartial administration of the law and committed to that vital promise engraved over the entrance to the Supreme Court: Equal Justice Under Law. If I am fortunate enough to be confirmed, I very much look forward to upholding those values as an Associate Judge on the District of Columbia Court of Appeals.

My own career in the law has been broad. In addition to my clerkships, I have worked in small and large nonprofit organizations and law firms, and taught law at a large Midwest public university and a private HBCU here in D.C. These experiences have afforded me extraordinary opportunities to work on matters presenting questions about corporate law, statutory construction, administrative

law, criminal law, and more. Each opportunity has fueled my love of the law and my respect for the institutions charged with upholding it, which now in turn fuels my passion for judicial service.

I wish to serve as an Associate Judge on the District of Columbia Court of Appeals to serve the community of Washington, D.C. I carry with me the lessons of my grandmother helping her neighbors, my parents caring for those who most needed care, and the judges that I have worked for. I became a lawyer because I wanted to be of service, and courts are integral to that work. Not only because of their role in maintaining the rule of law, but also in ensuring that every litigant who walks through the courthouse doors is treated fairly and with dignity. It would be an honor to serve the District of Columbia in that vital role.

Thank you again for the opportunity to appear before you today. I look forward to your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

Carmen Gloria Iguina González
Carmen Gloria Iguina

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

I am a citizen of the United States of America.

3. Current office address and telephone number.

Kaplan Hecker & Fink LLP
1050 K Street NW, Suite 1040
Washington, D.C. 20001
(212) 763-0883

4. Date and place of birth.

March 19, 1983; San Juan, Puerto Rico, USA.

5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

I am married to Jason Scott Alcorn. He is Vice President of Growth Investments at the American Journalism Project. The business address is: 6218 Georgia Avenue NW, Suite 1-#599, Washington, D.C. 20011.

6. Names and ages of children. List occupation and employer's name if appropriate.

REDACTED

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.

New York University School of Law, 2007 – 2010; J.D., *magna cum laude*, awarded May 2010.

Harvard University, 2001 – 2005; B.A., *magna cum laude* with highest honors in field, awarded June 2005.

Colegio Marista Guaynabo, 1989 – 2001; High School diploma, awarded May 2001.

8. **Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Summer 2009
ACLU of Southern California
1313 West Eighth Street
Los Angeles, CA 90017
Summer Intern

Summer 2008
Southern Center for Human Rights
60 Walton Street NW
Atlanta, GA 30303
Summer Intern

2008 – 2010
New York University School of Law
40 Washington Square South
New York, NY 10012
Research Assistant to Professors Oren Bar-Gill (now a Professor at Harvard Law School), Cynthia Estlund, and Randy Hertz

2005 – 2007
Shapiro Haber & Urmy LLP
One Boston Place, Suite 2600
Boston, MA 02108
Paralegal

9. **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.**

Hispanic Attorney of the Year, Hispanic Bar Association of D.C. (2023)

Next Generation, Lawdragon (2023)

Top Attorneys Under 40, Hispanic National Bar Association (2022)

Delegate, International Achievement Summit, Academy of Achievement (2019)
40 Under 40 Rising Star, NYU Law Alumni of Color Association (2018)
California Lawyer of the Year (Immigration) (2016)
Jack Wasserman Memorial Award, American Immigration Lawyers Association (2014)
Order of the Coif (2010)
Maurice Goodman Memorial Prize (2010)
Ann Petluck Poses Memorial Prize (2010)
Florence Allen Scholar (2009)
Root-Tilden-Kern Scholar (2007 – 2010)
Gordon W. Allport Prize for Distinguished Senior Thesis (2005)
Harvard College Scholarship (2002, 2003)

10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.

Immigrant Justice Corps
Board Member (2022 – present)

Rising for Justice
Board Member (2022 – present)

E.W. Stokes Community Freedom Charter School Parent Teacher Association
President (2023 – 2024)
Fundraising Co-Chair (2022 – 2023)

11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.

Hispanic Bar Association of the District of Columbia
Member (2020 – present)

The Appellate Project
Mentor (2020 – present)

Hispanic National Bar Association
Member (2021 – present)

D.C. Circuit Standing Committee on Pro Bono Legal Services
Committee Member (2021 – present)

Birnbaum Women’s Leadership Network
Fellows Program Mentor (2022 – present)

Edward Coke Appellate Inn of Court
Barrister (2022 – present)

Leadership Council on Legal Diversity
Fellow (2022 – 2023)

NYU Law Alumni of Color Association
Mentor (2021 – 2023)

Women Lawyers Association of Los Angeles
Member (2017 – 2018)

Latina Lawyers Bar Association
Member (2013 – 2014)

- 12. Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Smithsonian Associates
Member (2023 – present)

Adelphi Pool
Member (2023 – present)

None of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, or religion.

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

District of Columbia, admitted November 2019

State of California, admitted July 2011

U.S. Supreme Court, admitted June 2018

U.S. Court of Appeals for the Second Circuit, admitted August 2021

U.S. Court of Appeals for the Third Circuit, admitted November 2019

U.S. Court of Appeals for the Fourth Circuit, admitted February 2021

U.S. Court of Appeals for the Sixth Circuit, admitted April 2019

U.S. Court of Appeals for the Seventh Circuit, admitted May 2020

U.S. Court of Appeals for the Eighth Circuit, admitted May 2021

U.S. Court of Appeals for the Ninth Circuit, admitted October 2012

U.S. Court of Appeals for the Eleventh Circuit, admitted October 2022

U.S. Court of Appeals for the D.C. Circuit, admitted September 2022

U.S. District Court for the District of Columbia District, admitted October 2022

U.S. District Court for the Northern District of California, admitted April 2014

U.S. District Court for the Central District of California, admitted October 2012

U.S. District Court for the Southern District of California, admitted September 2021

Executive Office for Immigration Review, portal access activated August 2015 (account deactivated)

My access to the Executive Office for Immigration Review online portal has been deactivated, although the Office explained that admissions do not expire. I did not renew it because after my departure from the ACLU, I had no cases that necessitated access to the portal.

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

Sean Hecker, Carmen Iguina González, Kate Harris and Amit Jain, Op-Ed, *Police are stopping Black drivers for minor violations at record highs. Lawmakers should do something about it*, Chicago Sun Times (Nov. 2, 2023).

Kate Harris, Sean Hecker, Carmen Iguina González & Amit Jain, *The Road to Driving Equality: A Blueprint for Cities to Reduce Traffic Stops*, N.Y.U. J. Legis. & Pub. Pol'y Quorum (2023).

Tim Martin, Trevor Morrison, Carmen Iguina González, Jim Woolery, & Mathew Saur, *ESG and Fiduciaries: A New Age Dawns*, Harvard Law School Forum on Corporate Governance (2023).

Carmen Iguina, *Due Process Denied: Most California Immigrant Detainees Face Deportation Proceedings Without Legal Counsel* (2016).

Carmen Iguina, *On Immigration, a Ray of Fairness Shines Bright in California*, ACLU of Southern California (2016).

Carmen Iguina, Zara Lockshin, *10 Days Later*, ACLU of Southern California (2015).

Carmen Iguina, *Life on Hold: Asylum Delayed*, HuffPost (2014).

Carmen Iguina, *Victory! Mental Health Procedures for Those Lost in Detention*, ACLU of Southern California (2014).

Carmen Iguina, Michael Kaufman, *Bringing Gideon's "Noble Ideal" to the Immigration System*, HuffPost (2013).

Esha Bhandari, Carmen Iguina, *Historic Decision Recognizing Right to Counsel for Group of Immigration Detainees*, HuffPost (2013).

Michael Kaufman and Carmen Iguina, *Wasteful Spending to Detain Immigrants in a Maximum Security Jail: The Theo Lacy Facility* (Nov. 30, 2012).

Carmen G. Iguina, Note, *Adapting to 287(g) Enforcement: Rethinking Suppression and Termination Doctrines in Removal Proceedings in Light of State and Local Enforcement of Immigration Law*, 86 N.Y.U. L. REV. 207 (2011).

S.E. Roian Egnor, Carmen G. Iguina & Marc D. Hauser, *Perturbation of Auditory Feedback Causes Systematic Perturbation in Vocal Structure in Adult Cotton-Top Tamarins*, 209 J. EXPERIMENTAL BIOLOGY 3652 (2006).

Cory T. Miller, Carmen G. Iguina & Marc D. Hauser, *Processing Vocal Signals for Recognition During Antiphonal Calling in Tamarins*, 69 ANIMAL BEHAVIOUR 1387 (2005).

The list above includes my published writings to the best of my recollection and based on a search of my records. As a member of the *New York University Law Review* from 2008 to 2010, I edited several law review articles. I have also, throughout my career, been asked to edit reports or other publications. I do not recall all the articles and reports I

edited, but I have included here the ones I remember and/or where I am listed as an editor or contributor.

American Civil Liberties Union, *Rethinking Electronic Monitoring: A Harm Reduction Guide* (2022).

Margo Schlanger, Elizabeth Jordan, Roxana Moussavian, *Ending the Discriminatory Pretrial Incarceration of People with Disabilities: Liability under the Americans with Disabilities Act and the Rehabilitation Act*, 17 Harv. L. & Pol'y Rev. 231 (2022).

ACLU, *The Survivors: Stories of People Released from ICE Detention During the COVID-19 Pandemic* (2021).

Julia Fong Sheketoff, Note, *State Innovations in Noncapital Proportionality Doctrine*, 85 N.Y.U. Law Review 2209 (2010).

Patrick P. Garlinger, Note, *Privacy, Free Speech, and the Patriot Act: First and Fourth Amendment Limits on National Security Letters*, 84 N.Y.U. Law Review 1105 (2009).

George S. Geis, *Internal Poison Pills*, 84 N.Y.U. Law Review 1169 (2009).

Jill Elaine Hasday, *Protecting Them from Themselves: The Persistence of Mutual Benefits Arguments for Sex and Race Inequality*, 84 N.Y.U. Law Review 1464 (2009).

Oren Bar-Gill & Elizabeth Warren, *Making Credit Safer*, 157 University of Pennsylvania Law Review 1 (2008).

15. **Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.**

I am frequently asked to speak at bar association events, present trainings and continuing legal education courses, and speak to law students and young attorneys. To the best of my recollection and through a review of my calendar and emails, I have found the following responsive materials. When giving such presentations, I do not speak from a written text, but do sometimes use notes. To the extent that I have been able to locate notes that I prepared for these presentations, I have included them.

February 1, 2024: Co-Moderator, "The Court at War" Book Discussion with Cliff Sloan, The Howard Law Journal and Clinical Law Center, Howard University School of Law. I have no notes, transcript, or recording.

November 16, 2023: Panelist, Aftermath & Implications of the Supreme Court's Affirmative Action Ruling in SFFA, Spring Point Partners LLC (virtual). I have no notes, transcript, or recording.

September 13, 2023: Moderator, Evening with Judge Ana Reyes, Hispanic Bar Association–District of Columbia. Notes supplied.

April 14, 2023: Panelist, Intersectional Feminism in the Law: Exploring the Experiences of Women of Color, American University Journal of Gender, Social Policy & The Law. I have no notes, transcript, or recording.

October 13, 2022: Panelist, National Immigration Project of the National Lawyers Guild, Recent Supreme Court Decisions on Detention (virtual). I have no notes, transcript, or recording.

September 21, 2022: Moderator, Evening with David Lopez, Hispanic Bar Association–District of Columbia. Notes supplied.

October 14, 2021: Panelist, Equal Justice Works, Leadership Development Training, What Comes Next. I have no notes, transcript, or recording.

September 23, 2021: Panelist, American Immigration Council, Strategic Immigration Litigation Convening, Detention Panel (virtual). I have no notes, transcript, or recording.

July 27, 2021: Panelist, Diversifying the Fight for Justice: Women of Color Appellate Litigators Panel (virtual). Recording available at: <https://www.apaba-dc.org/event-4369739>

April 16, 2021, Panelist, Strict Scrutiny “Live” at The Appellate Project, Right for the Wrong Reasons (virtual). Recording available at: <https://podcasts.apple.com/py/podcast/right-for-the-wrong-reasons/id1469168641?i=1000517719844>.

September 21, 2019: Moderator, “Just Ask” Book Discussion with Justice Sotomayor, East City Books (virtual). Notes supplied.

16. Legal career.

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

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I served as a law clerk to the following judges:

Judge Kiyoo A. Matsumoto
U.S. District Court for the Eastern District of New York
New York, NY
September 2010 – August 2011

Judge Stephen R. Reinhardt
U.S. Court of Appeals for the Ninth Circuit
Los Angeles, CA
August 2011 – August 2012

Justice Sonia Sotomayor
U.S. Supreme Court
Washington, D.C.
July 2017 – July 2018

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

September 2012 – June 2017
American Civil Liberties Union of Southern California
1313 West 8th Street
Los Angeles, CA 90017

October 2018 – October 2020
Jones Day
51 Louisiana Avenue NW
Washington, D.C. 20001

November 2020 – July 2022
American Civil Liberties Union
915 15th Street NW
Washington, D.C. 20005

July 2022 – present
Kaplan Hecker & Fink LLP
1050 K Street NW, Suite 1040
Washington, D.C. 20001

October 2023 – May 2024
University of Minnesota Law School
229 19th Avenue S
Minneapolis, MN 55455

January 2024 – present
Howard University School of Law
2900 Van Ness Street NW
Washington, D.C. 20008

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

As a law clerk to Judge Matsumoto (2010 – 2011), I assisted the Judge with district court hearings and wrote bench memoranda and draft opinions in both civil and criminal cases. As a law clerk to Judge Reinhardt (2011 – 2012), I prepared bench memoranda and wrote draft opinions in cases before the U.S. Court of Appeals for the Ninth Circuit. And as a law clerk to Justice Sotomayor (2017 – 2018), I prepared certiorari stage and merits stage memoranda and wrote draft opinions in cases before the U.S. Supreme Court.

As an Equal Justice Works Fellow (2012 – 2014) and Staff Attorney (2014 – 2017) at the ACLU of Southern California and as a Senior Staff Attorney at the ACLU Immigrants' Rights Project (2020 – 2022), my practice focused primarily on complex civil litigation involving constitutional, statutory, and administrative questions.

As an Associate at Jones Day (2018 – 2020), I represented clients in complex civil cases, commercial and administrative matters, and maintained a pro bono practice representing incarcerated individuals and immigrants in asylum proceedings.

As Counsel at Kaplan Hecker & Fink (2022 – present), I represent clients in a variety of matters, including complex civil litigation involving constitutional, statutory, and administrative questions, and in appellate matters, and maintain a pro bono practice representing individual parties and nonprofit *amici curiae* in constitutional, criminal, and immigration matters.

As Co-Director of the Howard University School of Law Civil Rights Clinic (2024 – present) and as an Adjunct Professor for the Minnesota Law School Civil Rights Clinic (2023 – 2024), I teach a seminar focused on the appellate process and civil rights issues, and represent pro bono clients in a variety of civil rights appellate matters.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

At Kaplan Hecker & Fink, my clients have included large entities such as Portier LLC and Dechert LLP, nonprofit organizations, and individuals, and the cases have included issues of constitutional law, securities fraud, gender and racial equity, workplace misconduct, and the Computer Fraud and Abuse Act. I have also maintained a pro bono practice, through which I represented individual parties and nonprofit *amici curiae* in constitutional, criminal, and immigration matters.

At the Howard University School of Law and University of Minnesota Law School, my clients included law professors, scholars, and nonprofit *amici curiae* in cases involving criminal justice and constitutional law.

At Jones Day, my clients included large corporations such as Virgin America, General Electric, and Sanofi, and the cases covered issues of contract interpretation, statutory interpretation, constitutional law, administrative law, and antitrust law. I also maintained a pro bono practice, through which I represented individual parties in habeas and immigration matters.

At the ACLU Immigrants' Rights Project and the ACLU of Southern California, my clients included noncitizens, nonprofit or advocacy organizations, and other civil rights plaintiffs, and the cases included issues of constitutional law, statutory interpretation, and administrative law.

D. Describe the general nature of your litigation experience, including:

- (1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.**

I have appeared in court regularly representing clients in a variety of matters in state, federal, and administrative courts, except for the years when I was serving as a law clerk.

- (2) What percentage of these appearances was in:**

- (a) Federal courts (including Federal courts in D.C.);**

78%

- (b) State courts of record (excluding D.C. courts);**

11%

- (c) D.C. courts (Superior Court and D.C. Court of Appeals only);**

0%

- (d) other courts and administrative bodies.**

11%

- (3) What percentage of your litigation has been:**

(a) civil;

93%

(b) criminal.

7%

(4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I have not tried any cases to verdict or judgment; I have, however, drafted significant trial court and appellate briefs and assisted trial attorneys with dispositive motions practice and post-trial proceedings.

(5) **What percentage of these trials was to**

(a) a jury;

None.

(b) the court (include cases decided on motion but tabulate them separately).

None.

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and 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 court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.**

(1) *McElrath v. Georgia*, 144 S. Ct. 651 (2024)

In 2023, I represented *amici curiae* National Association of Criminal Defense Lawyers, the American Civil Liberties Union, and the American Civil Liberties Union of Georgia, and was counsel of record and the principal drafter on an *amicus* brief before the U.S. Supreme Court in support of Petitioner. The case involved the Double Jeopardy Clause of the U.S. Constitution; specifically, whether it permits the retrial of a criminal defendant

where the jury reaches two verdicts that are “repugnant” under state law because they required affirmative findings of different mental states of the Petitioner that could not exist at the same time. The *amicus brief* delved into the history of the Double Jeopardy Clause and the important function of the clause in protecting the structural role of the jury in criminal cases. It also set out the history of the Court precedent on the Clause, specifically in the context of inconsistent verdicts.

The U.S. Supreme Court ruled in favor of the Petitioner in a unanimous opinion, holding that the Double Jeopardy Clause barred the retrial of the Petitioner on the count for which he was acquitted by the jury. The panel included Chief Justice Roberts and Justices Thomas, Alito, Sotomayor, Kagan, Gorsuch, Kavanaugh, Barrett, and Jackson.

Co-Counsel:

Kate Harris
Kaplan Hecker & Fink LLP
1050 K Street NW, Suite 1040
Washington, D.C. 20001
212-763-0883

Sean Hecker
Kaplan Hecker & Fink LLP
350 Fifth Avenue, 63rd Floor
New York, NY 10118
212-763-0883

David D. Cole
American Civil Liberties Union
915 15th Street NW
Washington, D.C. 20005
212-549-2611

Brandon Buskey
American Civil Liberties Union
125 Broad Street
New York, NY 10004
917-361-5796

Evelyn Danforth-Scott
American Civil Liberties Union
425 California Street, Suite 700
San Francisco, CA 94104
415-343-0780

David Oscar Markus
Co-Chair, Amicus Committee, National Association of Criminal Defense Lawyers
40 NW 3rd Street, PH1
Miami, FL 33128
305-379-6667

Principal Counsel for Petitioner:

Richard Simpson
Wiley Rein LLP
2050 M Street NW
Washington, D.C. 20036
202-719-7314

Principal Counsel for Respondent:

Stephen Petrany
Georgia Department of Law
40 Capitol Square SW
Atlanta, GA 30334
404-458-3408

(2) *Showers v. Rodgers*, 2024 WL 1877028, No. 23-1241 (3rd Cir. Apr. 30, 2024)

From 2023 to 2024, I represented Plaintiff-Appellant Russell Showers, and was counsel of record and the principal drafter on an appeal to the U.S. Court of Appeals for the Third Circuit from the dismissal of the complaint below for failure to exhaust administrative remedies under the Prison Litigation Reform Act (PLRA). The case concerned the interpretation of the exhaustion requirements under the PLRA after a prisoner-plaintiff amends a pleading pursuant to the Federal Rules of Civil Procedure. Specifically, the case concerned whether exhaustion under the PLRA is measured as of the time of the filing of an amended (and operative) complaint or at the time of the filing of an initial complaint.

The Third Circuit ruled in favor of Mr. Showers in a unanimous opinion, holding that exhaustion under the PLRA is evaluated as of the date of the amended and supplemental complaint, not as of the date of the initial filing of the lawsuit. The panel included Judges Hardiman, Matey, and Phipps.

Co-Counsel:

Raymond Tolentino
White House Counsel's Office (formerly with Kaplan Hecker & Fink LLP)
1600 Pennsylvania Avenue NW
Washington, D.C. 20502
202-881-8240

Christopher Morel
Kaplan Hecker & Fink LLP

350 Fifth Avenue, 63rd Floor
New York, NY 10118
212-763-0883

Easha Anand (formerly with MacArthur Justice Center)
Stanford Supreme Court Litigation Clinic
559 Nathan Abbott Way
Stanford, CA 94305
240-888-8857

Principal Opposing Counsel:

Benjamin Lombard
Weber Gallagher
4 PPG Place, 5th Floor
Pittsburgh, PA 15222
412-281-4588

Michael Scarinci
Pennsylvania Office of the Attorney General
Appellate Litigation Section
15th Floor, Strawberry Square
Harrisburg, PA 17120
717-857-2184

(3) *Bridges v. United States*, 991 F.3d 793 (7th Cir. 2021)

From 2020 to 2021, I represented Jeffery Bridges on a habeas appeal, and was counsel of record and the principal drafter on an appeal of a habeas matter to the U.S. Court of Appeals to the Seventh Circuit. The case concerned whether a robbery committed in violation of the Hobbs Act constituted a crime of violence under the Sentencing Guidelines and whether the failure to raise that argument at sentencing constituted ineffective assistance of counsel.

The Seventh Circuit ruled in favor of Mr. Bridges in a unanimous opinion, holding that robbery under the Hobbs Act does not qualify as a “crime of violence” under the Sentencing Guidelines, settling an open question in the circuit, and concluding that counsel rendered ineffective assistance when he failed to raise that issue at sentencing. The panel included Judges Rovner, Hamilton, and Scudder. On remand, the client was resentenced to a sentence that fell within a properly calculated Sentencing Guidelines range.

Co-Counsel:

Benjamin C. Mizer (formerly with Jones Day)
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
202-514-2000

Erin M. McGinley
Jones Day
77 West Wacker
Chicago, IL 60601
312-269-4204

Spencer Amdur
American Civil Liberties Union
425 California Street, Suite 700
San Francisco, CA 94104
415-343-1198

Principal Opposing Counsel:

Bob Wood
United States Attorney's Office, Southern District of Indiana
10 West Market Street, Suite 2100
Indianapolis, IN 46204
317-226-6333

(4) *Emamian et al. v. Neumann, et al.*, No. 21-CV-00414 (D. Del.)

In 2023, I was part of a team of attorneys that represented Arthur Minson and Rohit Dave and was one of the principal drafters a motion to dismiss an amended complaint before the U.S. District Court for the District of Delaware. The case concerned claims under Section 10(b) of the Securities and Exchange Act against former executives of The We Company. The brief explained why the plaintiffs' claims failed to satisfy the requirements for a claim under Section 10(b), including reasonable reliance, scienter, and material misrepresentation. Following the filing of the motion to dismiss, the parties agreed to mediation and the case was settled and dismissed with prejudice.

Co-Counsel:

Sean Hecker
Gabrielle Tenzer
Kaplan Hecker & Fink LLP
350 Fifth Avenue, 63rd Floor
New York, NY 10118
212-763-0883

William M. Lafferty
Kevin M. Coen
Morris Nichols Arsh & Tunnell LLP
1201 N. Market Street
Wilmington, DE 19801
302-658-9200

Principal Opposing Counsel:

Thomas Redburn
Maya Ginsburg
Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, NY 10020
212-419-5899

(5) *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG (DTBx), 2013 WL 3674492 (C.D. Cal. Apr. 23, 2013)

From 2012 to 2017, I was part of a team of attorneys representing a class of immigrant detainees with serious mental disabilities in an action seeking the right to representation in their immigration proceedings. The claims were brought under the Immigration and Nationality Act, the Rehabilitation Act, and the U.S. Constitution. Judge Dolly Gee issued a decision recognizing, for the first time, the right to counsel in immigration proceedings for any category of immigrants facing deportation. The government did not appeal this decision. I, along with the rest of the litigation team, were recognized for our work with the 2014 American Immigration Lawyers Association, Jack Wasserman Memorial Award.

Co-Counsel (lead team at the time of summary judgment):

Ahilan Arulanantham (formerly with ACLU of Southern California)
UCLA School of Law, Center for Immigration Law and Policy
385 Charles E. Young Drive East
Los Angeles, CA 90095
323-422-5947

Matt Adams
Northwest Immigrants' Rights Project
615 Second Avenue, Suite 400
Seattle, WA 98104
206-957-8611

Judy Rabinovitz
American Civil Liberties Union
125 Broad Street
New York, NY 10004
212-549-2500

Esha Bhandari
American Civil Liberties Union
125 Broad Street
New York, NY 10004
212-549-2500

Talia Inlender (formerly with Public Counsel)
UCLA School of Law, Center for Immigration Law and Policy
385 Charles E. Young Drive East
Los Angeles, CA 90095
310-206-5298

James Preis (deceased)
Mental Health Advocacy Services

Sean Riordan (formerly with ACLU of San Diego and Imperial Counties)
ACLU of Northern California
39 Drumm Street
San Francisco, CA 94111
916-620-9705

James Duff Lyall (formerly with ACLU of Arizona)
ACLU of Vermont
PO Box 277
Montpelier, VT 05601
802-223-6304

Michael Steinberg
Sullivan & Cromwell
1888 Century Park East
Los Angeles, CA 90067
310-712-6670

Principal Opposing Counsel:
Jeffrey S. Robins
U.S. Department of Justice, Civil Division
950 Pennsylvania Avenue NW
Washington, D.C. 20530
202-514-2000

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

Throughout my career, I have counseled a wide range of clients—from corporations and corporate officers to indigent individuals—on compliance issues, pre-litigation advocacy and strategy, and mediation to resolve matters effectively. I also serve as the Director of the Howard University School of Law Civil Rights Clinic and, for the Fall 2023 and Spring 2024 semesters, served as an Adjunct Professor at the University of Minnesota Law School Civil Rights Appellate Clinic. In addition, I mentor junior lawyers through The Appellate Project and the Birnbaum Women’s Leadership Network at N.Y.U. Law.

19. **Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have never held judicial office.

- A. **List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

20. **Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I have never been a candidate for elective, judicial, or other public office.

21. **Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

None.

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**

- \$1,500 – September 30, 2020, Joe Biden for President* (Biden for President)

* I inadvertently resubmitted my contribution for this same amount, which was refunded by the campaign shortly thereafter.

- \$500 – December 5, 2020, Jon Ossoff for U.S. Senate (Jon Ossoff for Senate)
- \$500 – December 5, 2020, Raphael Warnock for U.S. Senate (Warnock for Georgia)
- \$500 – December 5, 2020, Fair Fight
- \$100 – October 31, 2022, Kathy Hochul for Governor of the State of New York (Friends of Kathy Hochul)
- \$250 – October 31, 2022, Catherine Cortez Masto for U.S. Senate
- \$250 – October 31, 2022, Raphael Warnock for U.S. Senate (Warnock for Georgia)
- \$125 – October 31, 2022, Stacey Abrams for Governor of the State of Georgia (Abrams for Governor)
- \$100 – October 31, 2022, Mark Kelly for U.S. Senate (Mark Kelly for Senate)
- \$100 – October 31, 2022, John Fetterman for U.S. Senate

22. To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.

No.

23. Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.

No.

24. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

My spouse and I each have retirement benefits accrued from our current and former employers, including 401(k) retirement plans. Estimates of these amounts are described in response to Question III.1 below.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

On December 20, 2016, I testified before the Los Angeles County Board of Supervisors in support of the L.A. Justice Fund—a fund to provide legal representation to detained immigrants in Los Angeles, California. My testimony can be found at: https://file.lacounty.gov/SDSInter/bos/sop/transcripts/1010162_122016.pdf

To the best of my recollection, I also testified at an emergency hearing in Sacramento, California on February 21, 2017, concerning immigration enforcement. I do not have details of the hearing.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

I intend to continue my volunteer service with some the organizations listed in Part I, Questions 10 and 11, to the extent that it would not create conflicts with my judicial work.

7. **Explain how you will resolve any potential conflicts of interest, including any that may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.**

I will abide by the ethical canons included in the Code of Judicial Conduct to ensure impartiality and fairness. Should any possible conflicts of interest arise, I will apply the ethical canons and recusal standards and, if necessary, confer with judicial ethics officials to determine, as appropriate, whether to recuse myself from the matter at issue.

8. **If confirmed, do you expect to serve out your full term?**

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**
Yes.
2. **Are you a member of the bar of the District of Columbia?**
Yes.
3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**
No. I was admitted on November 18, 2019.
4. **If the answer to Question 3 is “no” --**
 - A. **Are you a professor of law in a law school in the District of Columbia?**
I am an adjunct professor at the Howard University School of Law.
 - B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**
No.
 - C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**
Yes. I finalized my application for admission on December 12, 2018.
 - D. **Upon what grounds is that eligibility based?**
Pursuant to Rule 46(e)(3)(A) given my membership in good standing of the Bar of the State of California since July of 2011.
5. **Are you a bona fide resident of the District of Columbia?**
Yes.
6. **Have you maintained an actual place of abode in the greater Washington, D.C. area**

for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.

Yes. From June 2019 to present we have lived at [REDACTED] **REDACTED**
[REDACTED]. From July 2017 to June 2019, we lived at [REDACTED]
[REDACTED].

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

8. **Have you been a member of either of these Commissions within the last 12 months?**

No.

9. **Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

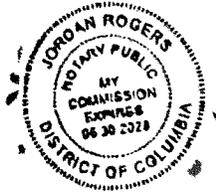
Complete copies of my Judicial Nomination Commission questionnaire is attached.

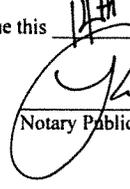
AFFIDAVIT

Carmen Iguala Gonzalez being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.



SUBSCRIBED and SWORN TO before me this 14th day of June 2024.





JORDAN ROGERS
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires June 30, 2028
Notary Public

June 14, 2024

The Honorable Gary Peters
Chairman, Committee on Homeland Security
& Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Rand Paul
Ranking Member, Committee on Homeland Security
& Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Carmen Iguina González to be an Associate Judge of the
District of Columbia Court of Appeals

Dear Chairman Peters and Ranking Member Paul:

We write in strong and enthusiastic support of Carmen Iguina González's nomination to serve as an Associate Judge of the District of Columbia Court of Appeals.

Each of us has substantial experience with high-stakes trial or appellate litigation—and each of us is familiar with Carmen's work and reputation. Many of us have worked or co-counseled with Carmen; the rest of us have collaborated with her in professional settings. We hold diverse views on judicial philosophy and come from a variety of backgrounds. We practice law in many different contexts. Yet we are unified in our unequivocal support for Carmen's nomination.

Carmen would be an extraordinary judge and a credit to the bench. She is an elegant writer, an incisive legal analyst, and a brilliant thinker. Her knowledge of the law is truly formidable. And she is widely respected—by judges, colleagues, and opposing counsel alike—for her temperament, judgment, integrity, and civility. Carmen evinces admirable thoroughness and care in every aspect of her legal work; she also maintains a scrupulous independence of outlook and dedication to getting things right. Because Carmen has represented so many different clients in so many different settings, she is unfailingly alert to the practical and strategic considerations that shape litigation, and she is mindful of the distinct judicial role in addressing a wide range of legal and equitable considerations. In these and many other respects, Carmen unquestionably ranks among the most capable practitioners within the D.C. Bar (and within her generation of attorneys nationwide).

Beyond her first-rate legal abilities, Carmen is generous, thoughtful, and kind. She treats people well. She cares deeply about public service. She is the kind of mentor that any young lawyer would be lucky to find. She is a gifted manager. And she is open to learning from experience.

For all these reasons, we are confident that Carmen would flourish on the D.C. Court of Appeals—and that the people of D.C. would be exceptionally well served by her as a judge.

We hope this information will assist the Committee in evaluating Carmen's nomination.

Thank you for your time and attention.

Sincerely,

Joshua Matz
Partner
Kaplan Hecker & Fink LLP

Samiyyah Ali
Google

Easha Anand
Assistant Professor of Law
Co-Director, Supreme Court Litigation Clinic
Stanford Law School

Ahilan Arulanantham
Professor from Practice
UCLA School of Law

Kelsi Brown Corkran
Institute for Constitutional Advocacy & Protection
Georgetown University Law Center

Gregory Cui
Supreme Court and Appellate Counsel
Roderick & Solange MacArthur Justice Center

Kirti Datla
Director of Strategic Legal Advocacy
Earthjustice

Shay Dvoretzky

Alex Hemmer
Deputy Solicitor General
Office of the Illinois Attorney General

Julie E. McEvoy
Partner
Jones Day

Trevor Morrison
Of Counsel
Kaplan Hecker & Fink LLP
Eric M. and Laurie B. Roth Professor of Law and Dean Emeritus
New York University School of Law

Parker Rider-Longmaid

Nicole A. Saharsky
Partner
Mayer Brown LLP

Aaron Scherzer
Litigation Director
Policing Project
NYU School of Law

James Sigel
Partner
Davis Wright Tremaine LLP

Cliff Sloan
Professor from Practice
Georgetown University Law Center

Charlotte H. Taylor
Partner
Jones Day

Laurence H. Tribe
Carl M. Loeb University Professor Emeritus
Harvard University

Kamaile A. N. Turčan
Associate Professor
University of Hawai'i
William S. Richardson School of Law

Daniel Winik

Tiffany R. Wright
Deputy General Counsel
The Johns Hopkins University

Institutional affiliations are listed for identification only; the views expressed in this letter are not intended to reflect the views of any institution or person other than the individual signatories.

April 25, 2024

The Honorable Gary Peters
Chair
Homeland Security and
Governmental Affairs Committee
United States Senate
724 Hart Senate Office Building
Washington, DC 20510

The Honorable Rand Paul
Ranking Member
Homeland Security and
Governmental Affairs Committee
United States Senate
295 Russell Senate Office Building
Washington, DC 20510

RE: Support for the nomination of Carmen Iguina González, nominee for the District of Columbia Court of Appeals

Dear Chair Peters and Ranking Member Paul:

We write to express our support for the nomination of Carmen Iguina González to be a judge on the District of Columbia Court of Appeals.

We had the privilege of serving as law clerks at the Supreme Court of the United States during the October Term 2017. During that time, we worked closely with Ms. Iguina González, who clerked for Justice Sonia Sotomayor. We hold widely varying views on the law and represent a diverse array of political ideologies and professional affiliations. We clerked for justices appointed by both Republican and Democratic presidents. And we all share the highest regard for Ms. Iguina González's intellect, integrity, and accomplishments.

During our term, we worked on high-profile, contentious cases on which we frequently held divided views. We came to know Ms. Iguina González as a highly professional, diligent, and collegial attorney who treated everyone with kindness and respect regardless of their differing perspectives. Ms. Iguina González is a gifted, fair-minded, and compassionate legal thinker and an exemplary colleague, and she will be a superb addition to the District of Columbia Court of Appeals.

Ms. Iguina González is a highly accomplished litigator and attorney with deep experience in multiple roles both in government service and in private practice, giving her the professional perspective to be a first-rate judge. After graduating *magna cum laude* from Harvard University and New York University School of Law (where she received multiple prizes for exceptional scholarship and character), Ms.

Page 2

Iguina González served as a law clerk at every level of the federal judiciary. She worked in private practice as an attorney at Jones Day, where she represented clients in complex civil, criminal, and administrative law cases. She served as a Senior Staff Attorney at the ACLU, where she led representations relating to immigration, habeas corpus, and civil rights. Since 2022, she has been counsel at Kaplan Hecker & Fink LLP, and she also currently directs the Howard University School of Law's Civil Rights Clinic. In these roles, Ms. Iguina González has served as lead counsel in numerous important cases, earning a nationwide reputation as a leading advocate.

Ms. Iguina González is also deeply committed to professional and community service. She is member of the Hispanic Bar Association of the District of Columbia, the Hispanic National Bar Association, and the D.C. Circuit Standing Committee on Pro Bono Legal Services. She serves as a mentor to young lawyers through The Appellate Project, NYU Birnbaum Women's Leadership Network Fellows Program, and the NYU Law Alumni of Color Association. We are not surprised that Ms. Iguina González has received numerous accolades for her service and professional achievements. She has been recognized by the Hispanic National Bar Association as one of the "Top Attorneys Under 40," by the NYU Law Alumni of Color Association as a "40 Under 40 Rising Star," and as a California Attorney of the Year for immigration work. She also received the American Immigration Lawyers Association, Jack Wasserman Memorial Award.

In addition to her professional distinctions, her remarkable personal qualities will make her an excellent judge. She is a collegial, open-minded, and gracious colleague who will be a credit to the Court.

We are proud to support Ms. Iguina González's nomination and urge the Senate to swiftly confirm her as a judge on the District of Columbia Court of Appeals.

Sincerely,

Note: the undersigned individuals have signed on to this letter in their personal capacities and not in any official capacity.

Cynthia Barmore
Law Clerk to Justice Stephen Breyer (OT 2017)

Zoe Bedell
Law Clerk to Justice Elena Kagan (OT 2017)

Page 3

Elizabeth G. Bentley
Law Clerk to Justice Sonia Sotomayor (OT 2017)

Charles Dameron
Law Clerk to Chief Justice John Roberts (OT 2017)

Caroline Flynn
Law Clerk to Chief Justice John Roberts (OT 2017)

Carlton Forbes
Law Clerk to Justice Stephen Breyer (OT 2017)

David R. Fox
Law Clerk to Justice Stephen Breyer (OT 2017)

Beatrice Franklin
Law Clerk to Justice Ruth Bader Ginsburg (OT 2017)

Maggie Goodlander
Law Clerk to Justice Stephen Breyer (OT 2017)

Adam Goodman
Law Clerk to Justice David Souter (OT 2017)
Law Clerk to Justice Ruth Bader Ginsburg (OT 2017)

Donald Goodson
Law Clerk to Justice John Paul Stevens (OT 2017)
Law Clerk to Justice Anthony Kennedy (OT 2017)

Matt Gregory
Law Clerk to Justice Anthony Kennedy (OT 2017)

Nick Harper
Law Clerk to Justice Anthony Kennedy (OT 2017)
Law Clerk to Justice Amy Coney Barrett (OT 2020)

Lena Hughes
Law Clerk to Justice Elena Kagan (OT 2017)

Karim J. Kentfield
Law Clerk to Justice Ruth Bader Ginsburg (OT 2017)

Page 4

Jeremy Kreisberg
Law Clerk to Justice Elena Kagan (OT 2017)

Ephraim McDowell
Law Clerk to Justice Elena Kagan (OT 2017)

Sean A. Mirski
Law Clerk to Justice Samuel Alito (OT 2017)

Aaron Rizkalla
Law Clerk to Chief Justice John Roberts (OT 2017)

James Saywell
Law Clerk to Justice Samuel Alito (OT 2017)

Mary Schnoor
Law Clerk to Justice Ruth Bader Ginsburg (OT 2017)

Geoffrey Shaw
Law Clerk to Justice Anthony Kennedy (OT 2017)

Emma Simson
Law Clerk to Justice Ruth Bader Ginsburg (OT 2017)

Raymond P. Tolentino
Law Clerk to Justice Sonia Sotomayor (OT 2017)

Usha Vance
Law Clerk to Chief Justice John Roberts (OT 2017)

Julie Veroff
Law Clerk to Justice Sonia Sotomayor (OT 2017)

Opening Statement of Joseph R. Palmore
Nominee to be an Associate Judge of the District of Columbia Court of Appeals

Good morning, Chairman Peters, Ranking Member Paul, and members of the Committee. I am honored to appear before you today as you consider my nomination to be an Associate Judge of the District of Columbia Court of Appeals. I thank you and your staff for holding this hearing. I also want to thank the District of Columbia Judicial Nomination Commission and its chair, the Honorable Marie Johns, for recommending me to the White House. And I am grateful to President Biden for nominating me.

I would like to take a moment to acknowledge some important people in my life, several of whom are here today. I could not be more fortunate to be married to Dr. Tara Palmore. I wouldn't be sitting here before you without Tara's steadfast support and encouragement. We have three sons—Simon, Teddy, and Charlie—who make me proud every day.

My mother, Sandra Palmore's status as my biggest fan gave me the confidence to become the first lawyer in our family. She also taught me the importance of education. She was not able to complete her college education right out of high school because her family couldn't afford it. But she went back to school at night when I was a boy. Attending my mother's college graduation at the University of Texas at San Antonio is one of my proudest childhood memories.

My father, Russell Palmore, passed away on December 28, 2023, just as the Judicial Nomination Commission process was about to begin. Despite the terrible loss, I decided to proceed because I knew that's what my dad would have wanted. He was immensely proud of my professional achievements and told me over the years that he thought I should consider becoming a judge.

I have been an appellate litigator for more than 20 years. I served as deputy general counsel of the Federal Communications Commission, where I oversaw all litigation involving the agency. I then served as an Assistant to the Solicitor General, where I had the honor of representing the United States before the Supreme Court. My docket was diverse and split between civil and criminal cases.

For the last nearly 10 years, I have served as co-chair of the Appellate & Supreme Court Practice at Morrison Foerster. I have represented clients in federal and state appeals all over the country. I have also engaged in substantial pro bono work and now chair the firm's pro bono committee.

I'd like to finish my remarks by noting where my legal career started—by clerking for Judge Dennis Jacobs on the Second Circuit, Judge John Gleeson on the Eastern District of New York, and Justice Ruth Bader Ginsburg on the Supreme Court. They modeled for me what it is to be an excellent judge: hard work, fidelity to precedent, mastery of the factual record, respect for all parties, timely decision-making, and clearly written opinions.

* * *

I have lived in the District of Columbia for more than 20 years and raised my family here. I love this city and its people. With your advice and consent, it would be an honor for me to return to public service in a new role as an Associate Judge of the District of Columbia Court of Appeals.

Thank you again for the opportunity to appear before you today. I welcome your questions.

REDACTED

**QUESTIONNAIRE FOR NOMINEES TO THE DISTRICT OF COLUMBIA COURTS
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE**

I. BIOGRAPHICAL AND PROFESSIONAL INFORMATION

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

Joseph Russell Palmore
Joe Palmore

2. Citizenship (if you are a naturalized U.S. citizen, please provide proof of your naturalization).

I am a citizen of the United States.

3. Current office address and telephone number.

Morrison & Foerster LLP
2100 L Street, NW
Washington, D.C. 20037
(202) 887-6940

4. Date and place of birth.

August 19, 1969; Corpus Christi, Texas, USA

5. Marital status (if married, include maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

I am married to Dr. Tara Palmore (maiden name: Nayak). She is a staff clinician at the National Institutes of Health, National Institute of Allergy & Infectious Disease. The address is: 10 Center Drive, Bethesda, MD 20892.

6. Names and ages of children. List occupation and employer's name if appropriate.

Simon Palmore (23): research fellow, MDC Inc.
Theodore Palmore (19): student

REDACTED

7. Education. List secondary school(s), college(s), law school(s), and any other institutions of higher education attended; list dates of attendance, degree received, and date each degree was received. Please list dating back from most recent to earliest.

University of Virginia School of Law, 1995-1998; JD awarded May 1998

University of Virginia Graduate School of Arts & Sciences, 1996-1998, MA (history)
awarded May 1998

Harvard University, 1987-1991, AB, *magna cum laude*, awarded June 1991

Simsbury High School, 1983-1987, high school degree awarded June 1987

- 8. Employment record. List all jobs held since college, other than legal experience covered in question 16, including the dates of employment, job title or description of job, and name and address of employer. Please list dating back from most recent to earliest. If you have served in the US military, please list dates of service, rank or rate, serial number, and type of discharge received.**

Summer 1997
United States Department of Justice
Environmental & Natural Resources Division
Environmental Crimes Section
950 Pennsylvania Ave., NW
Washington D.C. 20530
Summer law intern

Summer 1996
United States Department of Justice
United States Attorney's Office for the Western District of Virginia
255 West Main Street, Room 130
Charlottesville, Virginia 22902
Summer law intern

1993-1995
United States Senator Christopher J. Dodd
United States Senate
Washington, D.C. 20510
Legislative correspondent, legislative assistant

April 1992-November 1992
N/K Associates
No current address (business closed)
Researcher

February 1992-April 1992
Cambridge Transnational Associates
No current address (business closed)
Marketing assistant

September 1991-January 1992
La Nación
10138-1000 San José, Costa Rica
Reporter-intern

Summer 1991
Dallas Morning News
1954 Commerce St.
Dallas, TX 75201
Reporter-intern

9. **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.**

Judicial Advocacy Initiative Award, American Cancer Society Cancer Action Network (2021)

General Counsel's Medal, Environmental Protection Agency (2014)

Attorney General's Award for Exceptional Service, United States Department of Justice (2013)

Roger and Madeleine Traynor Prize for best written work, University of Virginia School of Law (1998)

Thomas Marshall Miller Prize, University of Virginia School of Law (1998)

Order of the Coif (1998)

Raven Society, University of Virginia (1998)

Best Brief Award, University of Virginia School of Law (1996)

Best Major Memorandum Award, University of Virginia School of Law (1995)

John Harvard Scholarship (honorary) (1991)

Harvard College Scholarship (honorary) (1989, 1990)

Aetna Life & Casualty Foundation National Merit Scholarship (1987-1991)

Ensign-Bickford Scholarship (1987-1991)

Robert C. Byrd Honors Scholarship (1987)

Simsbury Bicentennial Award (1987)

Student Write an Editorial Contest, Hartford Courant, First Prize (1987)

- 10. Business relationships. List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, or educational or other institution.**

Morrison & Foerster LLP
Partner (2014-present)

St. Albans School
Member, Development Committee (2023-present)

Historical Society of the District of Columbia Circuit
Board Member (2023-present)

Edward Coke Appellate Inn of Court
Treasurer (2015-2019)

Northwest Little League
Treasurer (2015-2018)
Secretary (2014-2015)

- 11. Bar associations. List all bar associations, legal or judicial-related committees, conferences, or organizations of which you are or have ever been a member, and provide titles and dates of any offices which you have held in such groups.**

American Academy of Appellate Lawyers
Fellow (2020-present)

American Bar Association
Member (2014-present)

The Appellate Project
Mentor (2020-present)
Member, Selection Committee (2023)

Edward Coke Appellate Inn at Court
Member (2010-present)
Treasurer (2015-2019)

Federal Bar Council
Member (2020-present)

Federal Circuit Bar Association
Member (2014-present)

Federal Communications Bar Association
Member (2014-present)
Co-chair Judicial Practice Committee (2023-present)

Historical Society of the District of Columbia Circuit
Board member (2023-present)

National Health Law Program
Board of ambassadors (2021-present)

U.S. Chamber Litigation Center
Technology Litigation Advisory Committee (2020-present)

12. **Other memberships. List all memberships and offices currently and formerly held in professional, business, fraternal, scholarly, civic, public, charitable, or other organizations, other than those listed in response to Question 11. Please indicate whether any of these organizations formerly discriminated or currently discriminates on the basis of race, sex, or religion.**

Northwest Little League
Parent member (2006-2019)
Treasurer (2015-2018)
Secretary (2014-2015)

St. Albans School
Governing Board Development Committee (2023-present)

Sycamore Island Canoe Club
Member (2017-present)

None of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, or religion.

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

District of Columbia, admitted January 10, 2000

New York, admitted January 11, 1999

U.S. Supreme Court, admitted June 17, 2002

U.S. Court of Appeals for the First Circuit, admitted February 20, 2015

U.S. Court of Appeals for the Second Circuit, admitted February 19, 2015

U.S. Court of Appeals for the Third Circuit, admitted April 5, 2004

U.S. Court of Appeals for the Fourth Circuit, admitted December 11, 2014

U.S. Court of Appeals for the Fifth Circuit, admitted March 17, 2016

U.S. Court of Appeals for the Sixth Circuit, admitted January 16, 2015

U.S. Court of Appeals for the Seventh Circuit, admitted December 12, 2014

U.S. Court of Appeals for the Eighth Circuit, admitted January 21, 2015

U.S. Court of Appeals for the Ninth Circuit, admitted September 12, 2014

U.S. Court of Appeals for the Tenth Circuit, admitted January 16, 2015

U.S. Court of Appeals for the Eleventh Circuit, admitted January 15, 2015

U.S. Court of Appeals for the District of Columbia Circuit, admitted March 22, 2004

U.S. Court of Appeals for the Federal Circuit, admitted August 5, 2003

U.S. District Court of the District of Columbia, admitted July 7, 2003

U.S. District Court for the Southern District of New York, admitted October 13, 2015

U.S. Court of Federal Claims, admitted March 27, 2019

U.S. Court of International Trade, admitted July 16, 2021

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

I was a student journalist in high school and college and had three newspaper reporting internships during and just after college. To collect my articles from that time (1986-1991), I searched my own limited paper records and available electronic databases. I have listed every article that I located through these means. I believe, however, that I wrote a small number of additional articles that did not surface during my searches. As a member of the *Virginia Law Review* from 1996-1998 and the *Harvard Crimson* from 1987-1991, I edited articles, but I do not remember which ones, and I do not have records that would help me

resolve that question.

Legal Battles Continue Over Inflation Reduction Act's Drug Price Negotiation Measures, MoFo Life Sciences Blog (July 24, 2023)

Supreme Court: U.S. Government Has Broad Discretion to Dismiss False Claims Act Suits, Morrison Foerster Client Alert (June 21, 2023)

United States Supreme Court: Look to Defendant's Subjective Beliefs to Decide Whether It "Knowingly" Submitted False Claim, Morrison & Foerster Client Alert (June 6, 2023)

Ninth Circuit Dissolves Preliminary Injunction of EO 14042 Contractor Vaccine Mandate, Morrison Foerster Government Contracts Insights Blog (April 24, 2023)

Sixth Circuit Follows Suit in Affirming Preliminary Injunction of Contractor Vaccine Mandate, Morrison Foerster Government Contracts Insights Blog (January 18, 2023)

Supreme Court to Consider the False Claims Act's Intent Standard, Morrison Foerster Government Contracts Insights Blog (January 17, 2023)

Supreme Court to Settle Longstanding Split Over Stays Pending Arbitration Appeals, Morrison Foerster Client Alert (December 13, 2022)

Executive Order 14042: Return of the Patchwork Preliminary Injunctions, Morrison Foerster Government Contracts Insights Blog (October 17, 2022)

Nationwide Preliminary Injunction of Contractor Vaccine Mandate Remains Intact—For Now, Morrison Foerster Government Contracts Insights Blog (September 20, 2022)

Eleventh Circuit Narrows Scope of Nationwide Preliminary Injunction of Contractor Vax Mandate, Morrison Foerster Client Alert (August 30, 2022)

How Do Rule 23(f) Petitions Fare in the Ninth Circuit?, Morrison Foerster Left Coast Appeals Blog (June 28, 2022)

Eleventh Circuit Hears Oral Argument in EO 14042 Preliminary Injunction Appeal, Morrison Foerster Government Contracts Insights Blog (April 12, 2022)

A Second Look: Parties Spar Over Vaccine Mandate in Eleventh Circuit Appeal from EO 14042 Injunction, Morrison Foerster Government Contracts Insights Blog (February 25, 2022)

Another Ticking Clock: Additional District Court Preliminarily Enjoins EO 14042 | Increasing Need for OMB Update on GA Court Clarification Order, Morrison Foerster Government Contracts Insights Blog (February 7, 2022)

Patchwork Preliminary Injunctions: Interpreting Contractor Compliance Obligations under EO 14042, Morrison & Foerster Government Contracts Insights Blog (January 26, 2022)

Double-Take: Nationwide Preliminary Injunction of EO 14042 Limited to “Vaccine Mandate” Only, Morrison Foerster Client Alert (January 24, 2022)

Untitled essay in *Justice Ruth Bader Ginsburg: A Book of Remembrances* (2021)

Return to Sender: When Courts of Appeal Disagree on Which One Has Jurisdiction, Morrison Foerster Federal Circuitry Blog (July 1, 2021)

Healthcare, Biologics, and Severability: Will the ACA—and the BPCIA—Survive the Latest Challenge?, Morrison Foerster Federal Circuitry Blog (November 17, 2020)

How the Federal Circuit (and its Judges) Fare at the Supreme Court, Morrison Foerster Federal Circuitry Blog (November 17, 2020)

Expanding the Ninth? The Plan to Add Five More Judges, Morrison Foerster Left Coast Appeals Blog (July 1, 2020)

U.S. Supreme Court Strikes CFPB Director For-Cause Removal Provision, Morrison Foerster Client Alert (June 30, 2020)

Ahead of the Supreme Court’s First Telephonic Arguments, Some Tips from the Trenches, National Law Journal (April 16, 2020)

CFPB Decides Not to Defend Constitutionality of Its Leadership Structure, Morrison Foerster Client Alert (September 20, 2019)

Another Big Term for Arbitration at the Roberts Court, Los Angeles & San Francisco Daily Journal (September 27, 2018)

Fair Notice and the CFPB: The Other Constitutional Ruling in PHH v. CFPB, Notice & Comment: A blog from the Yale Journal on Regulation & ABA Section of Administrative Law & Regulatory Practice (February 12, 2018)

DC Circ. CFPB Decision Is a Big Win for Industry, Law360 (February 7, 2018)

PHH and the Future of CFPB: 10 Questions And 9 Answers, Law360 (December 8, 2016)

Ten Questions and Nine Answers about PHH and the Future of the CFPB Director, Morrison Foerster Client Alert (December 5, 2016)

CFPB Hit by Major Setback in D.C. Circuit, Morrison Foerster Client Alert (October 20, 2016)

The Clean Power Plan's Winners and Losers, Law360 (August 19, 2015)

Obama Administration Adopts Landmark Clean Power Plan, Morrison Foerster Client Alert (August 5, 2015)

Supreme Court Rejects Belief of Invalidity Defense for Inducement in Commil v. Cisco, Morrison Foerster Client Alert (May 29, 2015)

Impending Declaratory Ruling on Pending FCC TCPA Petitions Portends Stricter Enforcement, Morrison Foerster Client Alert (May 29, 2015)

Drones: FAA Announces Pathfinder Program to Explore BVLOS and Urban Drone Operations, Morrison Foerster Class Dismissed Blog (May 22, 2015)

NTIA Kicks Off Drone Privacy Best Practice Process, Morrison Foerster Client Alert (March 9, 2015)

Overregulated Drones Struggle for Take-Off, Wall Street Journal (February 22, 2015)

Advertisements Invite Calls: FCC Seeks Comments on Request to Find Automated Calls Consensual When Recipient Advertised Number, Morrison Foerster Client Alert (February 18, 2015)

The Small Drones Rule: FAA Takes a Step in the Right Direction, Bloomberg BNA (February 18, 2015)

Drones: Much Anticipated Small UAS Notice of Proposed Rulemaking Released by FAA, Morrison Foerster Class Dismissed Blog Post (February 17, 2015)

Supreme Court to Consider Good-Faith Belief of Invalidity Defense, Morrison Foerster Client Alert (December 9, 2014)

May State and Local Gov'ts Control Low-Flying Drones?, Law360 (December 4, 2014)

May State and Local Governments Control Low-Flying Drones?, Morrison & Foerster Class Dismissed Blog Post (December 2014)

Huerta v. Pirker —NTSB Says No More "Gray Area" for Drone Operations, Morrison Foerster Class Dismissed Blog Post (November 2014)

Supreme Court, Cell Towers, And Getting It 'In Writing', Law360 (November 6, 2014)

The Not-So-Strange Career of Interstate Jim Crow: Race, Transportation, and the

Dormant Commerce Clause, 1878-1946, 83 Val. L. Rev. 1773 (1997)

Turnout Gladdens Teacher, Dallas Morning News (September 4, 1991)

A Test Time DISD Turmoil May Have Lasting Effects, Dallas Morning News (September 8, 1991)

Mission Accomplished: Gulf War Group Welcomes Last Loved One Home, Dallas Morning News (1991)

Schools Urged to Conserve Gasoline, Raleigh News & Observer (August 15, 1990)

Mountain Visits Climb; Coastal Tourists Ebb, Raleigh News & Observer (August 14, 1990)

Use of Chemicals Shouldn't Taint Image of Agriculture, Official Says, Raleigh News & Observer (August 13, 1990)

Baseball Group Clears Way for Bulls' Sale and Move, Raleigh News & Observer (August 11, 1990)

Sharp Increases in Gasoline Prices Leaves Triangle Motorists Fuming, Raleigh News & Observer (August 7, 1990)

Westover Endures Progress, Raleigh News & Observer (August 6, 1990)

Cheers for Tennis Draw Boos, Raleigh News & Observer (August 2, 1990)

Neighbors to Battle Creedmoor Road Plan, Raleigh News & Observer (August 1, 1990)

Wake Officials Reclose Sandling Beach, Raleigh News & Observer (July 31, 1990)

Early Tests Show Sandling Free of Harmful Bacteria, Raleigh News & Observer (July 28, 1990)

Knightdale Man's Dream for Pearl Harbor Skewed, Raleigh News & Observer (July 27, 1990)

Woman's Body Found in Swiss River, Raleigh News & Observer (July 25, 1990)

Highway Project Withers, Raleigh News & Observer (July 21, 1990)

African Business Leader Urges Blacks to Unite, Raleigh News & Observer (July 20, 1990)

Raleigh Housing Project to Open Today, Raleigh News & Observer (July 18, 1990)

- Deadheads Park It and Market at Show*, Raleigh News & Observer (July 11, 1990)
- Man Returning Piece of History to its Home in Pearl Harbor*, Raleigh News & Observer (July 10, 1990)
- Backlog Slows Wage, Hour Case Progress*, Raleigh News & Observer (July 9, 1990)
- Heat Oozes Across State*, Raleigh News & Observer (July 6, 1990)
- Roofer Says Even Copper Covering like the Capitol's Requires Upkeep*, Raleigh News & Observer (July 4, 1990)
- Wake Hires Adams to Lobby for Funds for Education*, Raleigh News & Observer (July 3, 1990)
- Catholic Politicians Debate Church's Role on Abortion*, Raleigh News & Observer (July 1, 1990)
- Ripples of Debate Stir Raleigh Flags*, Raleigh News & Observer (June 15, 1990)
- Neighborhood Stadiums Get Panel's Nod*, Raleigh News & Observer (June 14, 1990)
- Hey, Hey, How Ya Doin'?*, Harvard Crimson (June 6, 1991)
- A Professional President*, Harvard Crimson (April 8, 1991)
- Here We Go Again*, Harvard Crimson (January 31, 1991)
- Police Depts. Investigate Assault Complaints*, Harvard Crimson (October 2, 1990)
- The Devil Went Down to Texas*, Harvard Crimson (September 12, 1990)
- Kohl to Speak at Commencement*, Harvard Crimson (April 20, 1990)
- Afro-Am: Going Nowhere Fast*, Harvard Crimson (February 2, 1990)
- Student Admits Fake ID Sale*, Harvard Crimson (February 15, 1990)
- Faculty Starts Debate On ROTC's Status*, Harvard Crimson (January 8, 1990)
- Financing Higher Education's Future*, Harvard Crimson (December 9, 1989)
- Spence Report Lists FAS's Top Fundraising Priorities*, Harvard Crimson (December 8, 1989)
- Free Speech Rules Approved by Council*, Harvard Crimson (December 7, 1989)

- Harvard Profs Do the Talk Show Thing*, Harvard Crimson (December 2, 1989)
- Ec Seeks to Temure First Woman Prof*, Harvard Crimson (December 2, 1989)
- Harvard Seeks to Create 'International' Education*, Harvard Crimson (November 10, 1989)
- From Franco's Spain to University Hall*, Harvard Crimson (October 28, 1989)
- Faculty Lays the Groundwork for Expansion*, Harvard Crimson (October 20, 1989)
- PBHA Tried to Fund Campaign*, Harvard Crimson (October 13, 1989)
- Public Service Group Embarks on Period of Introspection*, Harvard Crimson (October 13, 1989)
- Literary Expert Nixes Afro-Am Tenure Offer*, Harvard Crimson (October 4, 1989)
- Five Years Of Spence: Technocrat Or Visionary?*, Harvard Crimson (September 29, 1989)
- Fitzsimmons Left Firm Before Harvard Probe*, Harvard Crimson (September 23, 1989)
- Harvard Cuts Ties With Firm*, Harvard Crimson (September 22, 1989)
- Re-evaluating History*, Harvard Crimson (September 15, 1989)
- Gienapp Accepts Post As American Historian*, Harvard Crimson (September 15, 1989)
- Educators Struggle With Hiring Crunch*, Harvard Crimson (September 13, 1989)
- Fantasies of a Generation That Can't Forget Its Past*, Harvard Crimson (August 18, 1989)
- "My Fetus Pleads the Fifth"*, Harvard Crimson (August 15, 1989)
- Does Anyone in Massachusetts Feel Sorry for the Duke?*, Harvard Crimson (August 4, 1989)
- End of the Status Quo in Japan*, Harvard Crimson (July 28, 1989)
- Purchase Damages Community Relations*, Harvard Crimson (July 21, 1989)
- Harvard May Need New Zoning to Use Western Ave. Site*, Harvard Crimson (July 21, 1989)

Bok Extends Tenure To Two Historians, Harvard Crimson (July 11, 1989)
Wisdom Dispensed From Mount Harvard's Peak, Harvard Crimson (July 7, 1989)
Heaney Named to Oxford Post, Harvard Crimson (June 30, 1989)
Recalling the Summer of '86, Harvard Crimson (June 26, 1989)
Deans Ask Bush to Change Panel, Harvard Crimson (June 26, 1989)
'The Insider' Tackles FAS's Problems, Harvard Crimson (June 8, 1989)
Embattled Department Searches for Faculty, Harvard Crimson (June 8, 1989)
Alexiades Takes Home Fay Prize, Harvard Crimson (June 7, 1989)
Senior Awarded Huggins Prize, Harvard Crimson (June 6, 1989)
Goldman Faces the Soviet Press, Harvard Crimson (May 26, 1989)
Dean May Postpone Hiring Plan Reforms, Harvard Crimson (May 17, 1989)
Junior English Faculty Meet With Bok, Spence, Harvard Crimson (May 3, 1989)
Faculty Likely to Discuss Verba Report, Harvard Crimson (April 29, 1989)
Still Time for a Just Vote, Harvard Crimson (April 27, 1989)
Council, EAD Mend Fences, Harvard Crimson (April 15, 1989)
Div Students Hold Church Prayer Vigil, Harvard Crimson (April 8, 1989)
Students Mistaken for Thieves, Harvard Crimson (March 17, 1989)
Black Students Allege Police Harassment, Harvard Crimson (March 16, 1989)
Vote Yes for a Strong Council, Harvard Crimson (March 14, 1989)
Faculty Predict Battle Over Bureaucracy, Harvard Crimson (March 11, 1989)
No Sacrificing Choice, Harvard Crimson (March 9, 1989)
Maier to Face GSAS Funding Challenges, Harvard Crimson (March 8, 1989)
'No Room for Student Input,' Activists Say, Harvard Crimson (March 4, 1989)

- Do Scholars Lives Affect Their Scholarship?*, Harvard Crimson (February 25, 1989)
- Harvard Prof. Smuggled Nazis, Magazine Reports*, Harvard Crimson (February 22, 1989)
- Bunting Institute Director To Become Carleton Dean*, Harvard Crimson (February 17, 1989)
- A Call for Radical Action: An Open Letter to M. Scott Murphy '92, the freshman activist leading the protest against the new housing lottery plan*, Harvard Crimson (February 15, 1989)
- Forging Faculty Consensus*, Harvard Crimson (February 11, 1989)
- Lindsey Joins Bush Policymaking Team*, Harvard Crimson (February 2, 1989)
- The Wheels of Change Grind Slowly at FAS*, Harvard Crimson (February 1, 1989)
- The Eye of History*, Harvard Crimson (February 1, 1989)
- A New Age of Soviet-American Relations*, Harvard Crimson (February 1, 1989)
- Nye Reports Free Speech Plan*, Harvard Crimson (January 18, 1989)
- 2379 Students Urge FAS Hiring Reform*, Harvard Crimson (January 11, 1989)
- People's Court*, Harvard Crimson (January 6, 1989)
- Lockwood Lost Chair, But His Proposals Win*, Harvard Crimson (December 29, 1988)
- Council Calls for More Minority, Women Faculty*, Harvard Crimson (December 5, 1988)
- America's Team Illusion Is Gone*, Harvard Crimson (December 1, 1988)
- Council Opposes Voting Changes for Overseers*, Harvard Crimson (November 7, 1988)
- Direct Chair Election Debated*, Harvard Crimson (November 4, 1988)
- PBH Asks Council for \$20K*, Harvard Crimson (November 3, 1988)
- Tickets for Jimmy Cliff Show Available Today*, Harvard Crimson (November 2, 1988)
- Red Sox Rites and Rituals*, Harvard Crimson (October 13, 1988)
- All Agree—It's Too Close to Call*, Harvard Crimson (October 13, 1988)
- Silber's Parietals*, Harvard Crimson (September 24, 1988)

- A Government Dabbling in Politics*, Harvard Crimson (June 9, 1988)
- Condom Machines to Be Installed In Houses, Freshman Union Today*, Harvard Crimson (May 20, 1988)
- Council Reconsiders Final Clubs*, Harvard Crimson (May 6, 1988)
- Proselytizing the Lonely*, Harvard Crimson (April 20, 1988)
- UC Board Strikes Key Part of Union Measure*, Harvard Crimson (April 9, 1988)
- Council May Consider Anti-Homophobia Bill*, Harvard Crimson (April 6, 1988)
- Faculty Steering Council Will Weigh UC Fee Hike*, Harvard Crimson (March 12, 1988)
- College Rejects Council's Plea for End to Keg Ban*, Harvard Crimson (March 7, 1988)
- Al Gore*, Harvard Crimson (March 7, 1988)
- Council Votes Down Anti-Chub Resolution*, Harvard Crimson (February 29, 1988)
- Council Selects Delegates For Corporation Meeting*, Harvard Crimson (February 19, 1988)
- Pull Up a Chair*, Harvard Crimson (February 13, 1988)
- A Long Way From Home*, Harvard Crimson (February 8, 1988)
- Corporation Asks Council For Meeting*, Harvard Crimson (February 5, 1988)
- BU Asks Judge to Dismiss Coretta Scott King Suit*, Harvard Crimson (January 27, 1988)
- Yale Negotiations Slow; Strike Looms*, Harvard Crimson (January 8, 1988)
- Progress Slow in Yale Negotiations*, Harvard Crimson (December 5, 1987)
- HRO to Perform for Children*, Harvard Crimson (December 1, 1987)
- Computer Voice to Herald Arrival of Subway Trains*, Harvard Crimson (November 29, 1987)
- Gridders' Peterson Named 115th Captain*, Harvard Crimson (November 24, 1987)
- Accounting Professor Walter F. Frese Dies*, Harvard Crimson (November 16, 1987)

Frozen Maze Will Grace Quad, Harvard Crimson (November 6, 1987)

MSA Rally Targets FAS Hiring, Harvard Crimson (1987-1991) (specific date unknown)

SUNY Snatches Gov Prof From Harvard, Harvard Crimson (1987-1991) (specific date unknown)

Math Recruits 17-Year-Old Whiz, Harvard Crimson (1987-1991) (specific date unknown)

'No Room for Student Input,' *Activists Say*, Harvard Crimson (1987-1991) (specific date unknown)

Parsons Allegations Challenged by Professors, Harvard Crimson (1987-1991) (specific date unknown)

15. Speeches. List the titles of any formal speeches you have delivered during the last five (5) years and the date and place where they were delivered. Please provide the Committee with four (4) copies of any of these speeches.

February 25, 2024: Panelist, Parent Panel on Best Practices for the Path to College, St. Albans School, Washington, D.C. I have no notes, transcript, or recording.

January 31, 2024: Remarks on Annual Giving, St. Albans School Parent dinner, Washington, D.C. Prepared remarks provided.

November 22, 2023: Promotional video, Appellate Attorney Joe Palmore on Why He Supports The Appellate Project. Recording available at https://www.linkedin.com/posts/the-appellate-project-tap_appellate-attorney-joe-palmore-on-why-he-activity-7133091772867440640-VXe-/

October 26, 2023: Panelist, Decoding the Supreme Court: Critical Insights for Retailers, Retail Industry Leaders Association's Retail Law Conference, Atlanta, Georgia. I have no notes, transcript, or recording.

September 27, 2023: Panelist, 2023 Supreme Court Preview, Federalist Society, Jacksonville Lawyers Chapter (virtual). Notes provided.

September 27, 2023: Interviewer of Nina Totenberg about her book, *Dinners With Ruth*, Coke Appellate Inn at Court, Washington, D.C. Notes provided.

April 10, 2023: Podcast, A Court Decision Reducing Access to Preventive Services Under the Affordable Care Act, Public Health on Call Podcast (Johns Hopkins). Recording available at <https://www.youtube.com/watch?v=SCulaie5pfs>

March 10, 2023: Panelist, Supreme Court Panel, American Bar Association Federal Procurement Institute, Annapolis, Maryland. Notes provided.

February 8, 2023: Panel moderator, Potential Consequences of *West Virginia v. EPA* and the Major Questions Doctrine for FCC decisions, Federal Communications Bar Association (virtual). I have no notes, transcript, or recording.

October 5, 2022: Panelist, 2022 Supreme Court Preview, Federalist Society, Jacksonville Lawyers Chapter (virtual). Notes provided.

February 22, 2022: Podcast, Panel Opinion – Oral Argument Techniques from Judge Patricia Millett, Joe Palmore, and Prof. Tiffany Wright. Recording available at <https://www.howilawyer.com/054-panel-opinion-oral-argument-techniques-from-judge-patricia-millett-joe-palmore-and-prof-tiffany-wright/>

November 9, 2021: Panelist, “Public Service From the Private Sector,” University of Virginia School of Law Public Interest Law Association (virtual). I have no notes, transcript, or recording.

October 25, 2021: Informal remarks on serving as a mentor, The Appellate Project mentor/mentee orientation session (virtual). I have no notes, transcript, or recording.

October 1, 2021: Video Interview, MoFo SCOTUS co-chairs: Keep your eye on these two justices as new term begins. Recording available at <https://www.reuters.com/video/watch/idRCV00AA53/>

September 29, 2021: Panelist, 2021 Supreme Court Preview, Federalist Society, Jacksonville Lawyers Chapter (virtual). Recording available at <https://fedsoc.org/events/supreme-court-preview-2034>

August 27, 2021: Podcast, Diversity in Practice: Pro Bono Perspective -- The Lee Monument Matter. Recording and transcript available at <https://www.mofo.com/resources/podcasts/210827-diversity-in-practice-pro-bono-lee-monument-matter>

January 31, 2021: Judge, Georgetown Law Center first-year moot court competition (virtual). I have no notes, transcript, or recording.

January 25, 2021: Podcast, New Solicitor General, New Positions? Recording available at <https://www.mofo.com/resources/podcasts/210125-mofo-perspectives-new-solicitor-general>

October 5, 2020: 2020 Supreme Court Preview, Federalist Society, Jacksonville Lawyers Chapter (virtual). I have no notes, transcript, or recording.

September 22, 2020: Moderated panel commemorating Justice Ginsburg, Coke Appellate Inn at Court (virtual). I have no notes, transcript, or recording.

September 22, 2020: Guest appearance at UVA Law School seminar (taught by Prof. Richard Re) to discuss remembrances of Justice Ginsburg and severability doctrine (virtual). I have no notes, transcript, or recording.

November 5, 2019: Speaker on the Supreme Court, MoForward (firm CLE event for government contract lawyers), Tyson's Corner, Virginia. I have no notes, transcript, or recording.

October 29, 2019: Panelist on Telephone Consumer Protection Act, American Corporate Counsel conference, Phoenix, AZ. I have no notes, transcript, or recording.

16. Legal career.

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

(1) Whether you served as a law clerk to a judge, and if so, the name of the judge, the court, and the dates of your clerkship;

I served as a law clerk to the following judges:

Judge Dennis Jacobs
United States Court of Appeals for the Second Circuit
New York, NY
1998-1999

Judge John Gleeson
United States District Court for the Eastern District of New York
Brooklyn, NY
1999-2000

Justice Ruth Bader Ginsburg
Supreme Court of the United States
Washington, D.C.
2001-2002

(2) Whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

(3) The dates, names, and address of law firms, companies, or governmental agencies with which you have been employed.

2002-2005
Sidley Austin
1501 K St., NW
Washington, D.C. 20005

2005-2009
Federal Communications Commission
Office of General Counsel
45 L. St., NE
Washington, D.C. 20554

2010-2014
United States Department of Justice
Office of the Solicitor General
950 Pennsylvania Ave., NW
Washington, D.C. 20530

2014-present
Morrison & Foerster LLP
2100 L Street, NW
Washington, D.C. 20037

B. Describe the general character of your law practice, dividing it into periods with dates if its character has changed over the years.

As a law clerk to Justice Ginsburg, Judge Gleeson, and Judge Jacobs, I wrote bench memoranda on pending cases and drafted opinions.

From 2002 to 2005, I was an associate at Sidley Austin. I drafted appellate briefs and filings with regulatory agencies. I also conducted legal research and prepared memoranda related to civil litigation and criminal investigations.

From 2007 to 2009, I served as Deputy General Counsel of the Federal Communications Commission, overseeing litigation involving the FCC. Most of that litigation involved defense of FCC regulations and adjudications in federal courts of appeals. The issues generally involved administrative law, statutory construction, and constitutional issues. I also presented oral argument on behalf of the FCC in some cases. From 2005 to 2006, I was an appellate counsel in the Office of General Counsel. In that role, I briefed and argued court of appeals cases.

From 2010 to 2014, I served as an Assistant to the Solicitor General at the United States Department of Justice. In that job, I represented the United States before the Supreme Court. I briefed and argued cases on the Court's merits docket; filed petitions for writs of certiorari and briefs in opposition to such petitions; and wrote memoranda advising the Solicitor General on whether to authorize the United States to appeal adverse decisions in the federal district courts. My docket was approximately half criminal and half civil.

Since 2014, I have co-chaired the Appellate and Supreme Court practice group at Morrison Foerster. My practice focuses on appellate and Supreme Court litigation on behalf of private clients. My appeals span diverse areas of civil law, including

consumer class actions, commercial contract disputes, and securities litigation to false advertising. I have presented oral argument in the Supreme Court and in federal and state appellate courts across the country.

C. Describe your typical former clients and describe the areas of practice, if any, in which you have specialized.

In my current job at Morrison Foerster, most of my clients are businesses in litigation with other businesses, the government, or individuals. I also maintain an active pro bono practice, in which I have represented a variety of clients, including health-related non-profits, religious groups, environmental organizations, and low-income individuals. Most of my work involves civil appeals.

At the Office of the Solicitor General, my only client was the United States. My cases comprised both civil and criminal cases in the Supreme Court.

At the Federal Communications Commission, my only client was the Commission. Nearly all the cases involved defenses of agency actions in federal courts of appeals.

At Sidley Austin, most of my clients were businesses in litigation with other businesses, the government of individuals. My work comprised civil appeals, proceedings before administrative agencies, and criminal investigations.

D. Describe the general nature of your litigation experience, including:

(1) Whether you have appeared in court frequently, occasionally, or not at all. If the frequency of your court appearances has varied over time, please describe in detail each such variance and give applicable dates.

In the positions I have held since 2005 (Morrison Foerster, the Office of the Solicitor General, and the Federal Communications Commission), I have appeared on briefs in appellate courts approximately 20 times per year and have presented oral argument approximately three to four times per year. While at Sidley Austin, I appeared on approximately ten briefs and argued in court one time.

(2) What percentage of these appearances was in:

(a) Federal courts (including Federal courts in D.C.);

Approximately 90%

(b) State courts of record (excluding D.C. courts);

Approximately 10%

- (c) **D.C. courts (Superior Court and D.C. Court of Appeals only);**

<1%

- (d) **other courts and administrative bodies.**

0%

- (3) **What percentage of your litigation has been:**

- (a) **civil;**

Approximately 85%

- (b) **criminal.**

Approximately 15%

- (4) **What is the total number of cases in courts of record you tried to verdict or judgment (rather than settled or resolved, but may include cases decided on motion if they are tabulated separately). Indicate whether you were sole counsel, lead counsel, or associate counsel in these cases.**

I have not tried any cases to verdict or judgment. I have presented oral argument nearly 70 times in appellate courts and have briefed hundreds of appeals.

- (5) **What percentage of these trials was to**

- (a) **a jury;**

0%

- (b) **the court (include cases decided on motion but tabulate them separately).**

0%

17. **Describe the five (5) most significant litigated matters which you personally handled. Provide citations, if the cases were reported, or the docket number and date if unreported. Give a capsule summary of the substance of each case and a succinct statement of what you believe was of particular significance about the case. Identify the party/parties you represented and 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 court and the name of the judge or judges before whom the case was litigated; and (c) the name(s) and address(es) and, telephone number(s) of co-counsel and of the principal counsel for the other parties.

1. *NFIB v. Sebelius*, 567 U.S. 519 (2012)

This case involved the constitutionality of the Affordable Care Act. As an assistant to the Solicitor General representing the United States, I was assigned to this case and served as the principal drafter of the government's petition for a writ of certiorari and merits briefs on the constitutionality of the statute's minimum coverage provision and on severability. I also second-chaired two of the government's oral arguments in the Supreme Court. In a 5-4 decision, the Court held that the statute's minimum coverage provision is constitutional under Congress's tax power. (Five Justices rejected an alternative argument that the provision was valid under the commerce power.) The Court found unconstitutional one enforcement mechanism in the statute's Medicaid expansion but severed it from the rest of statute, thus allowing the Medicaid expansion to take effect for states that opt in. I was involved in the litigation from 2010 to 2012.

Co-counsel:

Donald Verrilli, Jr.
Munger, Tolles & Olson
601 Massachusetts Ave., NW
Washington, D.C. 20001
202-220-1101

Opposing counsel:

Paul Clement
Clement & Murphy
706 Duke Street
Alexandria, Virginia 22314
202-742-8900

2. *Florida v. Harris*, 568 U.S. 237 (2013)

In this Fourth Amendment decision, the Supreme Court explained "how a court should determine if the 'alert' of a drug-detection dog during a traffic stop provides probable cause to search a vehicle." 568 U.S. at 240. I represented amicus curiae the United States in support of Florida. I was the principal drafter of the United States' brief, and I presented oral argument in the Supreme Court. The Court unanimously rejected as overly rigid the Florida Supreme Court's test that would have required an extensive evidentiary showing on the detection dog's past alerts in the field. But the Court made clear that defendants can challenge the adequacy of the dog's certification or training and "examine how the dog (or handler) performed" in controlled testing. *Id.* at 247. Consistent with the position advanced by the United States, the Court thus avoided a rule that would have undermined law enforcement's use of detection dogs while protecting defendants' legitimate interests

in challenging probable cause. I was involved in the case from 2012 to 2013.

Co-counsel:

Donald Verrilli, Jr.
Munger, Tolles & Olson
601 Massachusetts Ave., NW
Washington, D.C. 20001
202-220-1101

Opposing counsel:

Glen Gifford
1529 Heechee Nene
Tallahassee, FL 32301-4729
850-279-1069

3. *Fernandez v. California*, 571 U.S. 292 (2014)

This was a Fourth Amendment case about consent searches. I represented amicus curiae the United States in support of California. I was the principal drafter of the United States' brief, and I presented oral argument in the Supreme Court. In a 6-3 decision, the Court held that police may search jointly occupied premises if one occupant consents even if an absent occupant had previously objected to a search. In the case, police had gone to an apartment to investigate a stabbing and observed signs of domestic violence. The alleged abuser declined to consent to a search. After he was arrested, police returned to the apartment and secured consent to search from the alleged victim. They found evidence related to the stabbing. The Supreme Court held that consent given by the victim was valid and that the search was thus lawful. I was involved in the case from 2013 to 2014.

Co-counsel:

Donald Verrilli, Jr.
Munger, Tolles & Olson
601 Massachusetts Ave., NW
Washington, D.C. 20001
202-220-1101

Opposing counsel:

Jeffrey L. Fischer
O'Melveny
2765 Sand Hill Road
Menlo Park, CA 94025
United States of America
650-473-2600

4. *Atlantic Richfield Company v. Christian*, 140 S.Ct. 1335 (2020)

This case involved the interplay between the federal Superfund statute (the Comprehensive

Environmental Response, Compensation, and Liability Act (CERCLA)) and state-law claims for trespass and environmental remediation. I represented plaintiffs-respondents, a group of landowners in Opportunity, Montana. I co-wrote the merits brief and presented oral argument in the Supreme Court. Consistent with the position of the landowners, the Court held by an 8-1 vote that CERCLA did not deprive Montana courts of jurisdiction over their common law claims against Atlantic Richfield for polluting their land. In another portion of the decision (decided 7-2), the Court ruled for defendant Atlantic Richfield on a different issue, holding that plaintiffs would need EPA approval before undertaking any clean-up of their land. I was involved in the case from 2018 to 2020.

Co-counsel:

James Sigel
Davis Wright Tremaine
50 California Street, Suite 2300
San Francisco, CA 94111
415-276-4850

Opposing counsel:

Lisa Blatt
Williams & Connolly LLP
680 Maine Ave., SW
Washington, D.C. 20024
202-434-5050

5. *Thole v. U. S. Bank N.A.*, 140 S.Ct. 1615 (2020)

This case involved constitutional standing requirements to file suit in federal court. I represented defendant-respondent U.S. Bank. I co-wrote the merits brief and presented oral argument in the Supreme Court. Article III of the Constitution limits the jurisdiction of the federal courts, allowing them to decide only concrete disputes involving legally cognizable injuries. In this case, plaintiffs challenged certain investment decisions made by U.S. Bank's pension plan. But the pension plan was a traditional defined-benefit plan, so the decisions they challenged would not impact their benefit levels, which were fixed and guaranteed. In a 5-4 decision, the Court held that they thus lacked standing to pursue their claims.

Co-counsel:

James Sigel
Davis Wright Tremaine
50 California Street, Suite 2300
San Francisco, CA 94111
415-276-4850

Opposing counsel:

Peter Stris
Stris & Maher

777 S. Figueroa St., Suite 3850
 Los Angeles, CA 90017
 213-995-6800

- 18. Describe the most significant legal activities you have pursued, including significant litigation which did not proceed to trial or legal matters that did not involve litigation. Describe the nature of your participation in each instance described, but you may omit any information protected by the attorney-client privilege (unless the privilege has been waived).**

From 2018 to 2023, I served as Office Managing Partner for Morrison Foerster's Washington, D.C. office. During my tenure, I oversaw an office move, the shift to remote work during the pandemic, and the firm's return to the office. I was also heavily involved in the summer associate program. I now chair the firm's pro bono committee, which helps manage the firm's extensive pro bono program. Since 2020, I have been a volunteer mentor through The Appellate Project. In 2024, through a program run by the Historical Society of the District of Columbia Circuit, I coached District of Columbia high school students in their preparation for a mock argument before a federal judge.

- 19. Have you ever held judicial office? If so, please give the details of such service, including the court(s) on which you served, whether you were elected or appointed, the dates of your service, and a description of the jurisdiction of the court. Please provide four (4) copies of all opinions you wrote during such service as a judge.**

I have never held judicial office.

- A. List all court decisions you have made which were reversed or otherwise criticized on appeal.**

None.

- 20. Have you ever been a candidate for elective, judicial, or any other public office? If so, please give the details, including the date(s) of the election, the office(s) sought, and the results of the election(s).**

I have never been a candidate for elective, judicial, or other public office.

- 21. Political activities and affiliations.**

- **List all public offices, either elected or appointed, which you have held or sought as a candidate or applicant.**

Deputy General Counsel, Federal Communications Commission (appointed)

- **List all memberships and offices held in and services rendered to any political party or election committee during the last ten (10) years.**

None.

- **Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity during the last five (5) years of \$50 or more.**
 - \$1000, Bruce Spiva for D.C. Attorney General, 1/29/2022
 - \$1000, Raphael Warnock for Senate, 11/11/2022
 - \$1000, Democratic Congressional Campaign Committee, 10/23/2022
 - \$1000, Democratic Senatorial Campaign Committee, 10/23/2022
 - \$50, ActBlue, 10/23/2022
 - \$50, ActBlue, 10/23/2022
 - \$750, Raphael Warnock for Senate, 11/9/2020
 - \$750, Jon Ossoff for Senate, 11/8/2020
 - \$250, Theresa Greenfield for Senate, 10/13/2020
 - \$250, Cal Cunningham for Senate, 10/12/2020
 - \$250, Sara Gideon for Senate, 10/12/2020
 - \$250, Mark Kelly for Senate, 10/12/2020
 - \$250, Dr. Al Gross for Senate, 10/12/2020
 - \$250, Raphael Warnock for Senate, 10/12/2020
 - \$250, Steve Bullock for Senate, 10/12/2020
 - \$250, Jon Ossoff for Senate, 10/12/2020
 - \$250, Jaime Harrison for Senate, 10/12/2020
 - \$250, Barbara Bollier for Senate, 10/12/2020
 - \$250, John Hickenlooper for Senate, 10/12/2020
 - \$250, Gary Peters for Senate, 10/12/2020
 - \$250, Mark Warner for Senate, 9/30/2020
 - \$500, Dr. Al Gross for Senate, 9/28/2020
 - \$500, Theresa Greenfield for Senate, 9/21/2020
 - \$500, Cal Cunningham for Senate, 9/20/2020
 - \$500, Jon Ossoff for Senate, 9/20/2020
 - \$500, Jaime Harrison for Senate, 9/20/2020
 - \$250, M.J. Hegar for Senate, 9/20/2020
 - \$250, Doug Jones for Senate, 9/20/2020
 - \$500, Mark Kelly for Senate, 9/20/2020
 - \$250, Raphael Warnock for Senate, 9/20/2020
 - \$500, Steve Bullock for Senate, 9/20/2020
 - \$1000, Democratic Congressional Campaign Committee, 9/20/2020
 - \$500, John Hickenlooper for Senate, 9/20/2020
 - \$1000, Democratic Senatorial Campaign Committee, 9/20/2020
 - \$500, Sarah Gideon for Senate, 9/20/2020
 - \$2800, Biden for President, 9/19/2020
 - \$500, Gary Peters for Senate, 9/19/2020

- \$50, ActBlue, 9/19/2020
- \$250, Warner Victory Fund, 9/14/2020
- \$250, Gina Ortiz Jones for Congress, 9/1/2020
- \$500, Biden for President, 4/28/2020
- \$300, Biden for President, 3/1/2020
- \$250, Biden for President, 2/27/2020
- \$250, Amy Klobuchar for President, 12/31/2019
- \$250, Cory Booker for President, 12/31/2019

22. **To your knowledge, have you ever been investigated, arrested, charged, or convicted (include pleas of guilty or nolo contendere) by federal, State, local, or other law enforcement authorities for violations of any federal, State, county, or municipal law, other than for a minor traffic offense? If so, please provide details.**

No.

23. **Have you or any business of which you are or were an officer, director or owner ever been a party or otherwise involved as a party in any other legal or administrative proceedings? If so, give the particulars. Do not list any proceedings in which you were merely a guardian ad litem or stakeholder. Include all proceedings in which you were a party in interest, a material witness, were named as a co-conspirator or co-respondent, and list any grand jury investigation in which you appeared as a witness.**

In January 2008, I was named as a defendant in an adverse possession action in Arkansas state court (Circuit Court of Boone County, CV-2008-22-3, Judge John Putnam). Years before, my grandfather had given me several small undeveloped residential lots in rural Arkansas. He had previously purchased them for investment purposes, but the planned development in the area did not materialize and the lots were of little value.

A neighboring landowner erected fencing around my lots and those of many other landowners and then sued all of us to gain title to our lots through adverse possession. I filed a pro se motion to dismiss the complaint against me. I then settled with the plaintiff, which purchased my lots and dismissed the action against me in April 2008. Other parties to the case were the Preserve at Bull Shoals, LLC (plaintiff) and Pioneer Oil Company, Charles L. Stricklan, Rex Hocevar, Cecil J. McNeil, Vera A. McNeil, M.E. Wilcox, Marie N. Wilcox, H.W. Bullock, Raymond Erwin, C.H. Spann, Jesse L. Waters, Lion's Gate Partners, LLC (other defendants).

24. **Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, bar or professional association, disciplinary committee, or other professional group? If so, please provide the details.**

No.

II. POTENTIAL CONFLICTS OF INTEREST

1. **Will you sever all connections with your present employer(s), business firm(s), business association(s), or business organization(s) if you are confirmed?**

Yes.

2. **Describe all financial arrangements, deferred compensation agreements, or other continuing dealings with your law firm, business associates, or clients.**

Under the Morrison Foerster partnership agreement, my equity in the firm would be returned to me in five annual installments, beginning the year after my resignation. The firm's chair in his discretion may decide that such payments will be made at an earlier time or times. Under the partnership agreement, my share of net partnership income for the year of my resignation would be limited to distributions received before my date of resignation. But the firm could choose to authorize an additional net partnership distribution based on my time at the firm from the date of the last distribution I received to the date of my withdrawal from the partnership.

3. **Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest.**

None.

4. **Describe any business relationship, dealing, or financial transaction which you have had in the last ten (10) years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest other than while in a federal government capacity.**

None.

5. **Describe any activity during the last ten (10) years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of legislation or affecting the administration and execution of law or public policy other than while as a federal government employee.**

None.

6. **Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service as a judge? If so, explain.**

I intend to continue my unpaid position as a board member of the Historical Society of the District of Columbia Courts to the extent that it would not create conflicts with my judicial work. I have no other plans to pursue outside employment.

7. **Explain how you will resolve any potential conflicts of interest, including any that**

may have been disclosed by your responses to the above items. Please provide three (3) copies of any trust or other relevant agreements.

I will abide by the ethical canons included in the Code of Judicial Conduct to ensure impartiality and fairness. Should any possible conflicts of interest arise, I will apply the ethical cannons and recusal standards and, if necessary, I will confer with judicial ethics officials to determine, as appropriate, whether I should recuse myself from the matter at issue.

8. If confirmed, do you expect to serve out your full term?

Yes.

III. FINANCIAL DATA

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

IV. DISTRICT OF COLUMBIA REQUIREMENTS

Supplemental questions concerning specific statutory qualifications for service as a judge in the courts of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970, D.C. Code Section 11 - 150 1 (b), as amended.

1. **Are you a citizen of the United States?**

Yes.

2. **Are you a member of the bar of the District of Columbia?**

Yes.

3. **Have you been a member of the bar of the District of Columbia for at least five (5) years? Please provide the date you were admitted to practice in the District of Columbia.**

Yes. I was admitted to practice in the District of Columbia on January 10, 2000.

4. **If the answer to Question 3 is "no" --**

A. **Are you a professor of law in a law school in the District of Columbia?**

B. **Are you a lawyer employed in the District of Columbia by the United States or the District of Columbia?**

C. **Have you been eligible for membership in the bar of the District of Columbia for at least five (5) years?**

D. **Upon what grounds is that eligibility based?**

5. **Are you a bona fide resident of the District of Columbia?**

Yes.

6. **Have you maintained an actual place of abode in the greater Washington, D.C. area for at least five (5) years? Please list the addresses of your actual places of abode (including temporary residences) with dates of occupancy for the last five (5) years.**

Yes. Since 2002, I have resided at [REDACTED] **REDACTED**

7. **Are you a member of the District of Columbia Commission on Judicial Disabilities and Tenure or the District of Columbia Judicial Nominating Commission?**

No.

- 8. Have you been a member of either of these Commissions within the last 12 months?**

No.

- 9. Please provide the committee with four (4) copies of your District of Columbia Judicial Nomination commission questionnaire.**

Copies of my District of Columbia Judicial Nomination Commission questionnaire are attached.

AFFIDAVIT

Joseph R. Palmore being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Joseph R. Palmore

SUBSCRIBED and SWORN TO before me this 13 day of June 2024.

Mariella Wang
Notary Public



June 27, 2024

The Honorable Gary Peters
Chairman, Committee on Homeland Security
& Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Rand Paul
Ranking Member, Committee on Homeland Security
& Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Nomination of Joseph R. Palmore to be an Associate Judge of the
District of Columbia Court of Appeals

Dear Chairman Peters and Ranking Member Paul:

We write in support of Joe Palmore's nomination to serve as an Associate Judge of the District of Columbia Court of Appeals.

Each of us is a member of the District of Columbia bar specializing in appellate practice. Each of us has worked with (or as opposing counsel to) Joe, either as an attorney in private practice, as an attorney in the Department of Justice, at the Federal Communications Commission, as a law clerk, as a law student, or otherwise know him professionally. We represent a broad range of practice types. We hold a broad range of political views and have diverse points of view on judicial philosophy. We come from a variety of personal backgrounds. But we speak as one in supporting Joe's nomination.

Joe would be a superb Associate Judge. He is exceptionally well qualified for the post. Joe is renowned for his intellect, legal knowledge, and sound judgment: during more than a quarter-century of practice, he has shown himself to be one of the finest legal minds and most capable practitioners among the D.C. Bar. But Joe is equally renowned for his character and temperament. He possesses the independence and professional integrity to set aside his personal views and follow the law. Joe also is unfailingly courteous to colleagues and opposing counsel alike, and would bring that collegiality to his interactions with colleagues and the counsel who appear before him. And we know Joe as a generous and supportive mentor and champion to the younger attorneys whom he has worked with and supervised over his career.

In short, we are confident that Joe possesses the character, temperament, and intellect that would make him an asset to the District of Columbia's highest court. We urge his prompt confirmation.

The Honorable Gary Peters
The Honorable Rand Paul
June 27, 2024
Page 2

We hope this information will be of assistance to the Committee in its consideration of Joe's nomination. Thank you for your time and attention.

Sincerely,

Jessica Ring Amunson
Jenner & Block LLP*

Devin Anderson
Kirkland & Ellis LLP

Timothy S. Bishop
Mayer Brown LLP

Lisa Blatt

Thomas M. Bondy
Orrick, Herrington & Sutcliffe LLP

Tillman Breckenridge
Stris & Maher LLP

Kelsi Brown Corkran
Institute for Constitutional Advocacy & Protection,
Georgetown University Law Center

Brian Burgess
Goodwin Procter LLP

Ruthanne M. Deutsch
Deutsch Hunt PLLC

Jessica L. Ellsworth
Hogan Lovells US LLP

John P. Elwood
Arnold & Porter Kaye Scholer LLP

* Institutional affiliations are listed for identification only; the views expressed in this letter are not intended to reflect the views of any institution or person other than the individual signatories.

The Honorable Gary Peters
The Honorable Rand Paul
June 27, 2024
Page 3

Roy T. Englert Jr.
Kramer, Levin, Naftalis & Frankel LLP

Miguel A. Estrada
Gibson, Dunn & Crutcher LLP

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick PLLC

Irv Gornstein
Supreme Court Institute

David Gossett
Davis Wright Tremaine LLP

Jonathan Hacker
O'Melveny & Myers LLP

Sarah M. Harris
Williams & Connolly LLP

Lindsay C. Harrison
Jenner & Block LLP

Andrew Hellman
O'Melveny & Myers LLP

Thomas G. Hungar
Gibson, Dunn & Crutcher LLP

William M. Jay
Goodwin Procter LLP

Neal Kumar Katyal
Hogan Lovells US LLP

Allon Kedem
Arnold & Porter Kaye Scholer LLP

Peter Keisler
Sidley Austin LLP

The Honorable Gary Peters
The Honorable Rand Paul
June 27, 2024
Page 4

Stephen B. Kinnaird
Paul Hastings LLP

Jeffrey A. Lamken
Molo Lamken LLP

Sean Marotta
Hogan Lovells US LLP

Roman Martinez
Latham & Watkins LLP

Brian Matsui

Joshua Matz
Kaplan Hecker & Fink LLP

Deanne E. Maynard

Anton Metlitsky
O'Melveny & Myers LLP

Mark Mosier
Covington & Burling LLP

Hashim M. Mooppan
Jones Day

Carter G. Phillips
Sidley Austin LLP

Andrew Pincus
Mayer Brown LLP

Morgan L. Ratner
Sullivan & Cromwell LLP

Kevin Russell
Goldstein, Russell & Woofter LLC

Jo-Ann Sagar
Hogan Lovells US LLP

The Honorable Gary Peters
The Honorable Rand Paul
June 27, 2024
Page 5

Nicole A. Saharsky
Mayer Brown LLP

Jaime A. Santos
Goodwin Proctor LLP

Pratik A. Shah
Akin Gump Strauss Hauer & Feld LLP

Melissa Arbus Sherry
Latham & Watkins LLP

Mark T. Stancil
Willkie Farr & Gallagher LLP

Catherine E. Stetson
Hogan Lovells US LLP

Zachary D. Tripp
Weil, Gotshal & Manges

Adam Unikowsky
Jenner & Block LLP

Meaghan VerGow
O'Melveny & Myers LLP

Jeffrey B. Wall
Sullivan & Cromwell LLP

Seth Waxman
Wilmer Cutler Pickering Hale & Dorr LLP

AJIT V. PAI

July 23, 2024

Chairman Gary Peters
Ranking Member Rand Paul
U.S. Senate Committee on Homeland Security & Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510
(via e-mail to Lola.A.Kingo@usdoj.gov)

Dear Chairman Peters and Ranking Member Paul:

I am writing this letter in my personal capacity to support the nomination of Joseph R. Palmore to be an Associate Judge of the District of Columbia Court of Appeals. By way of background, I am currently a Partner at Searchlight Capital Partners, which I joined in 2021. Immediately prior, I served in presidentially-appointed positions at the Federal Communications Commission (“FCC”), including as a Commissioner during the Obama Administration (2012-2017) and Chairman during the Trump Administration (2017-2021).

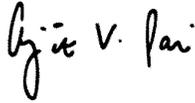
As a preliminary matter, it should go without saying that Mr. Palmore is eminently qualified for this position. He compiled an impressive academic record at Harvard University and at the University of Virginia, the latter granting him both a master’s degree and a law degree. His legal career began with clerkships at each level of the federal judiciary, culminating his clerkship with Justice Ginsburg during the U.S. Supreme Court’s October Term 2001. Later, as an Assistant to the Solicitor General at the U.S. Department of Justice, he argued 10 cases before the Supreme Court and was the principal author of more than 150 briefs filed there. And he is now Co-Chair of the Appellate and Supreme Court Practice at Morrison Foerster, one of the nation’s pre-eminent law firms. Suffice it to say that any Member of the Senate would be fully justified in confirming his nomination based solely on the paper record.

But what makes Mr. Palmore a particularly outstanding nominee is that he has the ideal temperament to be a judge. I saw this for myself when I had the pleasure of working with him in the FCC’s Office of General Counsel between 2007 and 2009, each of us serving as Deputy General Counsel. In that time, I got to know Mr. Palmore extremely well professionally and personally. In our many conversations about law and policy—including having lunch with him virtually every day—I was struck by how open-minded and intellectually honest he was. However difficult the issue and whatever his personal position might be, he always recognized credible arguments on the opposing side and identified weaknesses in his own arguments. Similarly, his oral and written advocacy was focused not on scoring rhetorical points but on helping courts reach the correct conclusions based on the facts of the case and the applicable law, even when the facts and the law might not be fully in the agency’s favor. That is exactly the kind of appellate nominee that the Senate has long prized. That is exactly the kind of judge District of Columbia residents will benefit from should Mr. Palmore be confirmed.

AJIT V. PAI

Our views may not always align on political or legal issues.¹ And he may ultimately make judicial decisions with which I do not agree. But I am quite confident that Mr. Palmore will exemplify the ethos envisioned by James Madison in Federalist No. 78—that judges exercise “neither FORCE nor WILL, but merely judgment.” Accordingly, I strongly support his candidacy and hope that this Committee, and the full Senate, will confirm his nomination to serve as an Associate Judge on the District of Columbia Court of Appeals. Please do not hesitate to contact me if I can be of further assistance during your deliberations.

Sincerely,

A handwritten signature in black ink that reads "Ajit V. Pai". The signature is written in a cursive style with a large initial 'A' and 'P'.

Ajit V. Pai

¹ Nevertheless, I continue to hold out hope that Mr. Palmore will someday soon become an inveterate fan of the Kansas City Royals.

