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CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

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UNITED STATES SENATE

ONE HUNDRED NINETEENTH CONGRESS

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CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

WEDNESDAY, MARCH 26, 2025

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

The Committee met, pursuant to notice, at 10:17 a.m., in Room 226, Dirksen Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley [presiding], Graham, Lee, Hawley, Kennedy, Blackburn, Schmitt, Britt, Moody, Durbin, Klobuchar, Blumenthal, Hirono, Welch, and Schiff.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Chairman GRASSLEY. Good morning, everybody. I want to welcome all of you folks to this hearing to consider the name—the nominations of John Eisenberg to serve as Assistant Attorney General for National Security, Brett Shumate to serve as Assistant Attorney General Civil Division, and Patrick Davis, who I know a little bit—to serve as Assistant Attorney General for the Office of Legislative Affairs.

Each of the nominees before us today has impressive qualifications and we are looking forward to hearing from all of you. I'd like to thank your family and friends for coming today. And I know how proud they are of your being here in the position you've been appointed to.

Mr. Eisenberg, you have impressive academic qualifications—degree from Stanford Mathematics, Yale Law School, and you clerked in the fourth circuit, and later for Justice Thomas. Your academic pedigree is coupled with extensive experience in national security roles from 2004 to 2009.

You served with distinction at the Justice Department focusing on national security, intelligence, and counterterrorism. For your service, you received the Attorney General's Award for Excellence, and two Intelligence Community legal awards. You then spent time as a partner at Kirkland & Ellis, and you did that before leaving your successful practice to serve your country again at the White House.

You served with legal distinction and received awards for your service as legal advisor to the National Security Council, Assistant to the President, and Deputy Counsel to the President for National Security Affairs.

So, there's little doubt that you will bring great experience and expertise to the National Security Division. Your nomination has been praised by bipartisan groups of former Assistant Attorneys General of the National Security Division, including Matthew Olsen, who served in the Biden administration.

Mr. Shumate, you're well suited to serve as head of the Civil Division. You started your legal career clerking with Judge Edith Jones, fifth circuit, then entered private practice focusing on civil litigation and administrative law.

In 2017, you were appointed Deputy Assistant Attorney General for Civil Division Federal Programs Branch. In that role, you vigorously defended the rule of law and litigated issues involving Federal agencies and the administration.

After your time at the Justice Department, you returned to private practice for a better part of a decade, before returning to the Justice Department earlier this year, as the Acting Head of that Civil Division. I have no doubt that your service in Government has prepared you well for the role you have been nominated for.

Mr. Davis, I just got done saying I know a little bit about you. So I'm going to take this opportunity to introduce you before a couple of my colleagues will introduce the other two.

You're no stranger to the role you've been nominated to. As I well know, you're extremely qualified to serve as head of the Office of Legislative Affairs.

You started your career in private practice, but you soon joined the Department of Justice to litigate complex cases in Federal Program Branch for most of the Obama administration.

While there, you gained an understanding of how the Justice Department works from the litigator's perspective, and, of course, you—I'm told you met your wife there, as well.

A little over 6 years later, you joined my staff as an investigative counsel, and we worked on a lot together on our search for truth for the American people.

You worked tirelessly to combat the weaponization of justice and to defend our Nation's laws. You were instrumental in my investigation that the Planned Parenthood was violating Federal law. Because of your work, the public could see these shocking discoveries for what they actually are, rather than the false narrative.

You also worked with me to show that Crossfire Hurricane was based on fraudulent, discredited information—actually paid for by the Democratic National Committee and the Clinton campaign. As reward for your efforts to uncover the truth, the Department of Justice secretly subpoenaed your records. You've been personally targeted for doing the right thing.

When you left my office, you went on to serve the first Trump administration, where you worked on Congressional Oversight and the Religious Liberty Task Forces. Since then, you've gained valuable experience in the House of Representatives working hard to uncover the truth about COVID–19 pandemic origins, and the private sector.

But the thread that ties your service together is courage of your convictions. You stand up for liberty, equal application of law—values that I know you'll bring in your new role.

I'm happy to see you go back to the Department, and I know that you're ready for whatever that Department throws at you.

Indeed, I'm going to throw a thing or two at you, now. As you're well aware, I am a rather frequent correspondent with the Department of Justice. And I look forward to you, again, in the service of the country and maybe fulfilling answers to my questions.

The three nominees before us have impressive careers and I look forward to hearing from them today. Now, to Senator Durbin.

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

Senator DURBIN. Thanks, Chairman Grassley. Before we hear from the nominees, I want to take a moment to speak about the ongoing attacks on the Federal judiciary by President Trump and his allies.

Last week, President Trump called for the impeachment of a Federal judge simply because he ruled against the administration. He characterized that judge as a lunatic. The President was not alone.

Elon Musk, the unelected Co-President, and the richest person in the world, has demanded the impeachment of Federal judges dozens of times. And House Republicans quickly bend a knee and rush to introduce articles of impeachment. I understand Members of the Senate are also cheering that effort on.

In response to this unprecedented attack on the Federal judiciary, Chief Justice Roberts issued a rare statement. It read, and I quote, "For more than two centuries, it has been established that impeachment is not an appropriate response to disagreement concerning a judicial decision. The normal appellate review process exists for that purpose," end of quote.

We cannot afford to wait and see if this President formally announces he will defy a court order. We must respond to this dangerous attack on our courts and judges now.

Some right-wing advocate activists have argued that impeachment is necessary because of the number of injunctions issued against President Trump compared to other Presidents. They claim that this is evidence that Federal judges are biased against this President.

I would suggest there's a simple and more plausible explanation. The number of injunctions issued against first and second Trump administrations is evidence of a President who repeatedly test or violates the law. The danger posed by the Trump administration's attack on the judiciary is not abstract.

I recall when there was a demonstration outside the home of a Supreme Court Justice. We heard over and over again that we should never condone violence in the pursuit of political goals.

I joined in that cause on a bipartisan basis and hope, too, that my colleagues on the Committee will do that today. Because we have a serious attack on the judiciary taking place. It's not abstract.

The recent invective by the President and his allies has resulted in increased threats to the lives of judges and their families. This is unacceptable in a constitutional democracy.

We can debate the value of nationwide injunctions and the merits of any particular judicial decision. But violence or threats of violence, whether from the right or the left on the political spectrum, are never, never acceptable.

I urge all my colleagues on both sides of the aisles to join me in opposing this ongoing attack on the judiciary. Unfortunately, Attorney General Bondi, and other officials at Justice, have repeatedly shown that they will not defend the separation of powers. Their loyalty lies with the President. It should lie with the American people and the Constitution.

The loss of an independent Department of Justice is not only a threat to the rule of law, it makes our country less safe. This is especially true of our national security. Since the start of this administration, every senior career National Security Division Official has been removed from their position. Every one of them.

Following this purge, one former Justice Department Officials said, and I quote, "There's literally no one at home, the lights are off." That is a disturbing statement. It reflects a serious problem that cannot be easily fixed.

Among today's nominees is John Eisenberg, who dropped by my office yesterday. We had an opportunity to discuss his aspiration to be leading the National Security Division. I hope for the sake of the Nation, that Mr. Eisenberg is willing to place country above any personal allegiance to any political figure.

We're also going to hear from Patrick Davis, nominated to lead the Office of Legislative Affairs. At her confirmation hearing, Attorney General Bondi committed to Chair Grassley that she, or her top staff, would, quote, "personally review oversight requests from all Members of the Committee," and do, quote, "everything we can to respond to you."

I have sent more than 20 overnight oversight requests to the Trump administration. I have yet to receive a single meaningful response to the vast majority of them, including seven to the Justice Department.

When the shoe was on the other foot, and I chaired this Committee, and they refused to respond to Chairman Grassley's similar requests, I stood up for him and I would happy to do so.

Whether you're on one side of the table or the other, you're entitled to the dignity of a request and professional treatment. Mr. Davis, I hope that you'll take that to heart.

I'm also concerned about legal arguments Mr. Shumate, who's been nominated to lead the Civil Division, has made since returning to the Justice Department. While all attorneys have a duty to zealously advocate for their clients, which of course includes the U.S. Government, they must do so within the confines of the law.

Yet, in defending President Trump's Executive order restricting birthright citizenship, Mr. Shumate claimed any judicial order blocking it would be, quote, "wildly inappropriate." His words. That is an unacceptable position for a Justice Department Official to take—especially with respect to an order that is patently unconstitutional.

As the judge presiding over the case stated, and I quote, "I'm having trouble understanding how a member of the bar could state unequivocally that this order is constitutional."

The disintegration of an independent Justice Department before our very eyes, including the removal of key National Security and Counterterrorism Officials should be alarming on both sides of the table. The Department is critical to protecting America's public safety and protecting the rights and liberties of all—all Americans.

I hope to learn more about these nominees' commitments to these efforts and look forward to their testimony. Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you. Senator Durbin. Now, to Senator Graham for introductions.

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

Senator GRAHAM. Well, thank you.

First, yes, let's condemn violence directed at the judiciary. I'm all for that. Let's make sure that as politicians that we don't create problems for those and in that branch of Government. Then I hope that would include the former Majority Leader going to the Supreme Court and, you know, hurricanes coming your way, of course it can—Kavanaugh—and hear much back then, but yes, count me in.

As to this man, John Eisenberg, I have dealt with him. To the newer Members of the Committee, he served in the prior Trump administration. I am completely confident you're the right person at the right time, John. When you look at his résumé and his experience, you could not have chosen better.

The world is literally in a dangerous place. The last—previous 4 years has been a disaster. Every conflict zone known, basically, has gotten worse. And we're going to have to clean up this mess that was created. And I think John Eisenberg will be a great counsel, not only to Pam Bondi, but to the President.

A little bit about him. He's a national security expert. He's joined by his wife, Catherine, his son, Paul, and his daughter, Sarah. Welcome. He received a B.S. in Mathematics from Stanford, and a J.D. from Yale—which means he is very smart, and a bit confused.

[Laughter.]

Senator GRAHAM. He clerked for Chief—Justice Clarence Thomas from 2003 to 2004. In the first term, he served as the legal advisor to the National Security Council, Assistant to the President, and Deputy Counsel to the President for National Security Affairs. And Trump won. That's where I met John. I interacted with him a lot.

He's reasoned, he's thoughtful, he's smart. I enthusiastically endorse this man. In recognition of his service, he received the Department of Defense Medal for distinguished public service and the National Intelligence Superior Service Medal.

He's held senior positions of the Department of Justice, including Associate Deputy Attorney General in the Office of the Deputy Attorney General, and Deputy Attorney General in the Office of Legal Counsel.

His service earned him multiple distinctions, including the Attorney General's Award for Excellence, and furthering the interest of U.S. National Security, and the Assistant Attorney General's Award for Special NIST Initiative, National Security Division.

Long story short, you can't find anybody better qualified than this man. Thank you.

Chairman GRASSLEY. I'm going to read Senator Cruz's introductory remarks of Brett Shumate, a nominee for the Assistant Attorney General for the Civil Division at the Department of Justice, because Senator Cruz is at another Committee meeting.

It is a distinct privilege for me, for Senator Cruz, to introduce the nominee for the position of Assistant Attorney General for the Civil Division at the Department of Justice, Brett Shumate.

Before we dive into Brett's impressive professional qualifications, I'd like to take a moment to highlight the personal side of his story. Brett is a proud family man. His wife, Mary, hails from the San Angelo, Texas, and together they have four children: Finn, Wit, Everett, and Isley, who by all accounts are the biggest—is that Buc-ee's fans?

[Laughter.]

Chairman GRASSLEY [continuing]. East of the Mississippi. Brett's in-laws, Mill and Deb Squires, are also proud Texans, living in Denton.

Brett's parents, Charlie and Barbara Shumate, are here with us today. Charlie, a Vietnam veteran, recently retired after a distinguished 50-year career practicing law in Virginia. It's clear that Brett's strong roots have shaped his dedication to public service and to his community.

Brett's current role, Acting Assistant Attorney General for the Civil Division, is not his first rodeo in public service. In fact, Brett has had a long and distinguished record of service to the American people.

Brett began his legal career in public service clerking for the distinguished Judge Edith Jones of the fifth circuit, where Brett developed a deep understanding of appellate law and a steadfast commitment to upholding the Constitution.

Brett sharpened his litigation skills in private practice for a decade, rising through the ranks to become a partner. His colleagues at his first law firm, Wiley Rein, described him as a, quote, unquote, "skilled litigator" with quote, "impeccable ethics and integrity," end quote.

Brett returned to public service as the Deputy Assistant Attorney General for the Civil Division Federal Programs branch, 2017 to 2019, where he was responsible for leading litigation on behalf of Federal Government in a wide range of cases.

In his role, he handles some of the most critical and high-profile cases of the time in healthcare, national security, and regulatory enforcement. His experience managing complex litigation and advising Senior Government Officials on litigation risk and strategy, in this role, makes him well qualified for this role.

Between 2019 and 2024, Brett returned to private practice, as a partner at yet another prestigious global law firm, Jones Day, where he focused on high-stakes regulatory litigation involving the Government, particularly in telecommunications and technology sectors.

Once again, his colleagues, more than 200 of them in fact, commended him to us. They wrote, Brett is, quote, "an intelligent and

principled lawyer with unwavering integrity," and further quoting, "uncompromising commitment to the rule of law."

Most recently, Brett served as Acting Assistant Attorney General, Civil Division, in DOJ. In this capacity, he quickly took on leadership responsibilities within the Division, ensuring that the Department of Justice remains effective in carrying out its essential duties. Brett's work in this role gives us clear proof of his capability to guide the Division through significant legal challenges.

It is this exact expertise on the job that led President Trump to nominate him to serve as Assistant Attorney General, Civil Division, on a permanent basis.

With his unique blend of experience in both private practice and public service, particularly in the Civil Division of the Department of Justice, Brett is exceptionally well prepared to lead this vital Division.

His track record in handling regulatory litigation, providing strategic legal consult to Government Officials, and defending the administration's legal priorities across multiple sectors demonstrates that he has the expertise and leadership quality needed for this important role.

Senator Cruz ends by saying, I look forward to hearing from Brett today, and strongly encourage my colleagues on the Committee to support Brett's nomination to be the next Assistant Attorney General, Civil Division, Department of Justice. Thank you.

Now, you folks that have just been introduced, would you please rise so I can minister the oath?

[Nominees are sworn in.]

Chairman GRASSLEY. I got affirmative action—answer from each of them, and I think we'll start out with Brett and you can have your opening statement and introduce family and friends. And that is same for all of you.

STATEMENT OF BRETT SHUMATE, NOMINEE TO SERVE AS ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION

Mr. SHUMATE. Thank you, Chairman Grassley, and Ranking Member Durbin, and to the entire Committee for extending the privilege of appearing before you today.

My wife, Mary, and our four kids are here today sitting behind me. Mary will always be a proud Texan no matter how many years we live in DC, and she supported me in sacrifice for my career for over 20 years.

My mom and dad are here as well. My father, Charlie, retired a few years ago, as you mentioned Chairman Grassley, after practicing law for 50 years, and serving his country in Vietnam. It's an honor for me to follow in his footsteps.

I'd also like to thank President Trump and Attorney General Bondi for this nomination, which comes with the awesome responsibility of running the Civil Division, the largest litigating component at the Department of Justice.

I've had the great fortune of working with many wonderful mentors throughout my career. My first job out of law school was clerking for Judge Edith Jones at the Fifth Circuit Court of Appeals. I'm also grateful to so many friends at Wiley Rein for the mentorship in the early years of my career. At Jones Day, I had the privilege

of working with many outstanding lawyers, including Don McGahn and Noel Francisco. I'm grateful to them for their support and guidance during my 5 years at the firm.

I've also been incredibly blessed to work with many outstanding lawyers and staff at the Department of Justice over the years. In fact, one of the best parts of the Civil Division is being able to work side by side with the career attorneys and staff who work incredibly hard and are dedicated to serving the American people.

I had the privilege of serving as a deputy in the Civil Division from 2017 to 2019. During my time running the Federal Programs branch, I worked for two outstanding leaders in Chad Readler and Jody Hunt. It would be an honor for me to follow in their footsteps, if I'm confirmed to lead the Civil Division.

Most people are familiar with the Civil Division because of the important work it does defending Federal policies in the lower courts. But it does so much more.

The Civil Division also uses the False Claims Act and other enforcement authorities to identify waste, fraud, and abuse in Federal programs. It also does important work protecting consumers from elder abuse, illegal drugs, and fraud schemes.

I look forward to doing this important work of the Civil Division, if I'm confirmed. Thank you for considering my nomination. I look forward to answering your questions today.

Chairman GRASSLEY. Very short, thank you.

[Laughter.]

Chairman GRASSLEY. Mr. Davis.

STATEMENT OF PATRICK DAVID DAVIS, NOMINEE TO SERVE AS ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGISLATIVE AFFAIRS

Mr. DAVIS. Thank you, Chairman Grassley, Ranking Member Durbin, and Members of the Committee for holding this hearing to consider our nominations. Thank you, as well, Chairman Grassley, for your kind introduction. I also want to thank President Trump for nominating me. It was an honor to serve as an appointee in his first term, and I'm eager to contribute to his second.

I'm lucky to have my family here supporting me, and I'd like to introduce them. First, my wife, Catherine, who is a judge on the Court of Federal Claims. A little over 5 years ago, she sat here for her own confirmation hearing before the Committee. Next is my daughter, Evelyn, who's in the second grade, and my son Henry, who's in the fifth.

My parents, Dave and Pam Davis, have flown in from Nebraska to be here, and my in-laws, Todd and Meg Mason, have driven down from Pennsylvania to be with us today, too. I'm truly blessed to have such a wonderful family, and I'm profoundly thankful for their love and support.

Having spent years as an oversight attorney for Chairman Grassley, it's humbling to be in this hearing room once again this time as a nominee. The lessons I learned during those years, along with ones from my prior times in the Justice Department and throughout my career, have helped prepare me to lead the Office of Legislative Affairs, if confirmed.

Under the Justice Department's regulations, the Assistant Attorney General for the Office of Legislative Affairs is entrusted with the duty of maintaining liaison between the Department and Congress, reviewing, coordinating, and submitting departmental legislative reports, and coordinating the preparation and submission of proposed departmental legislation among other responsibilities. I believe my professional experience lends itself well to these tasks, and I've seen many related issues from both sides.

I have been a career DOJ line attorney and a political appointee in DOJ's management. I've been a Judiciary Committee staffer engaged in oversight of the Department, and I've also been on the receiving end of congressional oversight.

On both this Committee and the House Intelligence Committee, I've examined numerous legislative reports submitted by the Department, and at the Department in the first Trump administration. I signed off on submitting many such reports.

I've also conducted congressional oversight from both the Majority and the Minority, and seen those differences, as well. All of this is to say, I've worked extensively in both Congress and the Department of Justice, and I have a deep respect for their respective roles in our system of Government.

If confirmed, I would be honored to be given the responsibility to maintain and hopefully strengthen the working relationship between the two.

To that end, I look forward to the opportunity to engage with the Committee, to advance important legislation to address our Nation's ongoing challenges, and to benefit the American people. I'm also acutely aware of the importance of the Department being responsive to oversight inquiries from the Committee, both from the Majority and the Minority.

If confirmed, I'm committed to being transparent to the fullest extent consistent with the constitutional and statutory obligations of the Department. Where the Department appears to have been deficient in its oversight responses, I will seek to review the policies, procedures, and decisions that have caused the issues, consult with the relevant officials within the Department, and pursue appropriate corrections.

When there are conflicts between the Department and Congress, the courts have recognized that each has an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular situation, and to work, not in a purely adversarial manner, but instead with a spirit of dynamic compromise to promote a resolution.

I believe my experience in both branches will help me be an honest facilitator of that compromise process. As the Chairman has often said, sunlight is the best disinfectant. I hope to help let the light in.

Chairman Grassley, Ranking Member Durbin, and Members of the Committee, I've been privileged to spend nearly all my professional life in Government service and I hope you'll see fit to confirm me for this next role to continue serving the American people this time as an Assistant Attorney General. Thank you for your time and your consideration.

Chairman GRASSLEY. Thank you, Mr. Davis. Mr. Eisenberg.

STATEMENT OF JOHN ANDREW EISENBERG, NOMINEE TO SERVE AS ASSISTANT ATTORNEY GENERAL, NATIONAL SECURITY DIVISION

Mr. EISENBERG. I would like to begin by thanking you, Chairman Grassley, and you, Ranking Member Durbin, for holding this hearing. I'd also like to thank Senator Graham, who's now invisible, unfortunately, for his gracious introduction, especially what since my family was here. I would also like to thank President Trump for the honor of this nomination.

I have some of my family here today and I'd like to introduce them. I'm so fortunate to have the love of my life and my best friend here, my wife Catherine. Where'd you go? Hi. Somehow, she manages to have a full-time job and take care of everyone else in the family as well. It's no exaggeration to say I would not be here without her. Her support and encouragement throughout most of my adult life, and during the hardest times, has made all the good things possible and all the rest livable.

My wife is joined by my son, Paul, and my daughter, Sarah. My youngest daughter, Evie, can't be with us today. She has something called 22q. It's a microdeletion on chromosome 22, which causes developmental delays, among a lot of other things. Evie is an inspiration to everyone who knows her, though. She doesn't let her disabilities get in the way. And she greets just about every day with delight. Paul and Sarah are not bad, either.

[Laughter.]

Mr. EISENBERG. Catherine, Paul, Sarah, and Evie are the joys of my life. Without them, life itself would be unimaginable to me. I learned the importance of family from my mother, who at all of 5 feet tall, was the most powerful person I had ever met in my life. And I think that still holds. No one wanted to mess with Rhoda. Because of her, my sister, Nancy, and my brother, Ethan, and I couldn't be closer. We talk virtually every day. We try to see each other as much as we can.

While my mother passed away more than a decade ago, I'm fortunate to have both a father and a stepfather who are very supportive of me. I also know, have a very small number of friends who I count as family. And they know who they are, and I thank them for their support.

I would also like to say something about the colleagues, too many to name here, I have had the privilege of working alongside in my many years in Government service, and during my private practice times. I'm truly blessed to have worked with so many who are the embodiment of dedication, blazing intelligence, and integrity. Serving with each of them has been an honor, and I am grateful just to know these people.

National security is the thread that runs through my professional life. I was in Alexandria on September 11th, 2001, when terrorists attacked our Nation, resulting in the deaths of some 3000 people, in coordinated attacks on the World Trade Center and the Pentagon.

I think it's hard for people who weren't adults in 2001 to understand the effect these attacks had on many of us. It's easy to forget the follow-on attacks were thought to be very likely, and at times

imminent. Indeed, our success in fighting other attacks of that magnitude, led many to wonder if the threat was overblown.

But for me, I will never forget that day. I heard the explosion coming from a commercial airliner colliding with the Pentagon. I saw the smoke rising from that building.

My wife couldn't come home from her office in Washington for hours because the necessary Metro lines went through the Pentagon—and the Pentagon was still on fire.

I saw F–16s trailing commercial airliners, and even private aircraft. I suppose escorting them away from anything that they considered a target. But my country really had become a battlefield.

In my past Government jobs, I have focused on national security. The events of September 11th instilled in me the need to be part of a response to terrorism. My more recent Government service has shown me the importance of protecting the Nation from myriad other threats.

I am deeply committed to the rule of law and the Constitution. But I also believe that the Government has a solemn obligation to do what it can within those limits, to protect the Nation and its people.

I was in the Department of Justice when it stood up the National Security Division, and I was part of a team that helped propose and implement necessary changes to bring NSD into the world.

It would be a great honor to lead that Division and the dedicated public servants who go to work every day in NSD, and who do so because they share the vision of which I spoke, that of protecting the Nation.

To everyone in NSD, I look forward to working together, should I be confirmed, to protect this great Nation and its people from the range of national security threats facing them. I look forward to your answering your questions.

Chairman GRASSLEY. Thank you, all, for your statements.

I'm going to start with Mr. Eisenberg, and as he knows and everybody on this Committee knows, protecting whistleblowers is very important to me.

I want to ask about a 2022 Department of Defense IG report claiming that you retaliated against Eugene Vindman, for reporting President Trump's 2019 call with President Zelensky.

I have serious concerns about the political motivations underlying the whole issue, and I have questions about the report itself. But I want to hear from you directly. How do you respond to the charge that you retaliated against Mr. Vindman?

Mr. EISENBERG. Thank you, Mr. Chairman, for that question. First, I wholeheartedly deny the allegations. I'm just not that kind of a person. I would never let anything other than the facts of someone's performing, enter into an evaluation. If I had done so, I would not be here seeking this office.

If—I'll let you know one other thing, at the beginning. I was in the White House at the time. All of these events happened within that confine, and so virtually everything is subject to Executive privilege. When the Office of the Inspector General called my lawyer to say that they wanted to interview me, my attorney advised me that we would need the permission of both the then current Biden administration and the former Trump administration. That's

because they were the holders of the privilege, of that Executive privilege.

My attorneys called them and sought that permission, but we didn't get permission until after the report, which sort of came out of the blue to us. We didn't get that permission until after that report dropped.

Consequently, the Office of the Inspector General was wholly without anybody telling that side of the story and I did not. And none of the other people that had allegations against them in that report were able to sit for an interview.

Now that stuff, that material is, in general, subject to Executive privilege, but I feel like I could give a few examples of why my evaluation of Mr. Vindman changed just based on what's in the IG report, which is now public.

As an initial matter, it's clear that I told Mr. Vindman at some point, that in order to go to meetings over a certain level or about certain topics, he needed to get permission from either me or my deputy.

But then we find out that Mr. Vindman would add himself to meetings, which means he was trying to get into that meeting. Even if I had made no determination or actually a determination that he shouldn't be there. Meetings like this aren't like standard meetings within a company trying to figure out how much product to make this year. Those meetings have some of the most sensitive information that the United States Government has, and the deliberations in those meetings can often be extraordinarily sensitive in and of itself.

So, you only send somebody to a meeting if they have something to add to that meeting. Otherwise, you're exposing someone to classified information despite the fact that there's no reason for it. And we're not supposed to do that.

We even found out, subsequently, that, that Mr. Vindman went to a meeting after I had told him expressly not to go to that meeting. At another time, we found out that Mr. Vindman was seeking reimbursement for his brother's travel expenses to Ukraine. Both my deputy and I told Mr. Vindman that he couldn't do that, that there was an obvious conflict of interest. Nevertheless, we heard that Mr. Vindman continued to do that.

Relatedly, we heard that—and this is in the IG report as well, we heard that Mr. Vindman—we heard a particular witness reported that Mr. Vindman turned red in the face when he met, you know, some resistance to getting money on behalf of his brother. I wouldn't tolerate that in my office if someone goes and tries to intimidate, yells, or anything. It's critically important that, especially lawyers in the NSC, act like, like lawyers. That's not everything by any stretch. But it's the stuff I can glean from the public report.

Chairman GRASSLEY. Mr. Shumate, I've got an opening statement, I'm going to just quote Justice Elena Kagan on nationwide injunctions, quote, "It just can't be right that one history judge can stop nationwide policy in its tracks and leave it stopped for years it takes to go through the normal process," end quote. What is your perspective on the use of nationwide injunctions? And is there a role for Congress to play in ending the practice?

Mr. SHUMATE. Thank you, Mr. Chairman for that question. I agree with that sentiment. We've seen an unprecedented number of nationwide or universal injunctions just in the first 2 months of the first—of the Trump administration. The Department's position has been consistent across administrations that district—single district court judges do not have the power to issue nationwide or universal relief.

Our position flows from Article III of the Constitution, which limits courts to deciding the case or controversy before them, and courts are supposed to apply doctrines, like standing and reviewability and scope of relief, to award relief to the party before them and redress that injury, not go beyond the parties. But we've seen district court judges grant relief far beyond the parties to those cases, to enjoin the executive branch nationwide or universally.

And in terms of whether there's a role for Congress to play, yes, Senator, the Constitution creates one Supreme Court but vests in Congress the authority to ordain and establish the lower courts.

And over time, Congress has certainly created courts, eliminated courts, created jurisdiction, limited jurisdiction, and created special review procedures for review of Agency action, whether it's three-judge courts or direct review in the courts of appeals. So certainly, there is a role for Congress to play, Senator.

Chairman GRASSLEY. Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman. The Justice Department is currently defending the Trump administration in a number of lawsuits, challenging Executive actions taken by the President and Officials of the administration. Federal judges, both Republican and Democratic appointees, have enjoined some of these actions holding they're illegal or unconstitutional.

Alarmingly, President Trump, his allies, and even some nominees before the Committee, have responded by questioning whether the executive branch must follow court orders.

If confirmed, the three of you will hold key positions at the Justice Department, and you will take an oath to uphold and defend the Constitution.

So, I'm going to ask a question which could merit a yes-or-no answer, and I hope it will. Do you believe—I'll ask each of you, do you believe a litigant, including the executive branch or President, can lawfully defy a court order? Mr. Shumate. You want to turn that——

Mr. SHUMATE. Thank you for the question. I will always advise a client, whether in private practice or in Government, to comply with court orders. And if our client disagrees with the court order, we can appeal, seek a stay. And I think that's exactly what I've heard the President say, comply with court orders and appeal if disagree with them.

Senator DURBIN. Mr. Davis?

Mr. DAVIS. Thank you, Mr. Ranking Member Durbin. Yes, I would say parties to litigation should always follow lawful orders that bind them.

Senator DURBIN. Mr. Eisenberg?

Mr. EISENBERG. I agree with both of my colleagues.

Senator DURBIN. Thank you.

Mr. Eisenberg, earlier this week, we learned about a shocking security breach in which the Defense Secretary Hegseth and other Cabinet Officials, discussed highly sensitive military plans over a commercial messaging app known as Signal.

Classified and otherwise highly sensitive national security information must be handled in accordance with strict security protocol, including the use of secure facilities and communication channel.

Willful or negligent disclosure of mishandling of such information is a criminal violation of the Espionage Act. Do you agree that the Justice Department must thoroughly and impartially investigate this breach? And if criminal violations have occurred, that the Department must fairly and impartially prosecute those responsible?

Mr. EISENBERG. I agree that the Department should take whatever appropriate action there is. I don't know enough about what actually happened to say what that action would be.

Senator DURBIN. I'm asking whether you believe it should be investigated by the Justice Department.

Mr. EISENBERG. In my view, it depends on the facts. Like, if the facts are completely different than has been reported—I just—I don't know what the facts actually are and I wouldn't want to opine on that until I knew what they were.

Senator DURBIN. Mr. Shumate, last year you participated in a Federalist Society panel discussion about the President's ability to remove heads of independent agencies. Do you recall that?

Mr. SHUMATE. Yes, I do, Senator.

Senator DURBIN. During that discussion, you argued that, quote, "Nearly all modern independent agencies are unconstitutional because of protections dictating that Agency heads can only be removed for cause." Do you remember that position?

Mr. SHUMATE. Yes, Senator.

Senator DURBIN. You appear to suggest that a host of independent agencies should be subject to the whims of the White House, despite Congress' constitutional authority to create these bipartisan independent commissions. So, do you stand by your argument that removal protections render independent agencies unconstitutional?

Mr. SHUMATE. Thank you for the question, Senator. As I recall, I was appearing as a lawyer at a law firm who currently had a case before the courts, where I was taking a position arguing that removal protections for a certain Agency were unconstitutional. And I was appearing advocating for the courts to rule in my favor in that case and advocating for my client's position.

Now in my role at the Department of Justice I represent the interest of the United States. There is pending litigation regarding removal protections and whether those restrictions are constitutional, so I wouldn't want to go beyond what the Department has already said in those cases, Senator.

Senator DURBIN. The view you expressed last year directly contradicts the Supreme Court's decision, in *Humphrey's Executor*, a 90-year-old precedent holding that removal protections for independent Agency heads are constitutional.

In February, the Trump administration informed me that it will seek to have this precedent overturned. Did you participate in any

conversations with any Justice Department or White House Official about this plan to overturn *Humphrey's Executor*?

Mr. SHUMATE. Senator, in my role as the Acting Head of the Civil Division, I had many conversations with many folks within Government about many topics.

But I don't think it'd be appropriate for me to discuss who I spoke with or what advice I gave on any particular matter to protect the deliberative process, and to encourage individuals across the Government to reach out to the Civil Division and seek our advice on particular matters, without fear that those conversations will be disclosed publicly.

Senator DURBIN. But I didn't ask you that. I didn't ask you who you spoke with or what you said. I asked if you participated in conversations about this case being overturned?

Mr. SHUMATE. Senator, again, I don't think it'd be appropriate for me to disclose what matters I advised on at the Department. I advise on many matters. I want to encourage folks throughout the Government to reach out to the Civil Division to solicit our opinions, without fear that those conversations will be disclosed.

Senator DURBIN. Mr. Chairman, may I ask one other question?

Chairman GLASSLEY. Yes.

Senator DURBIN. Mr. Chairman, I'd like to ask Mr. Shumate, last night, the President was asked as to whether or not the rioters on January 6th should be compensated.

That's a matter that would fall in the jurisdiction, I believe, of your responsibility in the Civil Section. Do you think the January 6th rioters should be compensated?

Mr. SHUMATE. Senator, I'm not familiar with those comments that the President may or may not have made last night. We have many pending cases in the Civil Division, including tort suits. It wouldn't be appropriate for me to commit to any particular resolution of any of those cases without talking to other folks within the Department.

Senator DURBIN. Well, I come down on the side of the law enforcement officials who keep you and me safe—and your family as well at this moment, who were attacked by these rioters. And I do not believe they're entitled to any compensation for their action. Thank you, Mr. Chairman.

Chairman GLASSLEY. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Thanks to the three of you for being here today and free willingness to serve.

Mr. Eisenberg, I'd like to start with you, if I could. During her confirmation hearing, Attorney General Bondi and I had a conversation about FISA Section 702, and about the use of what I sometimes refer to, for lack of a better word, as de facto warrantless backdoor searches—meaning searches of U.S. persons through a U.S. person identifier, known to be a U.S. person identifier, to search the databases containing incidentally collected content communications involving U.S. persons, U.S. citizens and, and others here at the United States, lawful permanent residence, and so forth.

And I asked Attorney General Bondi, specifically, whether she would agree with me that these defacto warrantless backdoor

searches are concerning, in that context. She responded in the affirmative with the word yes.

That leads me to my question, would you agree that these backdoor searches of incidentally collected communications involving American citizens are concerning?

Mr. EISENBERG. Thanks for the question, Senator Lee. I certainly agree that it does raise issues that, you know, if you search a database, a substantially large database. I don't, at this point, however, know what protections are in place. I'm not currently in NSD.

So, if I were confirmed, I would talk to the experts in the NSD about what exactly they do, and I would then talk to the Attorney General and help come up, you know, with perhaps different procedures, if those are warranted.

Senator LEE. I appreciate that. And I would add here that for the entirety of the 14 years that I've been a United States Senator, the whole time I've served on this Committee, I, and others, including people on both sides of the aisle, including Senator Durbin, over the years, we've raised concerns with this, on each occasion.

We've had officials from the FBI tell us, don't worry, we've got procedures in place. You don't need to worry about additional legislation. We've got it covered.

And in each instance when they come back, they usually tell us, okay, yes, we discovered there have been some abuses. But now we've really got it covered.

The bottom line is, I do believe Congress needs to act here. I think we needed additional protections because those internal protections haven't worked because we're trying to ram a giant square peg into a round hole. It doesn't work. In my view, it is not compatible with a letter or the spirit of the Fourth Amendment to allow those sorts of things.

Now, Mr. Eisenberg, you've spent much of your career in national security law. With that, you've got vast experience with the FISA Court and the FISA Court of Review. What reforms, if any, do you think, perhaps, ought to be made to the FISA Court or the FISA process?

Mr. EISENBERG. Thanks for the question, Senator. I think this is something that I need to study as soon as I get into NSD, if in fact I'm confirmed.

In my view, it has to be possible to do better in order to at least assure the American people that the sorts of privacy protections that are in place are actually working. But as to the actual details, I think I need to get in there first if I'm confirmed.

Senator LEE. Gotcha. Mr. Shumate, let's turn to you. For a long time, I've been troubled with Congress' chronic delegation of the lawmaking power. As you know, Article I, Section 1, makes Congress the sole sovereign lawmaking authority within the Federal Government. Article I, Section 7, makes that doubly clear by saying you cannot make a Federal law without both Houses of Congress passing the same legislation—bicameral passage, followed by presentment to the President for signature veto or acquiescence.

Congress has deviated from that, and the courts have been unwilling to enforce that part of Article I, Section 7, for reasons that escaped me, while acknowledging that the non-delegation principle exists, they just refuse to enforce it.

Now, in your Senate Judiciary Questionnaire, you listed a case that you worked on called *Allstates Refractory Contractors v. Su*. In that—in that case, you challenged the constitutionality of the OSHA Statute.

What can you tell us about your involvement in that case, and what your involvement in that case sort of taught you, or what you gleaned from that, as far as Congress' ability to delegate its law-making power?

Mr. SHUMATE. Thank you for the question, Senator. Yes. So that case reinforced for me the importance of Article I, the vesting of legislative power in the Congress.

And in that case, we were representing a client, Allstate, which is a general contractor in Toledo, Ohio, that was challenging OSHA Statute, which under the non-delegation doctrine, which is a long-standing doctrine in Supreme Court precedent that says that Congress can't delegate its legislative power to the executive branch. And under the OSHA Statute, Congress has allowed OSHA to promulgate numerous safety regulations that impacted my client.

And so, in that case, we were challenging the statute on its face as a violation of the non-delegation doctrine. We thought we had pretty good arguments, we went up to the sixth circuit. The sixth circuit upheld the statute in a 2–to–1 decision, and the Supreme Court denied cert, in that case. So, it reinforced for me, Senator, the importance of the structural separation of powers, and that each branch stay within their proper role.

Senator LEE. Indeed, I see my time's expired. And I'll note as you say, that this is not merely a hypothetical problem. A hundred thousand pages of new regulatory text issued last year. By some estimates those hundred thousand pages of new regulatory texts put in place entirely by unelected unaccountable bureaucrats, costing the American economy $1.5 trillion annually. Think about that. That's a problem. Thank you, Mr. Chairman.

Chairman GLASSLEY. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman. As part of my responsibility to determine the fitness of all nominees who come before any of my Committees, I ask the following two initial questions, and if we can start with Mr. Shumate and go right down the line.

Since you became a legal adult, have you ever made unwanted requests for sexual favors or committed any verbal or physical harassment or assault of a sexual nature?

Mr. SHUMATE. No.

Mr. DAVIS. No, Senator.

Senator HIRONO. Mr. Eisenberg?

Mr. EISENBERG. No, Senator.

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

Mr. SHUMATE. No, Senator.

Mr. DAVIS. No, Senator.

Mr. EISENBERG. No, Senator.

Senator HIRONO. This is for Mr. Eisenberg. There have been calls, including from the authors of Project 2025, which I think is generally seen as a blueprint for this administration.

But Project 2025 calls for the revival of the National Security Division of DOJ to revive the so-called China Initiative. If confirmed as head of the National Security Division, do you plan on reviving the China Initiative? Yes or no?

Mr. EISENBERG. I plan on looking at whether something like that should be stood up again. But I don't have any concrete plans about that.

Senator HIRONO. Do you have any concerns about bringing back that Initiative? Do you have any awareness of what that Initiative led to?

[Voice heard off microphone.] I'm sorry.

Senator HIRONO. In terms of the litigation that arose from the China Initiative during the first Trump administration? Just tell me yes or no, if you have an awareness.

Mr. EISENBERG. I did hear of some of it. Yes.

Senator HIRONO. Okay. Let me just say that the program was supposedly about countering Chinese government espionage and intellectual property theft. But it drifted far from that purpose.

Instead, it focused largely on university professors, most of them of Chinese heritage, who had alleged paperwork errors in grant applications in the Department of Justice, which usually has a really great track record and convicting the defendants, many of whom plead guilty.

But in the case of the China Initiative, the conviction rate was very low, practically non-existent. So, for the dozens of cases against basically Chinese professors that the DOJ brought, most of them were tossed out for lack of evidence. And we know that the China Initiative was misguided, a waste of resources, and seemingly based more on the ethnicity of defendants—whose lives were in many ways of just destroyed by DOJ going after them, than on the crimes they supposedly committed.

So, I would say that if you're going to look into reinitiating the China Initiative, I would look at the history of this Initiative and do not go there.

For Mr. Shumate, you defended President Trump's birthright citizenship order as though by waiving an Executive order he could get rid of the provisions of the Fourteenth Amendment.

You defended that order to get rid of birthright citizenship and the judge that decided the case, called the argument that this order that Trump made "blatantly unconstitutional." And the judge had difficulty understanding how any lawyer could make the argument that you were making.

And three courts of appeals have refused DOJ's request to stay. So there are some pending TROs, that the administration then went to the Supreme Court.

And the Supreme Court has not weighed in yet, and set a leisurely briefing schedule suggesting that the Supreme Court doesn't consider the Government's defense of the order to be worthy of quick consideration.

Which makes me wonder whether you are prepared to argue before these courts, what one court said blatantly unconstitutional order. So, Mr. Shumate, is that what you're going to keep doing?

Mr. SHUMATE. Senator, thank you for the question. Since that first hearing that Senator Durbin referenced earlier today, the De-

partment has filed many briefs explaining its view of the Fourteenth Amendment and the legality of the President's birthright order. Because it's pending litigation, it wouldn't be appropriate for me to discuss the merits of the litigation.

Senator HIRONO. I think—you know what? I have to say, Mr. Shumate, that this is one order that was—that there's just a lot of precedent for birthright citizenship. And for you all to spend your time and resources going after this as a way to make a political point, basically, is not the way that I would expect the Justice Department to comport itself. Thank you, Mr. Chairman.

Chairman GRASSLEY. Senator Kennedy.

Senator KENNEDY. Mr. Shumate, what's a universal injunction?

Mr. SHUMATE. Senator, a universal injunction is what we call an order from a court enjoining the Government in a way that goes beyond the parties to the case, but applies nationwide, or in some cases universally, to enjoin the Government.

Senator KENNEDY. Is it sometimes referred to as a nationwide injunction?

Mr. SHUMATE. Yes, it is, Senator.

Senator KENNEDY. Okay. What's the statutory basis for a Federal judge issuing an order that affects people, other than the parties before the court?

Mr. SHUMATE. I'm not aware of a statutory basis, Senator.

Senator KENNEDY. There is no statutory basis. Is there?

Mr. SHUMATE. No, Senator.

Senator KENNEDY. What's the United States Supreme Court opinion which interprets the Constitution in a way that allows a Federal district court judge to do this? Can you name me that case?

Mr. SHUMATE. I'm not aware of one, Senator.

Senator KENNEDY. There isn't one. Is there?

Mr. SHUMATE. I'm not aware of one, Senator.

Senator KENNEDY. Now, explain to me how this works. You have a plaintiff and you have a defendant. And the plaintiff files a lawsuit and goes in front of a Federal judge. A Federal judge has certain jurisdiction in personam and subject matter over the parties, the people, the plaintiff, and the defendant. They're the only two people in court. How can a judge, a Federal judge, issue an order that affects everybody else, other than those in front of him or her? How is that possible?

Mr. SHUMATE. It shouldn't be possible, Senator. But district courts do it all the time. I think on the theory that the courts need to enjoin a Federal policy from going into effect, and they often will enjoin it as nationwide, so all non-parties are protected by that injunction.

Senator KENNEDY. I thought that if you wanted to affect parties who aren't in court, you had to file a class action.

Mr. SHUMATE. That's correct here, Senator.

Senator KENNEDY. So why don't the Federal judges, instead of issuing a universal injunction with no legal basis, tell Depart—the plaintiff, look, you got to go file a class action if you want to impact parties who aren't subject to my court.

Mr. SHUMATE. Senator, the Department of Justice makes that argument all the time in our briefs. I think in many cases, class ac-

tions would be inappropriate. They wouldn't—the plaintiffs couldn't satisfy Rule 23 to establish a class.

Senator KENNEDY. So, they couldn't?

Mr. SHUMATE. Correct.

Senator KENNEDY. So, they prefer to ask for a universal injunction?

Mr. SHUMATE. Yes.

Senator KENNEDY. Okay. Does this—does this encourage forum shopping?

Mr. SHUMATE. Yes, Senator. Not only did it encourage forum shopping, but also district shopping and filing multiple strategic lawsuits to pick, find one judge that will enjoin a single policy nationwide where, you know, if you have five lawsuits, one of only one of those five cases needs to be successful.

Senator KENNEDY. And—and—and both—both sides—all sides have used this as a way to forum shop. Haven't they?

Mr. SHUMATE. I think plaintiffs, regardless of administrations, will often file cases in the most favorable forum. Yes.

Senator KENNEDY. Okay. We've established that there's no basis in statute and no basis in Supreme Court precedent for universal injunction.

How about a common law? And this universal injunction is basically an equitable remedy. Did this exist in common law courts in England, on which our law is based?

Mr. SHUMATE. I don't believe so, Senator. I think we—the Government has cited cases from the Supreme Court that says, you know, courts are really bound by the scope of relief that a court in equity would've granted back in England before the founding. And the courts, at that time, would grant relief to the parties in the case not far beyond the point.

Senator KENNEDY. You—a universal injunction as a remedy is unknown in English common law. Is it not?

Mr. SHUMATE. I haven't done the research that far back. But I'm not aware of that.

Senator KENNEDY. I have. It's unknown. Wasn't part of equity.

Only about 28, I'm sorry, only about 27, universal injunctions were issued in the 20th century. Does that sound about right?

Mr. SHUMATE. That sounds about right, Senator.

Senator KENNEDY. But 86 of them were issued against President Trump in his first term. Is that correct?

Mr. SHUMATE. I don't know the specific number. But they were a high number.

Senator KENNEDY. And so far in President Trump's second term, 30 universal injunctions have been issued against him. Have they not?

Mr. SHUMATE. Senator, I don't have a specific number. But that sounds about right.

Senator KENNEDY. Most of—universal injunction has become a weapon against the Trump administration. Has it not?

Mr. SHUMATE. Yes.

Senator KENNEDY. And tell me again, in my last 10 seconds, tell me the basis of Article—the basis for universal injunction in Article III. I read Article III which defines judicial power. Where does it mention universal injunction?

Mr. SHUMATE. It does not, Senator. It says courts are to decide the case or controversy before them, which is based on the parties to the case.

Senator KENNEDY. So, the Congress could act and say, look, Federal judges, you render a decision to a plaintiff or a defendant, but you can't impact people outside of your courtroom other than through a class action. That's why God created class actions. Isn't it?

Mr. SHUMATE. Yes, Senator.

Senator KENNEDY. Thank you, Mr. Chairman.

Chairman GRASSLEY. You know how important oversight is to me. And I gave Bondi a binder of 144 oversight letters that I sent during the Biden Justice Department. And I know that's a big job for you to fulfill that.

But I'd like to give priority for your committing to providing responsive document requests as opposed to just answering any particular letter right now. Because a few of them asked for that. And for Mr. Shumate——

Senator KENNEDY. Mr. Chairman, I have a question, too, for Mr. Davis if we're stalling for time.

[Laughter.]

Chairman GRASSLEY. Okay. The False Claims Act is a very important priority for me because in 1986, I spearheaded legislation to substantially strengthen its civil provisions. That's the qui tam provisions in it. It has since brought $78 billion back into the Treasury—I think $3.9, just last year.

More recently, I introduced a False Claims Amendment Act, a bipartisan bill that would fix loopholes that allow fraudsters to avoid accountability. If you're confirmed, will you pledge to vigorously enforce the False Claims Act and devote adequate resources to investigating and prosecuting False Claims cases?

Mr. SHUMATE. Yes, Senator. Absolutely. The False Claims Act is an essential tool that the Department uses to root out fraud, waste, and abuse. Qui tam relators are an essential component of that.

As you know, the Department generates billions of dollars in revenue every year for the Treasury, through the False Claims Act. If I'm confirmed, I will aggressively enforce the False Claims Act and work with the outstanding folks in the Fraud Section.

Chairman GRASSLEY. I know after 9 years of one case being filed and it went into discovery, somebody in the previous administration just stopped it. We can't let things like that happen. If you're going for 9 years and going into discovery, you can't let some political person step in and stop the claim. Just is one example of some things that have been wrong. Senator Schiff.

Senator SCHIFF. Thank you, Mr. Chairman. Mr. Eisenberg, you served during the first administration as a NSC legal advisor. In that capacity, you must have participated in dozens, if not hundreds of principles meetings organized by the National Security Advisor. Did you conduct any of those meetings by text chat that involved military strike plans?

Mr. EISENBERG. No. I don't believe so.

Senator SCHIFF. So, the entire first 4 years, the Trump administration, you never had a text chat conversation about plans to strike targets using an unencrypted or using a commercial app?

Mr. EISENBERG. Well, I'm not aware of any, such as considered, anyhow.

Senator SCHIFF. And you didn't do that because that would've been a terrible national security breach of protocol. Would it not?

Mr. EISENBERG. I would have to know a lot more to know whether that would be a breach.

Senator SCHIFF. Would you really need to know more than a conversation about military targets, the time of the attack, the location of the targets, the ordinance being used?

Mr. EISENBERG. Sure. You'd want to know whether the device is up to a certain level so that it could, I mean, you might make one that that can——

Senator SCHIFF. Okay. We're talking about a commercial app like Signal. Would it ever be appropriate to discuss imminent plans to strike military targets on a commercial app?

Mr. EISENBERG. I still think it's very difficult to answer that question in the abstract. I mean, I can think of circumstances in which you could, sure.

Senator SCHIFF. Oh, well, give us a circumstance in which you can talk about an imminent military attack, unknown to the public, where it would be appropriate to do so on a commercial app.

Mr. EISENBERG. Okay. Something absolutely urgent happens and it needs to go right now. And your normal communication systems don't work. I mean, there's an example where you would have to—you may have to do something like that.

Senator SCHIFF. And where you have access to classified facilities, it would be completely inappropriate. Wouldn't it?

Mr. EISENBERG. I still need to know more.

Senator SCHIFF. Really? Wow. And you want to lead the National Security Department, Department at the DOJ and you would need to know more?

Mr. EISENBERG. Yes, Senator. I'd like to lead the, the NSD and I think I'm exceptionally qualified to do so.

Senator SCHIFF. And do you—do you fail to believe the NSA and the DOD when they say that the use of commercial apps like Signal is a security threat and inappropriate for confidential or sensitive data?

Mr. EISENBERG. I haven't heard about either of those entities, Senator.

Senator SCHIFF. So, you don't have any idea what the view of the Intelligence Community is about the use of commercial apps to conduct Government business involving classified or sensitive national security information. You have no idea what the position is?

Mr. EISENBERG. No, I'm sure the position is that, in general, that should never happen.

Senator SCHIFF. Okay. So, what happened in this Signal chat should never have happened. Do you agree with that?

Mr. EISENBERG. No, as I said before, I would need to know more.

Senator SCHIFF. Have you read the Signal chat?

Mr. EISENBERG. I have not yet.

Senator SCHIFF. You have not read it. Are you desiring to be willfully blind to what just happened?

Mr. EISENBERG. No. I was trying to prepare for this hearing, among other things.

Senator SCHIFF. And you didn't anticipate you'd be asked about this? Or is it because you anticipated you would be asked about this—you didn't want to inform yourself of this incredible breach of national security?

Mr. EISENBERG. There are millions of things going on in the world at any given time. So I just didn't happen to learn about this one.

Senator SCHIFF. Oh, I see. There are millions of things going on. Yes, I'm sure there are millions of things going on in the world.

But this happens to be probably the biggest national security story of the month which included a lot of other national security stories—including a war in the Middle East and including capitulation to Putin and Russia. But you just happen to neglect to read this one. Is that what we are led to believe?

Mr. EISENBERG. I just happen not to read it, that's all.

Senator SCHIFF. Well, let me ask you this. If you're using a commercial app to discuss the identity of targets, their locations, and that information were to become public, it could compromise those operations. Couldn't it?

Mr. EISENBERG. It depends on what the operation is and where in the operation——

Senator SCHIFF. Well, let's say an operation to strike targets in Yemen Houthis targets that identify, say, a top missile operative and the location of the girlfriend's building, those kinds of specific details discussed on a commercial app could jeopardize that operation if it became public.

Mr. EISENBERG. Yes.

Senator SCHIFF. Isn't that true?

Mr. EISENBERG. It depends on the circumstances and well——

Senator SCHIFF. Well, I just gave you the circumstances,

Mr. EISENBERG. And that's why I'm not going to answer a hypothetical question.

Senator SCHIFF. Well, it's not hypothetical. I wish to hell it were hypothetical. This just happened. This was shared with a journalist on a commercial app.

You need more information than that? Well, how about discussing denigrating our European Allies on a commercial app? Could that have diplomatic fallout?

Mr. EISENBERG. I—I don't know of the circumstances.

Senator SCHIFF. Really? So, the Vice President's conversations on this app, others joining in and disparaging Europe, this is completely new information to you? You're unaware? You can't comment on whether that could interfere with our relationship with our closest Allies?

Mr. EISENBERG. No, I heard of the incident. I just, at this point, hadn't had time to look at it closely.

Senator SCHIFF. Yes.

Mr. EISENBERG. I'm a lawyer, sir, and before I make decisions and form opinions, I need to look at the facts carefully.

Senator SCHIFF. Yes. And you don't hide from the facts, as a lawyer.

Mr. EISENBERG. Absolutely——

Senator SCHIFF. And if you want to head the National Security Division at the Department of Justice, you don't stick your head in

the sand when we've had a serious breach of our national security so that you don't have to answer uncomfortable questions.

Mr. EISENBERG. That's not——

Senator SCHIFF. Mr. Chairman, I yield back.

Chairman GRASSLEY. Senator Schmitt.

Senator SCHMITT. Thank you, Mr. Chairman. I do find it interesting that my Democrat colleagues are so enraged by this nonstory and had nothing to say when we had a President who literally couldn't put two sentences together for 2 years.

President Autopen was the Commander-in-Chief. No questions—no questions about his inability to construct sentences, let alone foreign policy. But here we are with a fake story.

But this is what happens when you have a party that has reached—actually not rock bottom yet—not rock bottom yet—but they got nothing, zero, no issues, no leader, fringe issues define them.

So, they're going to glom onto the story of the day. And quite frankly, it's embarrassing for them.

Just like, by the way, these calls to, you know, come out against violence. The only district court rulings, the only thing that's been talked about are political solutions.

The only person I remember standing in front of the Supreme Court calling for a whirlwind on Justice Kavanaugh and other Supreme Court Justices that were fouled up by assassination attempts of Supreme Court Justices, that were fouled up by violent protests outside their homes where they had to move out of their homes, was Chuck Schumer. And as long as we're denouncing violence, how about firebombing Tesla dealerships?

This—this anarchic kind of strain runs through the left. And to my Democrat friends, I feel bad for you because your party has been captured by a radical element that is pro-Hamas, that is proviolence, that is firebombing, you know, Tesla dealerships because they don't like that Elon Musk has actually found the grift out and is cutting it out. The NGO's that have laundered money for Democrat causes for years, it's all coming to an end and they don't know how to handle it.

So, anyway, as far as sort of some of these rulings, I would point out that in the most recent case with the Venezuelan thugs who've now been imprisoned in El Salvador, the apex of Presidential power is, as Justice Jackson wrote in the *Youngstown Steel* case, in his concurrence, is that the apex, when you have congressional delegation, or core Article II powers, as Commander-in-Chief.

And the district court in citing the Alien Enemies Act, where whether wartime or invasion or predatory incursion, the act—the President is acting within his authority, the district court has no more authority to tell the President he can't do that than they can, speaking of national security, directing troop movements or missile strikes.

So, when we talk about separation of powers, it does go both ways. It does go both ways. And there's been this obsession with getting all of you on the record about following court orders.

The President of the United States has said he will follow court orders time and time again. But it's this desire to just stir up something because they have nothing. That's what's going on here.

I did want to ask, with the time that I left—have left, Mr. Davis, you have done a lot of great work investigating a lot of things. The origins of COVID, I'm just curious. So, when I was Attorney General of Missouri, we actually sued Communist China for unleashing the COVID pandemic. We received a $24 billion default judgment recently.

But when that—when we filed that lawsuit, it was interesting, the reaction. You were called a racist if you implied any way that it leaked out of Wuhan, which was very obvious to most people.

And now the Intelligence Community, who, for some reason resisted that conclusion for such a long time, has basically said that's what happened.

What do you think as you were investigating this, what was behind that? What was behind this resistance to all the evidence and the obvious nature of the origins of COVID?

Mr. DAVIS. Thank you, Senator, for that question, and I appreciated speaking with you yesterday. That was great.

The report that I authored on the House Intelligence Committee about the origins of COVID unfortunately is still classified. So, I can't really get into the specifics of what it found.

We did do an unclassified summary, which, just given the nature of the underlying information, was unfortunately not terribly revelatory.

I would note that when then-President Biden instructed the Intelligence Community to do a sort of comprehensive review on the COVID origins, the subsequent report they put out and the declassified version of it, there were serious flaws with. And I think those flaws you've seen, you've mentioned that individual components have changed their public view.

But I do think that until there's more transparency about what was going on within those elements of the Intelligence Community, the people won't really know the full story, unfortunately.

Senator SCHMITT. Thank you. Well, it's also interesting that Fauci played a very significant role in this and maybe we'll be hearing from him in some Committee hearings sometime soon, too. Thank you, Mr. Chairman.

Senator SCHMITT [presiding]. Okay. So, Mr. Eisenberg, Mr. Shumate, Mr. Davis, thank you for your testimony today, and to your family and friends who've made the visit. We thank you as well. It's a momentous day I know in your lives, and we're excited about what's to come.

For everyone's information, written questions to Mr. Eisenberg and Mr. Shumate can be submitted for the record until April 2nd at 5 p.m. Written questions to Mr. Davis can be submitted for the record until tomorrow, March 27th, at 5 p.m.

I'll ask the nominees to answer and return the questions to the Committee as soon as possible so that we can quickly schedule your confirmation votes.

With that, this hearing is adjourned. Thank you.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

   Patrick David Davis

2. **Position**: State the position for which you have been nominated.

   Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice

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

   U.S. Department of Justice
   Office of Legal Policy
   950 Pennsylvania Avenue NW
   Washington DC, 20530

   Residence: Bethesda, Maryland

4. **Birthplace**: State date and place of birth.

   1979; Los Alamitos, CA

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

   Georgetown University Law Center, 2003 – 2006
   J.D. – 2006

   University of Nebraska-Lincoln, 1998 – 2003
   B.A. *with distinction* – 2003

   University of Nebraska's World Campus Program, Summer 2000
   No degree awarded

   University of Salford, Fall 2000
   No degree awarded

6. **Employment Record**: List in reverse chronological order all governmental agencies,

business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

February 2025 – Present
U.S. Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

January 2025 – February 2025
U.S. Department of Justice
Office of Legislative Affairs
950 Pennsylvania Avenue NW
Washington, DC 20530
Acting Assistant Attorney General

January 2023 – January 2025
American Petroleum Institute
200 Massachusetts Avenue NW
Washington, DC 20001
Senior Counsel

August 2021 – January 2023
U.S. House of Representatives
House Permanent Select Committee on Intelligence
Capitol Visitor Center HV-304
U.S. Capitol Building
Washington, DC 20515
Chief Investigative Counsel

August 2021 – August 2021
Empower Oversight Whistleblowers & Research
11166 Fairfax Boulevard
Suite 500
Fairfax, VA 22030
Vice President

December 2018 – January 2021
U.S. Department of Justice
Office of the Associate Attorney General
950 Pennsylvania Avenue NW
Washington, DC 20530

Deputy Associate Attorney General

April 2015 – December 2018
U.S. Senate
Committee on the Judiciary
224 Dirksen Office Building
Washington, DC 20510
Deputy Chief Investigative Counsel (August 2017 – December 2018)
Investigative Counsel (April 2015 – August 2017)

November 2008 – April 2015
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
Trial Attorney

September 2006 – July 2008
Spriggs & Hollingsworth LLP
1350 I Street NW
Washington, DC 20005
Associate Attorney

May 2005 – August 2005
Spriggs & Hollingworth LLP
1350 I Street NW
Washington, DC 20005
Summer Associate

May 2004 – August 2004
Georgetown University Law Center
600 New Jersey Avenue NW
Washington, DC 20001
Research Assistant

November 2003 – May 2004
Georgetown University Law Center
600 New Jersey Avenue NW
Washington, DC 20001
Work Study

June 2003 – August 2003
Kaplan Test Preparation
1821 K Street
Lincoln, NE 68508
LSAT Preparation Course Instructor

January 2002 – August 2003
Old Chicago Restaurant
2918 Pine Lake Road
Lincoln, NE 68516
Server

Uncompensated Affiliations:

September 2024 – Present
Our Lady of Victory Catholic School
4755 Whitehaven Parkway
Washington, DC 20007
School Advisory Board Member

May 2024 – Present
1000 Feet DC
310 6th Street SE
Washington, DC 20003
Board Member, Treasurer

January 2006 – April 2006
U.S. Department of Defense
Office of the Secretary of Defense
Office of the Deputy General Counsel for International Affairs
1000 Defense Pentagon
Washington, DC 20301
Legal Intern

May 2004 – August 2004
U.S. Department of Justice
Criminal Division, Asset Forfeiture/Money Laundering Section
International Programs Unit
1400 New York Avenue NW
Washington, DC 20530
Legal Intern

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

   I have not served in the U.S. military. I have registered for selective service.

8. **Honors and Awards**: List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other

special recognition for outstanding service or achievement.

Leonine Fellow, The Leonine Forum, 2022 – 2023

Eurasia Congressional Fellow, The Atlantic Council, 2018

Penn-Kemble Fellow, National Endowment for Democracy, 2016 – 2017

Congressional Partnership Program Member, Partnership for a Secure America, 2016

Future Leaders Program, The Foreign Policy Initiative, 2015 – 2016

National Security Fellow, Foundation for Defense of Democracies, 2012 – 2013

American Enterprise Summer Institute - Young Professionals Program, American Enterprise Institute, 2010

Dean's List, Georgetown University Law Center, 2005 – 2006

Undergraduate Fellow, Foundation for Defense of Democracies, 2002 – 2003

Honors Program Member, University of Nebraska-Lincoln, 1998 – 2003

Dean's List, University of Nebraska-Lincoln, 1998 – 2003

Distinguished Scholar Award, University of Nebraska-Lincoln, 1998 – 1999

Alpha Learning Community, University of Nebraska-Lincoln, 1998 – 1999

National Merit Scholar, National Merit Scholarship Corporation, 1998

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

The Federalist Society for Law and Public Policy Studies
Member, 2005 – Present (intermittent lapses)

Republican National Lawyers Association
Member, 2006 – 2018 (intermittent lapses)

10. **Bar and Court Admission**:

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

Virginia, October 2006

District of Columbia, January 2008

Nebraska, May 2008

There have been no lapses in membership.

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

During my career at the U.S. Department of Justice, I appeared before the following court on behalf of the federal government under rules allowing special admissions of government attorneys:

U.S. District Court for the District of Columbia

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

The John Carroll Society
Member, 2022 – Present

Izaak Walton League of America – Bethesda/Chevy Chase Chapter
Member, 2020 – Present
Range Safety Officer, 2023 – 2024

Potomac Appalachian Trail Club
Member, 2019 – Present

The Federalist Society for Law and Public Policy Studies
Member, 2005 – Present (intermittent lapses)

The Nebraska Society of Washington, DC
Member, 2007 – 2022 (intermittent lapses)

Republican National Lawyers Association
Member, 2006 – 2018 (intermittent lapses)

The National Republican Club of Capitol Hill (Capitol Hill Club)
Member, 2012 – 2015

The Alexander Hamilton Society
Member, 2012 – 2013

b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

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

I have done my best to identify all books, articles, letters to the editor, editorial pieces and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Second Interim Report on the Origins of the COVID-19 Pandemic, Minority Staff Report, House Permanent Select Comm. on Intelligence, 2021. This report is classified at the TS/SCI level and is not attached.

Unclassified Summary of the Second Interim Report on the Origins of the COVID-19 Pandemic, Minority Staff Report, House Permanent Select Comm. on Intelligence, 2021. Copy supplied.

Human Fetal Tissue Research: Context and Controversy, Majority Staff Report, Senate Judiciary Comm. Print, 2016. Copy supplied.

Letter to the Editor, United States Should Wait No More, The Daily Nebraskan, Oct. 3, 2002. Copy supplied.

b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association,

committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Comments on Council for Environmental Quality's National Environmental Policy Act Implementing Regulations Revisions Phase 2, 88 Fed. Reg. 49,924, Docket No. CEQ-2023-0003, American Petroleum Institute, et al., Sept. 29, 2023. Copy supplied.

American Petroleum Institute's Comments on the Council for Environmental Quality's Notice of Interim Guidance on Consideration of Greenhouse Gas Emissions and Climate Change Under the National Environmental Policy Act, (88 Fed. Reg. 1196) (CEQ-2022-0005), American Petroleum Institute, Apr. 10, 2023. Copy supplied.

Memorandum to Senate Republicans: Senate Judiciary Committee Investigation of Numerous Allegations Against Justice Brett Kavanaugh During the Senate Confirmation Proceedings, Office of Chairman Grassley, Senate Judiciary Comm., Nov. 2, 2018. Copy supplied.

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

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

In March of 2024, I spoke at a public meeting of DC's Advisory Neighborhood Committee 3D. A transcript of the meeting is attached. That same month, I helped draft and signed a letter to Advisory Neighborhood Committee 3D. That letter is attached.

d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or

recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

April 18, 2024: Speaker, *On the Bureau of Land Management's Conservation and Landscape Health Rule* by the Center for Law and Policy, Houston, TX. I discussed the Bureau of Land Management. I have no notes, transcript, or recording. The address of the Center for Law and Policy is 1747 Pennsylvania Avenue NW, Suite 800, Washington, DC 20006.

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

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Luke Broadwater, *Whistle-Blower Groups Push to End Secret Seizure of Congressional Communications*, New York Times (Aug. 31, 2024). Copy supplied.

Bill Browder, *Freezing Order*, Simon & Schuster (2022). Copy supplied.

Lee Smith, *The Plot Against the President*, Hachette Book Group (2019). Copy supplied.

Kamahria Hopkins, *UNL Students Visit Israel for Look at Terrorism*, Omaha World-Herald (Sept. 2, 2002). Copy supplied.

During my time as Investigative Counsel and Deputy Chief Investigative Counsel for the Senate Judiciary Committee from 2015 to 2018, I regularly engaged with the Committee's Press Secretary in interacting with journalists inquiring about the Committee's investigations. I do not recall these interactions ever resulting in any articles in which I was quoted.

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

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

I have not run for public office.

I have held the following appointed positions at the U.S. Department of Justice:

Deputy Associate Attorney General, Office of the Associate Attorney General, 2018 – 2021.
I was appointed by Acting Attorney General Matthew Whitaker.

Acting Assistant Attorney General, Office of Legislative Affairs, January 2025 – February 2025.
I was appointed by Acting Attorney General James McHenry.

Deputy Assistant Attorney General, Office of Legal Policy, February 2025 – Present.
I was appointed by Attorney General Pamela Bondi.

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

I am a member of the Republican Party, and have volunteered on several campaigns, but have not held a formal position.

In December of 2024 and January of 2025, I served as a volunteer on the Trump-Vance Transition Team. I worked on the Department of Justice Landing Team.

In 2018, the National Republican Senatorial Committee (NRSC) deployed me to Indiana to assist with election-day operations. The NRSC reimbursed my travel and lodging expenses. I worked with Lake County Republican Commissioners in visiting polling locations.

In 2016, I was a volunteer on the Marco Rubio campaign during the presidential primaries. I drafted state delegate allocation briefs, as well as potential state and federal court motions relating to primary elections, none of which were actually filed, to the best of my knowledge.

In 2014, the National Republican Senatorial Committee (NRSC) deployed me to

New Hampshire to assist with election-day operations. The NRSC arranged and paid for my travel expenses. I worked with state Republican officials and visited polling locations.

In 2012, I served as a legal volunteer for the Romney campaign on election day in the so-called Virginia War Room, where I fielded phone calls regarding polling place issues. I also assisted with a ballot access review.

In 2012, during the presidential primaries, I volunteered with the Huntsman campaign in New Hampshire, phone-banking, canvassing, and other general volunteer activities.

In 2008, I volunteered on the McCain campaign, phone-banking and other general volunteer activities.

In 2004, I volunteered on the Bush campaign, phone-banking, general volunteer activities, and assisting at an inaugural ball.

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

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

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

I have not clerked for a judge.

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

I have not practiced alone.

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

September 2006 – July 2008
Spriggs & Hollingsworth LLP
1350 I Street NW
Washington, DC 20005
Associate Attorney

November 2008 – April 2015
U.S. Department of Justice
Federal Programs Branch, Civil Division
950 Pennsylvania Avenue NW

Washington, DC 20530
Trial Attorney

April 2015 – December 2018
U.S. Senate
Committee on the Judiciary
224 Dirksen Office Building
Washington, DC 20510
Deputy Chief Investigative Counsel (August 2017 – December 2018)
Investigative Counsel (April 2015 – August 2017)

December 2018 – January 2021
U.S. Department of Justice
Office of the Associate Attorney General
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Associate Attorney General

August 2021 – August 2021
Empower Oversight Whistleblowers & Research
11166 Fairfax Boulevard
Suite 500
Fairfax, VA 22030
Vice President

August 2021 – January 2023
U.S. House of Representatives
House Permanent Select Committee on Intelligence
Capitol Visitor Center HV-304
U.S. Capitol Building
Washington, DC 20515
Chief Investigative Counsel

January 2023 – January 2025
Senior Counsel
American Petroleum Institute
200 Massachusetts Avenue NW
Washington, DC 20001

January 2025 – February 2025
U.S. Department of Justice
Office of Legislative Affairs
950 Pennsylvania Avenue NW
Washington, DC 20530
Acting Assistant Attorney General

February 2025 – Present
U.S. Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

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

I have not served as a mediator or arbitrator.

b. Describe:

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

From 2006 to 2008, I was an associate attorney at Spriggs & Hollingsworth, where I worked as part of a team of attorneys on complex civil litigation involving corporate clients. I drafted motions and legal memoranda, assisted in deposition preparation, helped prepare expert witnesses for trial testimony, and conducted document review.

From 2008 to 2015, I was a trial attorney in the Federal Programs Branch of the Civil Division of the U.S. Department of Justice. I represented government agencies and government officials in federal civil litigation, serving as the lead attorney for the government in several cases. I served on the National Security Detainee Litigation Team, acting as the lead attorney for the government in several *habeas corpus* cases brought against it by Guantanamo detainees. I also litigated cases involving the Administrative Procedure Act, constitutional claims, and the Freedom of Information Act. I led teams of attorneys, developed factual records, interviewed witnesses, managed discovery, drafted briefs, and argued cases in the U.S. District Court for the District of Columbia.

From 2015 to 2018, I worked for the Senate Judiciary Committee, first as Investigative Counsel and then as Deputy Chief Investigative Counsel. I managed a team of investigative counsels and law-enforcement detailees in Congressional investigations. I drafted investigative plans, letters of inquiry, subpoenas, and proposed legislation. I conducted transcribed interviews, prepared hearings, negotiated with witnesses' counsel and agency liaisons. I drafted a staff report and managed the drafting of another.

From 2018 to 2021, I worked as Deputy Associate Attorney General in th

Office of the Associate Attorney General in the U.S. Department of Justice. On behalf of the Principal Deputy Associate Attorney General and Acting Associate Attorney General, I oversaw several Justice Department divisions. I oversaw litigation, reviewed proposed settlements to recommend approval or denial by leadership, and represented the Department at interagency meetings. I also served on the Congressional Oversight Task Force and the Religious Liberty Task Force.

From 2021 to 2023, I was the Chief Investigative Counsel on the Permanent Select Committee on Intelligence in the U.S. House of Representatives. I conducted oversight and investigations, drafted letters of inquiry, interviewed witnesses, reviewed whistleblower submissions, and prepared hearing materials. I liaised with other committees and executive branch agencies.

From 2023 to 2025, I was a Senior Counsel at the American Petroleum Institute. I retained and managed outside counsels. I edited and approved legal briefs in federal and state litigation. I oversaw the drafting, editing, and submission of comment letters to federal agencies regarding proposed regulations. I also drafted and analyzed proposed federal litigation.

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

From 2006 to 2008, I was an associate attorney at Spriggs & Hollingsworth and my clients were corporations in complex civil litigation.

From 2008 through 2015, my clients were typically government agencies in civil litigation where the legality of the agencies' actions was being challenged.

From 2015 through 2018, my client was the Senate Judiciary Committee.

From 2018 through 2021, my clients were again government agencies in civil litigation where the legality of the agencies' actions was being challenged.

From 2021 to 2023, my client was the Permanent Select Committee on Intelligence in the U.S. House of Representatives.

From 2023 to 2025, my client was the American Petroleum Institute, where I worked in-house as a Senior Attorney.

c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of

your appearances in court varied, describe such variance, providing dates.

Roughly 13 years of my career have involved litigation and litigation management. In my first several years at the Federal Programs Branch, I was often in court. I have not personally appeared in court since leaving the Federal Programs Branch in 2015, instead shifting to roles overseeing litigation. Roughly 5 years of my career have involved congressional investigations and oversight.

i. Indicate the percentage of your practice in:
   1. federal courts: 98%
   2. state courts of record: 2%
   3. other courts: __%
   4. administrative agencies: __%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 100%
   2. criminal proceedings: __%

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

I have tried five cases to final decisions, all on a team of attorneys.

i. What percentage of these trials were:
   1. jury: __%
   2. non-jury: 100%

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

I have not appeared before the Supreme Court of the United States.

15. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case

was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Mustafa Faraj Mohammad a.k.a. Abu Faraj Al-Libi v. Barack Obama et al.*, No. 09-cv-873 (D.D.C.) (Kollar-Kotelly, J.)

From around June of 2009 through April of 2015, I served as the lead attorney for the government in the Guantanamo Bay habeas case brought by Abu Faraj Al-Libi, a High-Value Detainee who was reportedly the third most senior leader of al Qaeda at the time of his capture, having replaced Khalid Sheik Mohammed. In this long-running case, I developed the factual record against the Petitioner and filed a classified Factual Return detailing the evidence of his lengthy and senior involvement in al Qaeda and his lawful detention by the United States pursuant to the Authorization for Use of Military Force. I also litigated matters including Petitioner's Counsel's access to classified evidence, and managed discovery to comply with extensive obligations to search for exculpatory evidence and to certify the government's compliance with those obligations. Much of this case remains classified and under seal. Rather than proceed to a merits hearing, the case has been stayed for several years, with the Petitioner's Counsel filing periodic status reports.

Co–Counsel for Respondents:
Terry Marcus Henry
Andrew I. Warden
Timothy B. Walthall
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 616-5084

Counsel for Petitioner:
Luke Parker Ihnen
Mary Margaret Kincaid
Dana Hansen Chavis
Stephen Michael Kissinger
Federal Defender Services of Eastern Tennessee
800 South Gay Street
Suite 2400
Knoxville, TN 37929
(865) 637-7999

Brett Garrett Sweitzer
Christi Charpentier

Mark Wilson
Shawn Nolan
Federal Community Defender, Eastern District of Pennsylvania
601 Walnut Street
Suite 545 West
Philadelphia, PA, 19107
(215) 928-1100

2. *Mohd Farik Bin Amin v. Barack Obama et al.*, No. 11-cv-923 (D.D.C.) (Kollar-Kotelly, J.)

From roughly August of 2011 to April of 2015, I served as the lead attorney for the government in the Guantanamo Bay habeas case brought by Mohd Farik Bin Amin, a High-Value Detainee who was a senior leader of al Qaeda-affiliate Jemaah Islamiyah. I developed the factual record against the Petitioner and filed a classified factual return explaining his extensive terrorist activities and the lawful nature of his detention by the Respondents pursuant to the Authorization for Use of Military Force. Pursuant to obligations regarding exculpatory information, I conducted extensive reviews and certified that Respondents produced such information, if any. Rather than proceed to a hearing on the merits, the case was stayed. I left the Federal Programs Branch in 2015. While this habeas case was stayed, the Petitioner was separately charged by the Office of Military Commissions in 2023 for his involvement in the 2002 Bali bombing, among other terrorist activities. In December of 2024, the current government attorneys in the habeas case informed the court that the Petitioner had been transferred to Malaysia. The case nonetheless remains stayed.

Co-Counsel for Respondents:
Timothy Walthall
Terry Marcus Henry
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 616-5084

Counsel for Petitioner:
Joshua W. Denbeaux
Denbeaux & Denbeaux
372 Kinderkamack Road
Westwood, NJ 07675
(201) 664-8855

Mark Denbeaux
Seton Hall University School of Law
Newark, NJ 07101

(973) 642-8822

3. *Mohammed al-Adahi, et al. v. Barack Obama, et al.*, No. 05-cv-0280 (D.D.C.) (Kessler, J.)

This litigation involved the consolidated petitions for writs of habeas corpus from multiple detainees at Guantanamo Bay. From January of 2009 through April of 2015, I was the lead attorney for the government for the case of Petitioner Suleiman Awadh bin Agil al-Nahdi. I managed exculpatory obligations, drafted a classified motion for judgment on the record, and argued the case in a two-day merits hearing. The court ruled in favor of the Respondents, finding that Petitioner was lawfully detained pursuant the Authorization for Use of Military force as the Respondents had demonstrated by a preponderance of the evidence that Petitioner traveled to Afghanistan after hearing a fatwa calling upon him to fight alongside the Taliban; stayed in al Qaeda guesthouses; received military training at al Qaeda's Al Farouq camp; and traveled to Tora Bora where we was a guard under the command of al Qaeda.

Co-Counsel for Respondents:
John Hunter Bennett
Terry Marcus Henry
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-4107

Counsel for Petitioner:
Gregory Stuart Smith
Law Offices of Gregory S. Smith
913 East Capitol Street SE
Washington, DC 20003
(202) 460-3381

Richard G. Murphy, Jr.
Sutherland Asbill & Brennan LLP
700 Sixth Street NW
Suite 700
Washington, DC 20001
(202) 383-0635

Brian C. Spahn
Godfrey & Khan, SC
833 East Michigan Street
Suite 1800
Milwaukee, WI 53202

(414) 273-3500

Sara J. Toering
Sutherland Asbill & Brennan LLP
999 Peachtree Street, NE
Atlanta, GA 30309
(404) 853-8000

4. *Yasin Muhammed Basardh v. George Walker Bush, et al.*, No. 5-cv-889 (D.D.C.) (Huvelle, J.)

From January of 2009 through April of 2015, I was the lead attorney for the government in the Guantanamo Habeas case of Yasin Basardh, whom the government alleged was lawfully detained under the Authorization for Use of Military Force. Petitioner filed a motion for summary judgment. In addition to other filings, I drafted and filed Respondents' opposition to the motion and argued the case in a motion hearing held under seal. The court granted Petitioner's motion for judgment, granted his petition for writ of habeas corpus, and ordered Respondents to take all necessary and appropriate diplomatic steps to facilitate the release of the Petitioner. I drafted and submitted subsequent filings under seal.

Co-Counsel for Respondents:
Daniel Mark Barish
Terry Marcus Henry
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 305-8970

Counsel for Petitioner:
Stephen R. Sady
Steven T. Wax
Federal Public Defender for the District of Oregon
101 SW Main Street
Portland, OR 97204
(503) 326-2123

5. *Abdurrahman Abdallah Ali Mahmoud al Shubati v. Barack Obama, et al.*, No. 7-cv-2338 (D.D.C.) (Kennedy, J.)

From January of 2009 to March of 2010, I was on a team of Justice Department attorneys representing Respondents in this Guantanamo habeas case. I filed a variety of motions, notices, and status reports, some of which were classified or under seal. The case was jointly stayed by the parties and never went to a merits hearing. There was later additional litigation in which I was not involved. In

2015, Respondents filed a notice that the Petitioner had been transferred to Oman.

Co-Counsels for Respondents:
Paul Cirino
Kathryn Mason
Robert J. Prince
Terry Marcus Henry
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 305-7919

Counsel for Petitioner:
Brent Nelson Rushforth
1112 Cripplegate Road
Potomac, MD 20854
(301) 943-7977

Nicole Travers
Loeb & Loeb, LLP
901 New York Avenue, NW
Suite 300 E
Washington, DC 20001
(202) 618-5030

6. *Achraf Salim Abdessalam v. George Walker Bush, et al.*, No. 1:06-cv-1761 (D.D.C.) (Huvelle, J.)

From January of 2009 to October of 2011, I was on a team of Justice Department attorneys representing Respondents in this Guantanamo habeas case. I filed a variety of motions, notices, and status reports, some of which were classified or under seal. The case was stayed, Petitioner was eventually transferred, and he voluntarily dismissed the case.

Co-Counsel for Respondents:
Paul Ahern
Daniel Barish
Terry Marcus Henry
U.S. Department of Justice
Civil Division, Federal Programs Branch
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 616-5084

Counsel for Petitioner:

Patricia A. Bronte
Bronte Law LLC
915 W. Gunnison Street
Chicago, IL, 60640
(312) 388-7890

Thomas Sullivan
Jenner & Block
353 N. Clark Street
Chicago, IL 60654
(312) 923-2928

7. *Jihad Dhiab v. Barack Obama, et al.*, No. 05-cv-1457 (D.D.C.) (Kessler, J)

The Petitioner in this Guantanamo habeas case had been cleared for release by the Respondents' Guantanamo Review Task Force in 2009. Still untransferred in 2013, Petitioner began a hunger strike. The Respondents' medical personnel subsequently began enterally feeding Petitioner to preserve his life and health. In 2014, Petitioner's counsel filed a series of motions for temporary restraining orders, preliminary injunctions, and related discovery seeking to end the Respondents' enteral feeding of him. I was part of a team of Justice Department attorneys assigned to work on these issues over the course of several months. I assisted in drafting several related filings. I participated in a two-day hearing on the matter in October of 2014, cross-examining Petitioner's expert witness. In November of 2014, the court ruled in Respondents' favor, denying the Petitioner's motion for a preliminary injunction. In December of 2014, Respondents filed a notice with the court stating that the Petitioner had been transferred to Uruguay.

Co-Counsel for Respondents:
Andrew I. Warden
Ronald J. Wiltsie
Timothy B. Walthall
Federal Programs Branch, Civil Division
U.S. Department of Justice
Washington, DC 20530
(202) 616-5084

Counsel for Petitioner:
Alka Pradhan
Military Commissions Defense Organization
1620 Defense Pentagon
Washington, DC 20301
(703) 588-0446

8. *Judicial Watch v. U.S. Department of Homeland Security*, No. 12-cv-02014

(D.D.C.) (Rothstein, J.)

From around December of 2012 through June of 2014, I was the lead counsel for the Department of Homeland Security in this Freedom of Information Act lawsuit brought by Plaintiff seeking a variety of records pertaining to September 11th hijacker Mohamed Atta. I worked with the Department of Homeland Security to help create a witness declaration. I drafted and filed a motion for summary judgment. The court ruled in Defendant's favor, granting my motion.

Counsel for Plaintiff:
Michael Bekesha
Ramona Raula Cotca
Paul J. Orfanedes
Judicial Watch
425 Third Street, SW
Suite 800
Washington, DC 20024
(202) 646-5172

9. *Scenic America, Inc. v. U.S. Department of Transportation, et al.*, No. 13-cv-00093 (D.D.C.) (Boasberg, J.)

From approximately March 2013 through April of 2015, I was the lead attorney for the government defendants in this case in which an organization brought suit alleging the Federal Highway Administration had violated the Administrative Procedure Act and the Highway Beautification Act of 1965 when it issued guidance concerning digital billboards and lighting standards. A trade association joined as intervenor defendant. I drafted and filed a motion to dismiss, which the court denied. I managed the production of the administrative record. I also drafted a motion for summary judgment. The court granted Defendants' motion for summary judgment. On appeal, the DC Circuit affirmed in part, vacated and remanded in part. The Supreme Court denied cert. I was not involved in the case beyond the trial level.

Counsel for Plaintiff:
Thomas M. Gremillion
Institute for Public Representation
600 New Jersey Avenue NW
Suite 312
Washington, DC 20001
(202) 662-9549

Co-Counsel for Defendants
Daniel Stephen Garrett Schwei
U.S. Department of Justice
Civil Division, Federal Programs Branch

950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 305-8693

Counsel for Intervenor Defendant
Kannon K. Shanmugan
Paul, Weiss, Rifkind, Wharton & Garrison LLP
2001 K Street NW
Washington, DC 20006
(202) 223-7300

10. *National Veterans Legal Services Program et al. v. U.S. Department of Defense, et al.*, No. 1:14-cv-01915 (D.D.C.) (Mehta, J.)

From approximately November of 2014 through April of 2015, I was the lead attorney for the government defendants in this case, in which two veterans services organizations and two veterans filed suit against the Army Board of Corrections of Military Records alleging the Board's actions in relation to applications by the two veterans violated the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment. I drafted and filed a motion to dismiss, which the court granted. In later developments in the case after I had left the Department of Justice, the parties requested the court amend the order to dismiss, to clarify that it dismissed the case without prejudice.

Plaintiff's Counsel:
Catherine L. Chapple
John A. Trocki III
Morrison & Foerster LLP
1650 Tysons Boulevard
Suite 400
McLean, VA 22102
(703) 760-7700

Stacey M. Sprenkel
Yonatan Braude
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7000

Richard James Vacura
Morrison & Foerster LLP
2100 L Street NW
Suite 900
Washington, DC 20037

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

    As a trial attorney in the Federal Programs Branch at the Department of Justice, the most significant legal activities I pursued involved representing the government in several *habeas corpus* cases brought against it by detainees at Guantanamo Bay. I was the lead attorney for several of these cases, including ones brought by so-called "High-Value Detainees," i.e., detainees who the government believes were in the leadership of al Qaeda or affiliated terrorist forces. I developed factual records, interviewed witnesses, managed discovery, drafted briefs, and argued the cases in the U.S. District Court for the District of Columbia. Some of the Guantanamo cases did not proceed to a merits hearing.

    As Investigative Counsel and Deputy Chief Investigative Counsel in the Senate Judiciary Committee, I led the Committee's investigation of "Russiagate," drafting letters of inquiry, reviewing responsive records, conducting transcribed interviews of several witnesses, and helping organize hearings.

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

    I have not taught courses at any academic institutions.

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

    I have no arrangements in the future to be compensated for any financial or business interest.

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

    None.

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

    Please see my OGE-278 as provided by the Office of Government Ethics.

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

    See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

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

    My wife, Kathryn Davis, is a judge on the Court of Federal Claims. During the nomination process, I consulted with the Department of Justice's ethics office and Designated Ethics Officer to identify any potential conflicts stemming from this relationship. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

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

    If I am confirmed, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official. If confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

    Approximately 80% of my legal career has been devoted exclusively to public service. I have also undertaken various volunteer roles, including serving on the School Advisory

Board of Our Lady of Victory Catholic School, serving on the board of a non-profit organization devoted to keeping drugs away from schools, and volunteering with the Izaak Walton League of America.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		14	208	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		209	287	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		432	341
Real estate owned – see schedule	1	012	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		93	624				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan #1		844	098				
Thrift Savings Plan #2		711	477				
				Total Liabilities			
				Net Worth	2	451	299
Total Assets	2	884	694	Total Liabilities and Net Worth	2	884	694
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
Maryland College Investment Plan #1, T. Rowe Price Portfolio 2033	$65,078
Maryland College Investment Plan #2, T. Rowe Price Portfolio 2033	$42,827
API 401K Defined Contribution Plan, T. Rowe Price Retirement 2045 Trust	$101,382
Total Listed Securities	$ 209,287
Real Estate Owned	
Personal Residence	$1,012,000
Total Real Estate Owned	$1,012,000
Real Estate Mortgages Payable	
Personal Residence – Mortgage	$432,341
Total Real Estate Mortgages Payable	$432,341

AFFIDAVIT

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

Feb. 26, 2025
(DATE)

Pat D. D.
(NAME)

Patricia Ann Payne
(NOTARY)

District of Columbia
Signed and sworn to (or affirmed) before me
on 2/26/2025 by Patrick D. Davis
Date / Name(s) of Individual(s) making Statement
Patricia A. Payne
Signature of Notarial Officer
Financial Services Rep.
Title of Office
My commission expires: 8/14/2027

PATRICIA ANN PAYNE NOTARY PUBLIC DISTRICT OF COLUMBIA MY COMMISSION EXPIRES 8/14/2027

Questions for the Record
Chairman Charles E. Grassley of Iowa
The Nomination of the Honorable Patrick David Davis
to be Assistant Attorney General for the Office of Legislative Affairs
March 26, 2025

Last Congress, I sent 144 oversight letters to the Biden-Harris DOJ and its component agencies that they failed to answer or fully respond to. During Attorney General Bondi's nomination hearing, I presented her with a binder of these letters and asked if she would commit to responding to my oversight requests, as well as the requests of other Members on the Committee. AG Bondi responded that she, or her top staff, would personally review those 144 letters and do everything they can to respond.

1. If confirmed as Assistant Attorney General for the Office of Legislative Affairs, will you commit to providing timely and complete responses to letters and fulfilling document requests from both parties?

   RESPONSE: If confirmed, I commit to working to ensure that the Department provides timely and substantive responses to oversight requests from both the majority and minority members of the Committee, consistent with any applicable constitutional, statutory, and regulatory limits on what information the Department should disclose. Section 1-8.210 of the Justice Manual instructs the Department to use its "best efforts" to respond to Congressional inquiries and expressly states: "[b]ecause it is important that the Department provide timely responses to congressional inquiries when possible, components should make it a priority to assist OLA in this regard." If confirmed, I intend to take action as appropriate to foster Departmental compliance with Section 1-8.210.

2. If confirmed as Assistant Attorney General for the Office of Legislative Affairs, will you commit to responding to and scheduling briefing requests in a timely manner?

   RESPONSE: Yes.

3. Will you work with Congress to ensure the briefings are not held at an inappropriate classification level?

   RESPONSE: Yes. I believe it is improper to hold briefings at classification levels that are inconsistent with the classification of the information being shared.

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Patrick Davis
Nominee to be Assistant Attorney General for the Office of Legislative Affairs
March 27, 2025

1. During my four years as Chair of this Committee, I worked diligently to ensure the Justice Department improved its responsiveness to Committee oversight requests from Democrats and Republicans alike.

   Senator Whitehouse and I asked the Government Accountability Office (GAO) to analyze and audit the Department's practices and procedures for responding to congressional inquiries, and we pushed the Justice Department to implement all three of GAO's recommendations.

   I convened a bipartisan meeting between Judiciary Committee members and Attorney General Garland to discuss the Justice Department's lack of responsiveness to Committee members' oversight requests. My staff worked directly with then-Ranking Member Grassley to ensure the Administration was answering his outstanding oversight requests. When Senator Graham became Ranking Member, I continued to push the Department to answer all Committee oversight requests.

   Do you agree that the Justice Department has a responsibility to respond to oversight requests from all members of the Judiciary Committee, including members of the minority?

   RESPONSE: Yes.

2. To date, I have sent seven letters to the Justice Department since January 20, 2025. Notably, the Committee received responses from the Justice Department to at least six letters from Chairman Grassley the night before your hearing, including one letter that was only sent last Friday. Will you urge the Department to immediately provide complete responses to the following letters (copies of which I am attaching)?

   a. **Letter to Acting FBI Director Brian Driscoll, Secretary of State Marco Rubio, Secretary of Defense Pete Hegseth, and Acting Treasury Secretary David Lebryk, dated January 27, 2025;**

   b. **Letter to Acting Attorney General James R. McHenry III, dated January 29, 2025;**

   c. **Letter to Acting Attorney General James R. McHenry III and Acting FBI Director Brian Driscoll, dated February 3, 2025;**

   d. **Letter to Attorney General Pamela Bondi and Acting Deputy Attorney General Emil Bove, dated February 14, 2025;**

e. Letter to Attorney General Pamela Bondi and Acting Deputy Attorney General Emil Bove, dated February 20, 2025;

f. Letter to Attorney General Pamela Bondi, dated March 3, 2025; and

g. Letter to Attorney General Pamela Bondi, dated March 26, 2025.

RESPONSE: If confirmed, I will work to ensure the Department provides substantive responses to these letters as quickly as possible.

3. Should you be confirmed, you will have an obligation to ensure that the Department of Justice and its components, including the FBI, respond to congressional inquiries in a timely manner.

a. Do you understand that this obligation applies regardless of party affiliation?

RESPONSE: If confirmed, I commit to working to ensure that the Department provides timely and substantive responses to oversight requests from both the majority and minority members of the Committee, consistent with any applicable constitutional, statutory, and regulatory limits on what information the Department should disclose. Section 1-8.210 of the Justice Manual instructs the Department to use its "best efforts" to respond to Congressional inquiries and expressly states: "[b]ecause it is important that the Department provide timely responses to congressional inquiries when possible, components should make it a priority to assist OLA in this regard." If confirmed, I intend to take action as appropriate to foster Departmental compliance with Section 1-8.210.

b. Will you commit to providing timely responses to congressional inquiries even if the President takes a position that is contrary to the law or not in the interests of the United States?

RESPONSE: Please see my response to question 3.a above.

4. If confirmed, what will your top priorities be for the Office of Legislative Affairs?

RESPONSE: If confirmed, my top priorities for the Office will be to improve the relationship with Congress by providing timely and substantive responses to oversight letters; working with Congress to advance legislation to benefit the American people; facilitating the nominations process for Department of Justice nominees; and improving the relationship with state and local officials on matters of common concern. 28 C.F.R. § 0.27 assigns the Assistant Attorney General for the Office of Legislative Affairs several functions, and I would work to successfully perform all those duties.

5. How will you handle a circumstance in which you encounter a disagreement or conflict in approaches with Department leadership?

   RESPONSE: In any disagreement within the Department, I would provide leadership my best legal advice about how to proceed and would follow the chain of command regarding any decisions made. In all circumstances, I would uphold my oath to support and defend the Constitution and will follow the law and applicable professional ethics rules.

6. In your opinion, what is a reasonable timeframe for the Department of Justice to respond to inquiries?

   RESPONSE: While the reasonable length of time to respond to any particular letter will likely depend on the scope and volume of information sought, in general I believe responses to members of the Committee should ideally be a matter of days or weeks, not months.

7. Please provide a detailed description of your involvement in responding to congressional inquiries since returning to the Department of Justice in January 2025.

   RESPONSE: I served as the Acting Assistant Attorney General for the Office of Legislative Affairs from Inauguration Day until shortly after the Department announced the President's intent to nominate me for this position, at which point I moved to the Office of Legal Policy in order to ensure compliance with the Vacancies Act. Since I left the Office of Legislative Affairs, career attorneys have been managing it. During the weeks when I was the Acting Assistant Attorney General, career attorneys within the Office sent me response letters drafted by them or by other career attorneys in Department components for approval. I reviewed the draft letters, approving some for transmittal without edits, sometimes making edits or suggesting the attorneys obtain and include additional responsive information. I would then approve the revised versions once received. Where appropriate, I discussed the Department's responses with relevant Department personnel.

Nomination of Patrick David Davis
To be Assistant Attorney General for the Office of Legislative Affairs
United States Department of Justice
Questions for the Record
Submitted March 27, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. Will you respond to oversight requests submitted by members of the minority party in a timely and responsive manner?

   RESPONSE: If confirmed, I commit to working to ensure that the Department provides timely and substantive responses to oversight requests from both the majority and minority members of the Committee, consistent with any applicable constitutional, statutory, and regulatory limits on what information the Department should disclose. Section 1-8.210 of the Justice Manual instructs the Department to use its "best efforts" to respond to Congressional inquiries and expressly states: "[b]ecause it is important that the Department provide timely responses to congressional inquiries when possible, components should make it a priority to assist OLA in this regard." If confirmed, I intend to take action as appropriate to foster Departmental compliance with Section 1-8.210.

2. Under what circumstances, if any, would it be appropriate to withhold requested information from Congress when no executive privilege has been asserted?

   RESPONSE: I have not yet fully evaluated the Department's policies setting forth its understanding of the full range constitutional, statutory, and regulatory limits on what it should properly disclose to Congress. If confirmed, I intend to study these materials closely, as well as applicable case law, and consult with relevant Department personnel if I believe the policies are legally inadequate and require modification.

3. Under what circumstances, if any, would it be appropriate for DOJ to take longer than six months to respond to an oversight request?

   RESPONSE: I do not believe the Department should take more than six months to respond to oversight requests from members of the Committee under any circumstances.

4. The first Trump administration subpoenaed communications of congressional staffers, including yours. You said at the time that such surveillance is a "violation" of "the separation of powers."

   a. Do you stand by that statement?

   RESPONSE: My quote in the *New York Times* last year was: "It felt like a violation, not simply on a personal level, but more importantly of the separation of powers

given the nature of our oversight work[.]" I stand by that statement. While I believe that it is important to investigate leaks of classified information, and I believe that neither Congressmen nor Congressional staffers are above the law, surveillance of Congressional oversight attorneys raises serious issues regarding the separation of powers, attorney-client privilege, and whistleblower protections. Procedural protections are necessary to ensure that investigations are not used pretextually to spy on the Department's Congressional overseers, particularly in circumstances like mine, where I was in the process of uncovering the Department's misconduct in its handling of the Crossfire Hurricane investigation.

b. Does it matter what party the staffers are?

REPSONSE: It does not.

5. Was the U.S. Capitol attacked by a violent mob on January 6, 2021? Were violent rioters who were convicted of criminal activity on January 6 political prisoners?

RESPONSE: Some individuals among the many thousands who demonstrated on January 6, 2021, reportedly engaged in acts of property destruction and violence. In *Fischer v. United States*, the Supreme Court ruled that the Justice Department improperly sought to rely on 18 U.S.C. §1512(c)(2) to imprison individuals involved in the events of January 6, 2021. The Attorney General has since convened a Weaponization Working Group to examine "[t]he pursuit of improper investigative tactics and unethical prosecutions" relating to the events of January 6, 2021.

6. Did Joe Biden win the 2020 presidential election?

RESPONSE: Joe Biden was certified the winner of the 2020 election and served as our 46th President.

Senate Judiciary Committee
Hearing on the Nomination of Patrick Davis to be
Assistant Attorney General for the Office of Legislative Affairs
March 26, 2025
Questions for the Record
Senator Amy Klobuchar

1. If confirmed, will you commit to ensuring that the Justice Department provides timely and complete responses to oversight requests and requests for technical assistance from all members of the committee?

   RESPONSE: If confirmed, I commit to working to ensure that the Department provides timely and substantive responses to oversight requests and requests for technical assistance from both the majority and minority members of the Committee, consistent with any applicable constitutional, statutory, and regulatory limits on what information the Department should disclose. Section 1-8.210 of the Justice Manual instructs the Department to use its "best efforts" to respond to Congressional inquiries and expressly states: "[b]ecause it is important that the Department provide timely responses to congressional inquiries when possible, components should make it a priority to assist OLA in this regard." If confirmed, I intend to take action as appropriate to foster Departmental compliance with Section 1-8.210.

2. I am leading efforts, with Senator John Cornyn on the *SHIELD Act* and with Senator Ted Cruz on the *TAKE IT DOWN Act*, which together would prohibit the nonconsensual online distribution of actual and deepfake explicit and intimate images, and will give the Justice Department the tools they need to hold perpetrators accountable.

   - Both the *SHIELD Act* and *TAKE IT DOWN Act* passed the Senate last year unanimously, and *TAKE IT DOWN Act* again passed the Senate this February. Will you commit to working with me to get these bills signed into law?

     RESPONSE: If confirmed, I welcome the opportunity to work with you on these important issues. As a nominee, I cannot commit the Department to endorsing particular pending legislation.

3. Ensuring that our law enforcement officials have the resources needed to do their work has long been a priority of mine. That is why I have long championed support for the COPS Hiring Program through the *COPS Reauthorization Act* with Senator Murkowski. Just last year, 235 law enforcement agencies used the COPS Hiring Program to hire nearly 1,200 new officers.

   - Can I count on your help to reauthorize the COPS Hiring Program?

     RESPONSE: Please see my response to question 2 above.

4. Along with Chairman Grassley, I lead legislation that would set common sense guardrails on dominant platforms that use their power to tilt the playing field to favor themselves against smaller competitors and to the detriment of consumers.

   - Will you commit to ensuring the Department of Justice will work with me and Chairman Grassley on this vital antitrust reform?

     RESPONSE: Please see my response to question 2 above.

5. I lead a bipartisan bill to ensure that service related cancers are covered under the PSOB Program called the *Honoring Our Fallen Heroes* Act. The Justice Department provided us with technical assistance in drafting the bill.

   - Will you ensure the Department of Justice works with me to ensure that first responders who pass away or become totally and permanently disabled as a result of service related cancers get the PSOB benefits they deserve?

     RESPONSE: While I am not currently familiar with the PSOB Program, if confirmed I will consult with appropriate Department personnel and ensure the Department is working with you to ensure that first-responders are receiving the benefits they are legally entitled under the Program.

6. In addition to cracking down on the flow of fentanyl through our border, I believe we need to focus our attention on the online sale of this deadly drug. Recently, the DEA found that one-third of drug cases had direct ties to social media.

   I've worked to advance a bipartisan bill led by Senators Roger Marshall and Jeanne Shaheen, and Rep. Angie Craig in the House to require social media companies to report fentanyl and other dangerous drug sales on their platforms to the DEA.

   - Will you commit to working with us to help get the bill signed into law?

     RESPONSE: Please see my response to question 2 above.

Nomination of Patrick David Davis to be Assistant Attorney General
Office of Legislative Affairs
Questions for the Record
Submitted March 27, 2025

QUESTIONS FROM SENATOR COONS

1. If President Trump asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no.

   RESPONSE: I respectfully reject the premise of the question. If confirmed, I will always uphold my oath to support and defend the Constitution and will follow the law and applicable professional ethics rules.

   a. If you would not resign, what would you do?

   RESPONSE: Please see my response to question 1.

2. How would you respond if your role at the DOJ required you to pursue a policy directive that was unconstitutional?

   RESPONSE: Please see my response to question 1.

3. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

   RESPONSE: While I have not had occasion to study this issue in depth, I believe the remedy available would depend on the nature of any violation. Some violations may have remedies in court, others through impeachment, and others through the electoral process.

4. As a Department of Justice lawyer, when is it appropriate to refuse to follow a directive from the President?

   RESPONSE: Lawyers in the Department of Justice should always uphold their oath to support and defend the Constitution, and act in accordance with applicable laws, regulations, and Department policies.

5. In January and February 2025, you served as the Acting Assistant Attorney General for the Officer of Legislative Affairs, which means you were responsible for responding to oversight letters sent by Congress to the DOJ. During this time, there were at least four

letters sent by myself and all of my Democratic colleagues on the Judiciary Committee to the DOJ. None of these letters have been responded to.

a. Why has the Office of Legislative Affairs failed to respond to these letters?

RESPONSE: I was the Acting Assistant Attorney General for the Office of Legislative Affairs from Inauguration Day until shortly after my nomination was announced, at which time I moved to the Office of Legal Policy to ensure compliance with the Vacancies Act. Since then, the Office of Legislative Affairs has been led by career Department attorneys. While I do not specifically know why the Department has not responded to these letters yet, I do believe the attorneys in the Office of Legislative Affairs have been working diligently to respond to letters, assist with proposed legislation, and help with the nominations process for multiple nominees.

b. Do you commit to responding to these letters, should you be confirmed?

RESPONSE: Yes.

6. Should you be confirmed, do you pledge to respond to oversight requests from the Democratic members of the Senate Judiciary Committee?

RESPONSE: Yes.

a. What do you think is an appropriate timeline for responses to our oversight requests?

RESPONSE: While the reasonable length of time to respond to any particular letter will likely depend on the scope and volume of information sought, in general I believe responses to members of the Committee should ideally be a matter of days or weeks, not months.

7. When is it appropriate for the DOJ to decide not to defend a federal law?

RESPONSE: While I have not had occasion to study this issue in depth, my understanding is that 28 U.S.C. § 530D applies to situations in which the Department decides not to defend unconstitutional laws. I understand that the Office of Legislative Affairs transmits 530D letters to Congress on behalf the Department but does not typically write them.

8. Do you agree that the DOJ has an independent obligation to evaluate the legality of the President's policy proposals?

   RESPONSE: I have not studied this issue in detail. If confirmed, I would consult with relevant Department personnel and work to ensure the Office of Legislative Affairs is fulfilling all applicable legal obligations. It is my understanding that the Office of Legal Counsel typically reviews all executive orders and substantive proclamations issued by the President for form and legality.

9. What is your understanding of the DOJ's contact policy regarding interactions between the DOJ and White House officials?

   RESPONSE: As I understand it, the Department's policy regarding interactions with the White House is set forth in Section 1-8.600 of the Justice Manual, which memorializes a memo issued by then-Attorney General Garland on the subject.

10. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute a political opponent?

    RESPONSE: All investigative, prosecutorial, and litigation decisions by the Department should be based on the facts and applicable law.

11. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute an individual or corporation where that action was not justified by the facts and the law?

    RESPONSE: Please see my response to question 10 above.

12. In a memo to all DOJ employees, Attorney General Pam Bondi, stated that Department attorneys who refuse to advance arguments "deprive[] the President of the benefit of ***his*** lawyers." I want you to focus on the part of this statement that references Department attorneys as President Trump's lawyers.

    a. Do you agree with this characterization of Department attorneys by Attorney General Bondi?

       RESPONSE: During my years as a career trial attorney in the Department's Federal Programs Branch, I regularly handled cases in which the President, at the time President Obama, was a named party. I entered my appearance as the

President's attorney and litigated on his behalf. In other cases, the named parties the Department represents include executive branch agencies, and the President is the head of the executive branch. Accordingly, I agree with the Attorney General: Department attorneys regularly represent the President of the United States in his official, not personal, capacity. For all attorneys in the federal government, the client is ultimately the American people.

b. Do you consider the Assistant Attorney General for the Office of Legislative Affairs to be "the President's lawyer"?

RESPONSE: As noted by then-Attorney General Garland in Justice Manual Section 1-8.600, "[a]s a department within the Executive Branch, the Justice Department appropriately works to advance the Administration's policies[.]" In light of this and the role of the Office, the Assistant Attorney General for the Office of Legislative Affairs may be considered the President's lawyer, but once again ultimately serves the American people.

c. Who does the Office of Legislative Affairs work for?

RESPONSE: As noted above, ultimately, the Office of Legislative Affairs works for the American people. The Office directly reports to the Deputy Attorney General, and pursuant to 28 C.F.R. § 0.27, the Office is to perform duties assigned to it by the Attorney General, the Deputy Attorney General, or the Associate Attorney General. The Department is an executive branch agency and the President is the head of the executive branch.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nominations Hearing | March 26, 2025
Questions for the Record for Patrick David Davis

1. As head of the Office of Legislative Affairs, you will be responsible for responding to Congressional oversight requests. Chair Grassley has stressed the importance of this for years, across administrations. As a former member of Chair Grassley's oversight team, I am sure you value this Committee's oversight role and understand its need for timely responses to its questions.

   a. **How do you plan to improve the timeliness of the Office of Legislative Affairs' responses to this Committee?**

      RESPONSE: As I currently understand it, the Department's processes for drafting and clearing response letters often involve several steps. If confirmed, I intend to find and examine data regarding the length of time letters spend in each step to determine where delays are occurring. Once any bottlenecks are identified, I intend to consult with the relevant Department officials to determine what appropriate corrections can be made. Section 1-8.210 of the Justice Manual instructs the Department to use its "best efforts" to respond to Congressional inquiries and expressly states: "[b]ecause it is important that the Department provide timely responses to congressional inquiries when possible, components should make it a priority to assist OLA in this regard." If confirmed, I intend to take action as appropriate to foster Departmental compliance with Section 1-8.210.

   b. **How do you plan to improve the thoroughness of the Office of Legislative Affairs' responses to this Committee?**

      RESPONSE: If confirmed, I intend to undertake a review of the Department's positions on the constitutional, statutory, regulatory, and policy limitations on what information it should properly share with Congress, and I intend to direct the staff of the Office of Legislative Affairs to be as transparent and substantively responsive as possible while respecting the applicable limits.

   c. **What do you think is the reasonable length of time to respond to an oversight letter from a member of this Committee?**

      RESPONSE: While the reasonable length of time to respond to any particular letter will likely depend on the scope and volume of information sought, in general I believe responses to members of the Committee should ideally be a matter of days or weeks, not months.

   d. **Will you respond to all letters from both Democratic and Republican members of this Committee on the same timeline and without preference as to party affiliation?**

RESPONSE: If confirmed, I am committed to pursuing timely responses to letters from all members of the Committee.

March 24, 2025

The Honorable Charles E. Grassley, Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard J. Durbin, Ranking Member
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Patrick D. Davis to be an Assistant Attorney General

Dear Chairman Grassley and Ranking Member Durbin:

We write to express our strong support for the nomination of Patrick D. Davis to be Assistant Attorney General, Office of Legislative Affairs. Each of us are or were colleagues of Mr. Davis during his time at the Senate Judiciary Committee or the House Permanent Select Committee on Intelligence. We have first-hand experience regarding his intellect, judgment, temperament, and character. While we have a range of political views, we are united in our support of Mr. Davis's nomination.

Mr. Davis has led high-profile, contentious, and complex Congressional oversight and investigations in both the House and Senate with the utmost professionalism. His work ethic, abilities, and commitment to public service are exemplary. Throughout his time on Capitol Hill, he consistently demonstrated sharp intellect, skilled legal analysis, and excellent judgment. In our experience, his professional demeanor has always been amiable, collegial, and fair-minded—with a commitment to public integrity and the truth.

Mr. Davis's substantial experience makes him exceptionally well-suited to be Assistant Attorney General for the Office of Legislative Affairs. We are confident he will be an asset to the Justice Department and to Members of the House and Senate.

We strongly support his nomination and urge his swift confirmation by the Senate.

Sincerely,

Michael Calcagni
Former Deputy Staff Director
U.S. House Permanent Select Committee on Intelligence

Aaron Cummings
Former Chief of Staff
U.S. Senator Chuck Grassley

Ryan Dattilo
Former Chief Counsel for Antitrust & Bankruptcy
U.S. Senate Committee on the Judiciary

*Signers are acting in their personal capacities

Mike Davis
Former Chief Counsel for Nominations
U.S. Senate Committee on the Judiciary

Richard DiZinno
Former Chief Counsel for National Security and Crime
U.S. Senate Judiciary Committee
Former Associate Deputy Attorney General
U.S. Department of Justice

Jon Estridge
Former Professional Staff Member
U.S. Senate Select Committee on Intelligence

Jason Foster
Former Chief Investigative Counsel
U.S. Senate Committee on the Judiciary
Founder and Chair
Empower Oversight Whistleblowers and Research

Robert Foster
Senior Oversight Counsel
U.S. Senate HELP Committee
Deputy General Counsel
U.S. Department of Health and Human Services

Taylor Foy
Former Director of Communications
U.S. Senate Judiciary Committee

Scott L. Glabe
Former Staff Director
U.S. House Permanent Select Committee on Intelligence

George Hartmann
Former Deputy Communications Director
U.S. Senate Committee on the Judiciary

Jill A. Kozeny
Former Chief of Staff
U.S. Senator Chuck Grassley

Ted Lehman
Principal
Todd Strategy Group

Beth Pellett Levine
Former Communications Director
U.S. Senate Committee on the Judiciary

Kyle T. McCollum
Former Senior Counsel
U.S. Senate Committee on the Judiciary

Jacob B. Neilson
Former Staff Assistant
U.S. Senate Committee on the Judiciary

George Pappas
Former Staff Director
U.S. House Permanent Select Committee on Intelligence

Jeffrey Powell
ATF Assistant Special Agent in Charge (Retired)
Former ATF Congressional Fellow
U.S. Senate Committee on the Judiciary

DeLisa Ragsdale
Former Chief Investigative Counsel
U.S. Senate Committee on the Judiciary

Saleela Khanum Salahuddin
Former Counsel
U.S. Senate Committee on the Judiciary

Ephraim (Fry) Wernick
Partner, Vinson & Elkins LLP
Former Counsel
U.S. Senate Committee on the Judiciary
Former Assistant Chief
U.S. Department of Justice, Criminal Division, Fraud Section

Michael J. Zona
Former Communications Director
U.S. Senator Chuck Grassley
Partner, Bullpen Strategy Group

March 24, 2025

The Honorable Charles E. Grassley
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard J. Durbin
Ranking Member, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Patrick Davis to Assistant Attorney General for Legislative Affairs, U.S. Department of Justice

Dear Chairman Grassley and Ranking Member Durbin:

We write to express our strong support for the nomination of Patrick Davis to serve as the Assistant Attorney General for Legislative Affairs. Each of us is a former colleague of Mr. Davis during his time as a career attorney in the Federal Programs Branch at the Department of Justice. We have first-hand experience regarding his intellect, temperament, and character. While we have a range of respective political and jurisprudential views, we are united in our support of Mr. Davis's nomination.

Mr. Davis has handled high-profile litigation at the Justice Department across different presidential administrations. Throughout his numerous cases, he has consistently demonstrated his sharp intellect, skilled legal analysis, excellent judgment, and dedicated work ethic. Importantly, his professional demeanor has always been amiable, collegial, and fair.

Simply put, Mr. Davis's legal acumen, substantial experience, and integrity make him exceptionally well-suited to serve as an Assistant Attorney General. We strongly support his nomination and urge his swift confirmation by the Senate. We are confident he will be an asset to the Department we have all served.

Sincerely,

Jody Hunt
Mary Carney
Robert J. Prince
Nicole N. Murley

Eric Soskin
Julia A. Heiman
Paul Ahern
Lisa Zeidner Marcus
Richard H. Bowles
Elizabeth Shapiro
Scott Levin
Benjamin May

**the signatories who are government employees are acting in their personal capacities*

The Honorable Charles E. Grassley
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard J. Durbin
Ranking Member, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

Re: *Nomination of Patrick Davis as Assistant Attorney General (Office of Legislative Affairs)*

Dear Chairman Grassley and Ranking Member Durbin,

We write to express our strong support for the nomination of Patrick Davis to serve as the Assistant Attorney General for the Department of Justice, Office of Legislative Affairs. Each of us previously served with Mr. Davis at the Department of Justice or in other senior government roles. We have seen first-hand his professionalism, integrity, and legal acumen.

After excelling academically at the University of Nebraska, Mr. Davis attended Georgetown University Law Center and has practiced law for nearly twenty years. Most his career has been dedicated to public service – including seven years as a trial attorney in the Civil Division Federal Programs Branch, over five years as counsel to committees of the U.S. Senate and House of Representatives, as a trade association senior counsel, and over two years as Deputy Associate Attorney General, where most of us got to know and work with Mr. Davis. Mr. Davis was hard-working and consistently displayed outstanding judgment and skilled legal analysis.

We are confident Mr. Davis has the skills and experience to excel as Assistant Attorney General, and we thus enthusiastically support his confirmation.

Respectfully,

R. Trent McCotter
Deputy Associate Attorney General (2020-2021)

Jesse Panuccio
Acting Associate Attorney General and Principal Deputy Associate Attorney General (2017-2019)

Jeff Beelaert
Deputy Associate Attorney General (2020-2021)

John Coghlan
Deputy Assistant Attorney General (2020-2021)

Steven A. Engel
Assistant Attorney General, Office of Legal Counsel (2017-2021)

Douglas Rathbun
Trial Attorney, Assistant Chief, Counsel (2000 – 2021)

Jennifer B. Dickey
Principal Deputy Assistant Attorney General, Civil Division (2020-2021); Deputy Associate Attorney General (2019-2020)

Michael Murray
Associate Deputy Attorney General, Principal Deputy Assistant Attorney General and Deputy Assistant Attorney General (Antitrust Division) (2017-2021)

Christopher Bates
Senior Counsel to the Assistant Attorney General, Civil Division (2019-2021)

William R. Levi
Chief of Staff and Senior Counselor to the Attorney General (2020); Counselor to the Attorney General (2018-2019)

Corinne Snow
Chief of Staff to the Environment Division (2016-2019)

Brian Morrissey
Deputy General Counsel, U.S. Department of the Treasury (2019-2021)

Hashim Mooppan
Deputy Assistant Attorney General, Civil Appellate Staff (2017-2021)

Joshua Wu
Deputy Assistant Attorney General (2019-2021)

Brian H. Pandya
Deputy Associate Attorney General (2019-2021)

Dan Mauler
Trial Attorney - Federal Programs Branch (2018-2021)

Jonathan Brightbill
Environment & Natural Resources Division (2017-21)

Ryan Newman
Counselor to the U.S. Attorney General (2020-2021), Acting Assistant Attorney General for the Office of Legal Policy (2017)

Prerak Shah
Acting U.S. Attorney for NDTX (2021); First Assistant U.S. Attorney for NDTX (2020-21); Deputy Assistant Attorney General (2020); Deputy Associate Attorney General (2019-2020)

Laura Jenkins Plack
Counsel to the DAG (2019-2020); Associate Deputy Attorney General (2020-2021)

James Burnham
Senior Counsel (2017-2018), Deputy Assistant Attorney General (2018-2020), Counselor to the Attorney General (2020)

Christopher Grieco
Associate Deputy Attorney General (2019-21)

Jenn Mascott
Associate Deputy Attorney General (2020-2021); Deputy Assistant Attorney General, Office of Legal Counsel (2019-2021)

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

   John Andrew Eisenberg

2. **Position**: State the position for which you have been nominated.

   Assistant Attorney General, National Security Division, United States Department of Justice

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

   I do not have an office address.

   Residence: Alexandria, Virginia

4. **Birthplace**: State date and place of birth.

   February 1967; Boston, Massachusetts.

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

   Yale Law School, 1999 – 2001
   J.D. – June 2001

   University of Chicago Law School, 1998 – 1999
   No degree received

   University of California, Berkeley, 1993 (est.) – 1998
   PhD Program in Mathematics
   No degree received

   Stanford University, 1991 (est.) – 1993 (est.)
   No degree received

   Stanford University, 1987 – 1991
   Bachelor's Degree, Mathematics – June 1991

Occidental College, 1984 – 1987
No degree received

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

2017 – 2021
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500
Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council (2019 – 2021)
Deputy Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council (2017 – 2019)

2009 – 2017
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Suite 1301
Washington, DC 20004
Partner

2004 – 2009
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Associate Deputy Attorney General, Office of the Deputy Attorney General (2008 – 2009)
Deputy Assistant Attorney General, Office of Legal Counsel (2006 – 2008)
Counsel to the Assistant Attorney General, Office of Legal Counsel (2005 – 2006)
Special Assistant for Counterterrorism, Office of Legal Counsel (2004 – 2005)

2003 – 2004
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543
Law Clerk to the Honorable Clarence Thomas

2002 – 2003
United States Department of Justice
Office of Legal Counsel

950 Pennsylvania Avenue, NW
Washington, DC 20530
Special Assistant

2001 – June 2002
United States Court of Appeals for the Fourth Circuit
401 Courthouse Square
Alexandria, VA 22314
Law Clerk to the Honorable J. Michael Luttig

Fall 2000/Winter 2001 (est.)
Yale Law School
127 Wall Street
New Haven, CT 06511
Research Assistant to Professor Robert Ellickson

Summer 2000
Munger Tolles & Olson LLP
350 South Grand Avenue, 50th Floor
Los Angeles, CA 90071
Summer Associate

Summer 1999
Skadden, Arps, Slate, Meagher & Flom LLP
2000 Avenue of the Stars, Suite 200N
Los Angeles, CA 90067
Summer Associate

1994 (est.) – 1998 (est.)
University of California, Berkeley
Department of Mathematics
970 Evans Hall
Berkeley, CA 94720
Graduate Student Instructor

1996 (est.) – 1998 (est.)
University of California, Berkeley
Haas School of Business
2220 Piedmont Avenue
Berkeley, CA 94720
Research Assistant to Professor Thomas Marschak

1991 (est.) – 1993 (est.)
Stanford University
Department of Chemistry
333 Campus Drive
Stanford, CA 94305
Research Assistant to Professor Edward Solomon

Uncompensated Affiliations:

2021 – Present
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408
Representative

2011 (est.) – 2017
Oak Ridge National Laboratory's Global Security Directorate
Strategic Advisory Group
5200, 1 Bethel Valley Road
Oak Ridge, TN 37830
Member

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

   I have not served in the United States military. I have registered for selective service.

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

   National Intelligence Superior Service Medal (2021).

   Department of Defense Medal for Distinguished Public Service (2020).

   Assistant Attorney General Award for Special Initiative, National Security Division (December 2008).

   Attorney General's Award for Excellence in Furthering the Interests of U.S. National Security (2007).

   Intelligence Community Legal Award for Team of the Year, 2007 and 2008
   Yale Law Journal, Articles Editor (2000 – 2001).

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

Federalist Society for Law and Public Policy Studies
Member, 2021 (est.) – Present
Member International & National Security Practice Group Executive Committee, 2021 (est.) – Present
Student Member, 1998 (est.) – 2001 (est.)

Heritage Foundation National Security Law Working Group
Member, 2021 (est.) – Present

10. **Bar and Court Admission**:

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

California, June 2005.

District of Columbia, March 2010.

There have been no lapses in membership.

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

Northern District of Illinois, 2010 (est.).

Northern District of California, 2010 (est.).

To my knowledge, there have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Federalist Society for Law and Public Policy Studies

Member, 2021 (est.) – Present
Member, International & National Security Practice Group Executive Committee, 2021 (est.) – Present
Student Member, 1998 (est.) – 2001 (est.)

Heritage Foundation National Security Law Working Group
Member, 2021 (est.) – Present

b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

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

I have done my best to identify all books, articles, letters to the editor, editorial pieces and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Executive Order on Cybersecurity Begins Standard-Setting Process, Kirkland & Ellis LLP, Feb. 15, 2013. Copy supplied.

$42 Million Blackwater Settlement Demonstrates ITAR Enforcement on the Rise, Kirkland & Ellis LLP, Sept. 23, 2010. Copy supplied.

U.S. Sentencing Commission Proposes Changes Regarding Sentencing of Corporations, Kirkland & Ellis LLP, Feb. 16, 2010. Copy supplied.

U.S. Department of Justice Arrests 22 in Unprecedented FCPA Sting Operation, Kirkland & Ellis LLP, Jan. 22, 2010. Copy supplied.

United States Attorney General Pledges Unprecedented DOJ Focus on Financial Fraud, Kirkland & Ellis LLP, Jan. 12, 2010. Copy supplied.

Serious Fraud Office Brings Overseas Corruption Charges Against British Executive, Kirkland & Ellis LLP, Dec. 11, 2009. Copy supplied.

DOJ Vows to Scrutinize Pharmaceutical Companies under the FCPA, Kirkland & Ellis LLP, Nov. 16, 2009. Copy supplied.

The Fraud Enforcement and Recovery Act of 2009, Kirkland & Ellis LLP, May 29, 2009. Copy supplied.

Department of Justice Announces That Antitrust Division Will Begin More Aggressive Antitrust Enforcement Campaign, Kirkland & Ellis LLP, May 15, 2009. Copy supplied.

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

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Principles for Insurrection Act Reform, A.L. I., Apr. 5, 2024. Copy supplied.

Legal Authorities Supporting the Activities of the National Security Agency Described by the President, U.S. Dep't of Just., Jan. 19, 2006. Copy supplied.

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

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Department of Justice Authority to Represent the Secretary of Housing and Urban Development in Certain Potential Suits, 31 Op. O.L.C. 212 (Oct. 10, 2007). Copy supplied.

Modernization of the Foreign Intelligence Surveillance Act: Hearing on H.R.

5825 Before the Subcomm. on Crime, Terrorism, and Homeland Security of the H. Comm. on the Judiciary, 109TH CONG. (Sept. 12, 2006). Copy supplied.

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

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline. I did not retain the majority of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

Dec. 6, 2023: Panelist, *Reforming the Classification System: Challenges, Approaches, and Priorities*, Washington, DC. Recording available at: https://fedsoc.org/events/reforming-the-classification-system-challenges-approaches-and-priorities.

Sept. 5, 2023: Speaker, *2023 Annual Mike Lewis Memorial Teleforum: Big Data and the Law of War (Webinar)*, Washington, DC. Recording available at: https://fedsoc.org/events/2023-annual-mike-lewis-memorial-teleforum-big-data-and-the-law-of-war.

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

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Ex-Officials Urge Curbing Presidential Power to Deploy Troops on U.S. Soil, N.Y. TIMES (Apr. 8, 2024). Copy supplied.

Coca-Cola Must Face Ex-Employee's Identity Theft Suit, Judge Says, WESTLAW Intellectual Property Daily Briefing (Oct. 7, 2015). Copy supplied.

Trump Watch – Inside Man?, MSNBC Television Broadcast (Mar. 31, 2017). Recording available at: https://www.youtube.com/watch?v=NRGnbSvtnsg.

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

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

I have not run for public office.

I have held the following appointed positions at the United States Department of Justice:

Special Assistant for Counterterrorism, Office of Legal Counsel, 2004 – 2005.
I was appointed by Attorney General John Ashcroft.

Counsel to the Assistant Attorney General, Office of Legal Counsel, 2005 – 2006.
I was appointed by Attorney General Alberto R. Gonzales.

Deputy Assistant Attorney General, Office of Legal Counsel, 2006 – 2008.
I was appointed by Attorney General Alberto R. Gonzales.

Associate Deputy Attorney General, 2008 – 2009.
I was appointed by Attorney General Michael B. Mukasey.

I have held the following appointed positions at the White House:

Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council, 2019 – 2021.
I was appointed by President Trump.

Deputy Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council, 2017 – 2019.
I was appointed by President Trump.

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

I am a member of the Republican Party, but I have not held a position or played a formal role in a political campaign.

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

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

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

From 2001 to 2002, I served as a law clerk to the Honorable J. Michael Luttig, then of the United States Court of Appeals for the Fourth Circuit.

From 2003 to 2004, I served as a law clerk to the Honorable Clarence Thomas of the Supreme Court of the United States.

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

I have not practiced alone.

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

2002 – 2003
United States Department of Justice
Office of Legal Counsel
950 Pennsylvania Avenue, NW
Washington, DC 20530
Special Assistant

2004 – 2009
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Associate Deputy Attorney General (2008 – 2009)
Deputy Assistant Attorney General (2006 – 2008)
Counsel to the Assistant Attorney General (2005 – 2006)
Special Assistant for Counterterrorism (2004 – 2005)

2009 – 2017
Kirkland & Ellis LLP
1301 Pennsylvania Avenue, NW
Suite 1301

Washington, DC 20004
Partner

2017 – 2021
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500
Deputy Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council (2017 – 2019)
Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council (2019 – 2021)

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

I have not served as a mediator or arbitrator.

b. Describe:

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

As a law clerk, from 2001 to 2002, I helped prepare my judge for oral argument and assisted him in drafting opinions. At the Supreme Court, from 2003 to 2004, in addition to these responsibilities, I reviewed petitions for certiorari and provided advice about whether petitions should be granted.

Between my clerkships and again at the conclusion of my Supreme Court clerkship, I joined the United States Department of Justice, where I served from 2002 to 2003 and 2004 to 2009 in various capacities. My responsibilities centered on national security, including intelligence and counterterrorism issues. Both as a Deputy Assistant Attorney General in the Office of Legal Counsel and as an Associate Deputy Attorney General, I advised the Attorney General, the Deputy Attorney General, the Counsel to the President, the Legal Advisor to the National Security Council, the General Counsel of the Department of Defense, and various general counsels in the Intelligence Community on complicated national security matters. As an Associate Deputy Attorney General, I helped to oversee the national security functions of the Department of Justice, including litigation of various issues throughout the Nation and in the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review; the Department's role with respect to the Committee on

Foreign Investment in the United States; and designations under the International Emergency Economic Powers Act and similar authorities.

From 2009 to 2017, I was a partner at Kirkland & Ellis LLP. My practice initially focused on white collar criminal defense and internal investigations. I worked on cases in both trial and appellate courts, including drafting research memoranda, motions, and briefs. Towards the end of my time at Kirkland & Ellis, my practice shifted; I focused increasingly on cybersecurity and other data security issues as well as some national security work.

From 2017 to 2021, I served as the Legal Advisor to the National Security Council. In that capacity, I advised the President of the United States, senior members of the White House, and members of the National Security Council on national-security and foreign-relations law. In that role, I also worked on legal disputes between various components of the United States government involved in national security.

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

While associated with Kirkland & Ellis, from 2009 to 2017, I specialized in white collar criminal defense and internal investigations, advising corporate clients on their legal obligations. On account of my technical background, I also worked on litigation involving engineering, science, and mathematics.

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

I have litigated several matters in federal court. Because much of my private sector and government work has involved counseling rather than litigation, my court-related work has varied based on the nature of the matters I was overseeing at any given time.

i. Indicate the percentage of your practice in:
   1. federal courts: 100%
   2. state courts of record: %
   3. other courts: %
   4. administrative agencies: %

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 50%
   2. criminal proceedings: 50%

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

To my recollection, while in private practice, I was counsel in a matter tried to final verdict and counsel in another matter that resolved through a plea agreement. While in government, I was involved in litigation before various federal courts, the Foreign Intelligence Surveillance Court and Court of Review, particularly in matters involving the Terrorist Surveillance Program and reform of FISA.

i. What percentage of these trials were:
   1. jury: 0%
   2. non-jury: 100%

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

I have not litigated before the Supreme Court.

15. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

Although I worked on many litigation matters during my time in private practice and government service, I no longer have records of the matters upon which I worked. I have located the following based on a search of public records:

1. *In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010*, Case No. 2:10-md-02179-CJB-SS (E.D. La. Jan. 15, 2015) (Judge Barbier).

I represented BP in the quantification phase of the BP Deepwater Horizon oil spill

case and was one of the main lawyers responsible for the expert case. The case was highly technical and drew upon experts all over the world. The government argued that the best estimate of the total flow from the well over the life of the spill was five million barrels. The Court, however, adopted the reasoning put forward by one of BP's experts, Martin Blunt, and concluded that four million barrels had flowed from the well, substantially less than the number of barrels the government had claimed. This, in turn, significantly lowered BP's eventual fine under the Clean Water Act.

Co-Counsel:

Richard Godfrey
Quinn Emanuel
191 N. Wacker Drive
Suite 2700
Chicago, IL 60606
312-705-7400

Matthew T. Regan
Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
312-862-2431

Martin R. Boles
Kirkland & Ellis LLP
555 South Flower Street
Suite 3700
Los Angeles, CA 90071
213-680-8428

Counsel for Plaintiff:

John C. Cruden
Beveridge & Diamond
1900 N Street, NW
Washington, DC 20036

Steven O'Rourke
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Sarah D. Himmelhoch
Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

2. *United States v. BP Exploration & Production, Inc.*, case 2:12-cr-00292-SSV-DEK (E.D. La. Jan. 29, 2013) (Judge Vance).

I worked extensively on various criminal and securities claims by the United States against BP arising out of the Deepwater Horizon accident. My work focused on the government's claims that BP had mislead the public regarding the amount of oil that flowed from the well during the spill. Those claims were resolved by guilty plea. Pursuant to the agreement, BP agreed to pay the United States $4 billion in criminal fines and penalties. BP also agreed to a $525 million penalty to settle Securities and Exchange Commission charges of securities fraud for alleged violations of Sections 10(b) and 13(a) of the Securities Exchange Act of 1934 and Rules 10b-5, 12b-20, and 13a-16.

Co-Counsel:

Mark Filip
Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
(312) 862-2192

John Lausch
Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
(312) 862-0505

Joel S. Green
WilmerHale
2100 Pennsylvania Avenue, NW
Washington, DC 20037
202-663-6936

Counsel for the United States:

Derek A. Cohen
Baker Botts
700 K Street, NW
Washington, DC 20001
(202) 639-7704

Avi Gesser
Debevoise & Plimpton
66 Hudson Boulevard

New York, NY 10001
(212) 909-6577

3. *In re Directives to Yahoo! Inc. Pursuant to Section 105B of the Foreign Intel. Surveillance Act*, No. 08-01, 551 F.3d 1004; 2008 WL 10632524, (Foreign Intel. Surv. Ct. of Review Aug. 22, 2008) (Chief Judge Bruce M. Selya, Winter, Arnold.)

I represented the United States in this challenge to certain amendments made to the Foreign Intelligence Surveillance Act of 1978 (FISA), known as the Protect America Act of 2007 (PAA). The amendments authorized the government to direct Yahoo! to assist the government in acquiring foreign intelligence when those acquisitions targeted third persons (such as the service provider's customers) reasonably believed to be located outside the United States.

Yahoo! challenged the legality of the directives before the Foreign Intelligence Surveillance Court (FISC). The FISC held the directives to be lawful and compelled Yahoo! to provide the assistance to the government. Yahoo! petitioned for review before the Foreign Intelligence Surveillance Act Court of Review (Court of Review). The Court of Review held that Yahoo!'s petition presented constitutionally significant matters of first impression, requiring that court to weigh the nation's security interests against the Fourth Amendment privacy interests of United States persons. The three-judge panel of the Court of Review affirmed the FISC's ruling, holding that the directives were lawful and that Yahoo! had to comply with them.

Co-Counsel:

Gregory G. Garre
Latham & Watkins LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004
(202) 637-2207

Michael B. Mukasey
Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
(212) 909-6589

Mark Filip
Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
(312) 862-2192

Counsel for Plaintiff:

Marc J. Zwillinger
ZwillGen PLLC
1900 M Street, NW
Suite 250
Washington, DC 20036
(202) 296-3585

4. *United States v. Huang*, 3:10CR00579, (N.D. Cal. 2010) (Judge Susan Illston).

I represented Wen-Hung "Amigo" Huang in this criminal case. Huang was the sales director at Chi Mei Optoelectronics Corporation ("Chi Mei"), a company based in Taiwan. Chi Mei manufactured thin-film transistor liquid crystal display panels ("TFT-LCD"). The United States alleged that from September 2001 until December 2006, Huang and at least five co-conspirators within his company and from other companies engaged in price fixing of TFT-LCDs in the United States and elsewhere in violation of Section One of the Sherman Antitrust Act. Under the United States Sentencing Guidelines, Huang's appropriate range of sentence was from 51 to 63 months in prison, one year of supervised release, restitution, and a maximum fine of $1 million. Based upon Huang's substantial cooperation and the over $200 million in civil penalties the United States sought in related antitrust litigation, I negotiated an agreed-upon sentence of 270 days in prison, no supervised release, no restitution, and a $25,000 fine. In August 2010, Huang pleaded guilty and the court imposed the agreed upon sentence.

Counsel for the United States:

Naill E. Lynch
Latham & Watkins LLP
505 Montgomery Street
Suite 2000
San Francisco, CA 94117
(415) 395-8162

Heather S. Tewksbury
Cleary Gottlieb
650 California Street
San Francisco, CA 94108
(415) 796-4480

5. *City of Livonia Employees' Ret. Sys. v. Boeing Co.*, No. 09 C 7143, 2010 WL 2169491, Fed. Sec. L. Rep. P 95,751 (N.D. Ill. May 26, 2010); 2010 WL

2836361 (N.D. Ill. Jun. 22, 2010) (Judge Suzanne B. Conlon).

I represented The Boeing Company and several of its executives in a putative class action securities fraud case brought by the City of Livonia Employees' Retirement System under sections 10(b) and 20(a) of the Securities Exchange Act of 1934 and Rule 10b–5. The plaintiffs alleged defendants intentionally deceived investors about the test and delivery schedule for defendants' new 787 Dreamliner airplane. On May 26, 2010, the District Court granted defendants' Motion to Dismiss, holding that the amended complaint had failed to allege material misstatements or omissions about the 787's flight and delivery schedule with the intent to deceive investors. The District Court dismissed the complaint without prejudice and subsequently allowed the plaintiffs to file a second amended class action complaint.

Co-Counsel:

Mark Filip
Kirkland & Ellis LLP
333 West Wolf Point Plaza
Chicago, IL 60654
(312) 862-2192

Counsel for Plaintiffs:

Thomas E. Egler Partner
Robbins Geller Rudman & Dowd LLP
655 West Broadway
Suite 1900
San Diego, CA 92101
(619) 231-1058

Marvin Alan Miller
Miller Law LLC
53 W. Jackson Boulevard
Suite 1320
Chicago, IL 60604
(312) 332-3400

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

I have worked extensively on many areas of national security law during my time in government. This work has ranged from opining on the legality of important classified government programs and proposed actions taken to protect against specific threats to the national security. The details of most of this work remain classified. Broadly, I have formulated and helped to put into place enduring structures through which the government can undertake a range of activities, including mechanisms to approve cyber operations. In the private sector, I helped companies better protect their information and systems from attack and mistakes.

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

    As a graduate student instructor at the University of California, Berkely, I taught sections of differential and integral calculus, linear algebra, and algorithms. I do not have the syllabi for those courses.

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

    I have no arrangements in the future to be compensated for any financial or business interest.

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

    None.

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

    Please see my OGE-278 as provided by the Office of Government Ethics.

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

    See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

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

    If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

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

    If I am confirmed, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I will enter into with the Department's designated agency ethics official. If confirmed, I will consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

    During my time both in private practice and the government, mentoring junior attorneys formally and informally has been very important to me. I have sought to include them to the greatest practical degree in all aspects of the practice of law. In addition, I have supported colleagues across the nation with their work, including by being available to moot them pro bono ahead of important cases before various federal courts.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		90	395	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	5	442	724	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		579	107
Real estate owned – see schedule	3	441	300	Chattel mortgages and other liens payable		58	736
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property	1	000	000	Tuition #1		23	211
Cash value-life insurance		135	542	Tuition #2		49	689
Other assets itemize:							
Certificate of Deposit		81	906				
DinnyMP LLC (wife 1/3 interest)		378	500				
529 Plan #1		151	245	Total Liabilities		710	745
				Net Worth	10	010	867
Total Assets	10	721	612	Total Liabilities and Net Worth	10	721	612
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
BLACKROCK FDS SHRT OBL INSTL	$19,579.28
DREYFUS GOVT CASH MNGT WEALTH	$7,540.76
INVESCO EXCHANGE TRADED FD T S&P500 EQL WGT	$32,034.66
ISHARES TR 20 YR TR BD ETF	$30,376.06
VANGUARD BD INDEX FDS SHORT TRM BOND	$26,195.01
VANGUARD BD INDEX FDS TOTAL BND MRKT	$67,769.10
VANGUARD FTSE DEVELOPED MARKET ETF	$64,345.83
VANGUARD INDEX FDS LARGE CAP ETF	$99,018.00
VANGUARD INDEX FDS MID CAP ETF	$34,290.00
VANGUARD INDEX FDS REAL ESTATE ETF	$12,880.00
VANGUARD INDEX FDS SMALL CP ETF	$22,925.76
VANGUARD INTL EQUITY INDEX F FTSE EMR MKT ETF	$21,108.78
BLACKROCK FDS SHRT OBL INSTL	$2,476.23
DREYFUS GOVT CASH MNGT WEALTH	$326.82
INVESCO EXCHANGE TRADED FD T S&P500 EQL WGT	$4,139.31
ISHARES TR 20 YR TR BD ETF	$3,864.41
VANGUARD BD INDEX FDS SHORT TRM BOND	$3,342.39
VANGUARD BD INDEX FDS TOTAL BND MRKT	$8,598.66
VANGUARD FTSE DEVELOPED MARKET ETF	$8,497.54
VANGUARD INDEX FDS LARGE CAP ETF	$12,377.25
VANGUARD INDEX FDS MID CAP ETF	$4,590.00
VANGUARD INDEX FDS REAL ESTATE ETF	$1,656.00
VANGUARD INDEX FDS SMALL CP ETF	$2,865.72
VANGUARD INTL EQUITY INDEX F FTSE EMR MKT ETF	$2,832.78
BLACKROCK FDS SHRT OBL INSTL	$7,956.07
DREYFUS GOVT CASH MNGT WEALTH	$4,287.04
INVESCO EXCHANGE TRADED FD T S&P500 EQL WGT	$23,576.07
ISHARES TR 20 YR TR BD ETF	$13,300.76
VANGUARD BD INDEX FDS SHORT TRM BOND	$10,726.74
VANGUARD BD INDEX FDS TOTAL BND MRKT	$29,512.35
VANGUARD FTSE DEVELOPED MARKET ETF	$46,275.76
VANGUARD INDEX FDS LARGE CAP ETF	$71,513.00
VANGUARD INDEX FDS MID CAP ETF	$23,760.00
VANGUARD INDEX FDS REAL ESTATE ETF	$7,912.00
VANGUARD INDEX FDS SMALL CP ETF	$15,283.84
VANGUARD INTL EQUITY INDEX F FTSE EMR MKT ETF	$14,255.28
1ST FINL BK USA DAKOTA DUNES SOUTH DAKOTA CTF	$223,498.71
DREYFUS GOVT CASH MNGT WEALTH	$3,678.20
FIRST BK OF GREENWICH COS COB CONN CTF DEP	$101,564.56
VIRGINIA 529 PRODUCT 2030	$153,271.84
THRIFT SAVINGS PLAN C FUND	$650,747.51
THRIFT SAVINGS PLAN I FUND	$68,718.26

VANGUARD SHORT-TERM BOND IDX I	$103,509.89
DODGE & COX INCOME I	$132,734.35
VANGUARD INSTITUTIONAL INDEX INSTL PI	$709,032.32
VANGUARD GROWTH INDEX INSTITUTIONAL	$828,710.70
T. ROWE PRICE MID-CAP GROWTH I	$1,462,786.48
VANGUARD VALUE INDEX I	$50,048.61
VANGUARD SMALL CAP INDEX I	$6,386.37
AMERICAN FUNDS EUROPACIFIC GROWTH R6	$20,805.93
VANGUARD CASH RSRV FEDERAL MNYMKTADMIRAL	$27,716.69
JPMCB SMART RET PB 2035 CF	$112,506.68
FIDELITY CONTRAFUND COMMINGLED PI1	$25,017.54
Total Listed Securities	$5,442,723.90

Real Estate Owned	
Personal Residence	$1,397,000.00
Rental Property	$2,044,300.00
Total Real Estate Owned	$3,441,300.00

Real Estate Mortgages Payable	
Personal Residence – Mortgage	$579,107.64
Total Real Estate Mortgages Payable	$579,107.64

AFFIDAVIT

I, John A. Eisenberg, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

2/24/25
(DATE)

(NAME)

PARIS AYNE'A FELLS
NOTARY PUBLIC
Commonwealth of Virginia
Registration No. 8112072
My Commission Expires Sept. 30, 2028

(NOTARY)

County/City of Alexandria
Commonwealth of Virginia
The foregoing was acknowledged
before me this 24th February 2025
by John A. Eisenberg
(name of person making statement)
Notary Public
My commission expires 09/30/2028

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
March 26, 2025

QUESTIONS FROM CHAIRMAN CHARLES GRASSLEY OF IOWA

The Foreign Agents Registration Act (FARA) requires those who lobby or influence public policy on behalf of foreign governments and interests to register their affiliations and activities with Department of Justice (DOJ). FARA has not been comprehensively updated since 1966. Since 2015, I've investigated potential FARA violations to ensure that DOJ enforces the statute equally. In 2017, as Chairman of the Senate Judiciary Committee, I held the first ever FARA oversight hearing. I've also introduced the Foreign Agents Transparency Act and the Foreign Agents Disclosure and Registration Enhancement Act across multiple Congresses. In the 118th Congress, I sent letters to DOJ requesting information on FARA enforcement and compliance for China Iron and Steel, Chinese Students and Scholars Associations, and National Students for Justice in Palestine.

Throughout my FARA oversight, I've made clear about its important role in bringing transparency and accountability to foreign influence. I've also made clear that FARA must be used without political weaponization.

1. If confirmed, what will you do to ensure FARA isn't politically weaponized yet aggressively enforced at the same time?

RESPONSE: If confirmed, I will continue the implementation of the Attorney General's February 5, 2025 memorandum, which provides:

> To free resources to address more pressing priorities, and end risks of further weaponization and abuses of prosecutorial discretion, the Foreign Influence Task Force shall be disbanded. Recourse to criminal charges under the Foreign Agents Registration Act (FARA) and 18 U.S.C. § 951 shall be limited to instances of alleged conduct similar to more traditional espionage by foreign government actors. With respect to FARA and § 951, the Counterintelligence and Export Control Section, including the FARA Unit, shall focus on civil enforcement, regulatory initiatives, and public guidance.

2. If confirmed, will you commit to working with my staff on the various legislative proposals I've introduced across multiple Congresses?

RESPONSE: Yes.

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
April 2, 2025

QUESTIONS FROM RANKING MEMBER DURBIN

1. Since the beginning of the Trump Administration, every senior career official in the National Security Division (NSD) has been removed from their position, including the head of NSD's office of intelligence and the head of its office of law and policy. Those latter removals took place shortly after you rejoined the Justice Department in late February as a Senior Counselor in the Office of the Attorney General.

   a. **What role have you played in discussions regarding the removal or reassignment of senior career NSD officials?**

      RESPONSE: I played no role.

   b. **Are you aware of any ongoing efforts to remove or reassign additional career civil servants in NSD?**

      RESPONSE: I am not in NSD and am not aware of such efforts.

   c. **Given the unprecedented removal of career senior staff in NSD, how do you intend to ensure there is needed expertise and effective management in NSD?**

      RESPONSE: If confirmed, I will work to ensure that NSD has the appropriate resources needed, including hiring experienced staff.

   d. **Recognizing the importance of public trust in national security operations, what steps will you take to enhance transparency and accountability within the NSD?**

      RESPONSE: I plan to be as transparent and forthcoming as I can be within the bounds of the law and given the nature of the work.

   e. **How do you plan to prioritize resources across cyber threats, foreign malign influence, violent domestic extremism, and insider threats?**

      RESPONSE: If I am confirmed, I will discuss proposed resource allocation with NSD personnel and with the Deputy Attorney General and Attorney General.

   f. **How will you ensure that DOJ's national security tools are used in a politically neutral way?**

RESPONSE: The Department's investigative and prosecutorial decisions should be based on the facts, the applicable law and policies, the admissible evidence, and the Principles of Federal Prosecution (Justice Manual §9-27.000).

2. Shortly after Attorney General Bondi was confirmed by the Senate, she implemented major changes to NSD that weaken its ability to protect our nation from malign foreign influences. For example, in a February 5 memo, the Attorney General disbanded the Corporate Enforcement Unit and announced limits on criminal investigations and prosecutions under the Foreign Agents Registration Act (FARA).

   a. **Please describe your involvement in the Attorney General's directive to limit FARA criminal investigations and prosecutions.**

      RESPONSE: I respectfully reject your premise that the changes made by the Attorney General weakened NSD's ability to protect our nation from malign foreign influence. With that said, I was not involved in that change.

   b. **Who else was involved in formulating the Attorney General's directive to limit FARA criminal investigations and prosecutions? If this includes any individuals outside of the federal government, please include them.**

      RESPONSE: Please see my response to Question 2a.

   c. **With the disbanding of NSD's Corporate Enforcement Unit, will NSD still be responsible for cases that fall under its mandate? If not, which division of the Justice Department will handle any pending or new cases?**

      RESPONSE: Since I am not currently in NSD, I do not know.

   d. **Please describe your involvement in the decision to disband the Corporate Enforcement Unit.**

      RESPONSE: Please see my response to Question 2a.

   e. **Who else was involved in the decision to disband the Corporate Enforcement Unit? If this includes any individuals outside of the federal government, please include them.**

      RESPONSE: Please see my response to Question 2a.

3. Attorney General Bondi also disbanded the Kleptocracy Asset Recovery Initiative, KleptoCapture Task Force, and Foreign Influence Task Force.

   a. **Please describe your involvement in the decision to disband these task forces.**

      RESPONSE: Please see my response to Question 2a.

b. Who else was involved in the decision to disband these task forces? If this includes any individuals outside of the federal government, please include them.

RESPONSE: Please see my response to Question 2a.

c. With the disbanding of the Kleptocracy Asset Recovery Initiative, KleptoCapture Task Force, and Foreign Influence Task Force, will NSD become responsible for any pending cases that fell within their individual mandates? If not, which division of the Justice Department will handle those pending cases?

RESPONSE: Please see my response to Question 2c.

d. Given Russia's long history of interfering with the United States through cyber operations, espionage, and other means, how do you plan to prioritize addressing these threats despite the loss of critical resources that formerly tackled these issues?

RESPONSE: I respectfully reject your premise that the changes made by the Attorney General weakened NSD's ability to protect our nation from malign foreign influence. With that said, I plan to utilize all resources at my disposal and work with other Department components to safeguard the American people from foreign threats.

4. On March 18, Attorney General Bondi released a statement that claimed, "The swarm of violent attacks on Tesla property is nothing short of domestic terrorism."

a. What percentage of NSD staff are working on Tesla-related crimes?

RESPONSE: I am not currently working in NSD and do not know.

b. What percentage of NSD staff are working on non-Tesla-related terrorism cases?

RESPONSE: Please see my response to Question 3a.

c. How has this reprioritization within NSD impacted its work on other cases related to homegrown violent extremists, domestic terrorists, and international terrorists?

RESPONSE: Please see my response to Question 3a.

5. According to a March 25 DOJ memo, the Trump Administration is considering a major restructuring of the Justice Department. The proposed restructuring of DOJ involves combining ATF and DEA, as well as moving a significant number of Main Justice staff to U.S. Attorney's Offices across the country.

a. How will this restructuring impact NSD's staffing levels, approval process, and role in national security cases?

RESPONSE: I am not currently working in NSD and am therefore unable to advise on the potential impacts of such a hypothetical restructuring.

The proposed reorganization of the Justice Department will make it difficult for NSD to ensure consistency in the interpretation and enforcement of national security law.

b. How will you ensure that U.S. Attorney's Offices apply national security law and pursue priorities in a consistent manner?

RESPONSE: I believe that NSD will continue to have the necessary resources to do such work.

6. On January 21, President Trump pardoned Ross Ulbricht, the founder of Silk Road.

a. Were you or NSD consulted prior to the pardoning of Ross Ulbricht?

RESPONSE: I was not consulted and, since I am currently not in NSD, I cannot speak to whether they were.

In January, Eun Young Choi—one of the senior prosecutors from NSD assigned to the case against Ulbricht—was reassigned to immigration enforcement.

b. Was any Trump campaign donor or any individual associated with the Trump campaign or DOJ leadership involved in the decision to reassign Eun Young Choi? If so, please identify these individuals.

RESPONSE: Please see my response to Question 1a.

c. What role, if any, did you have in Choi's reassignment?

RESPONSE: Please see my response to Question 1a.

7. In March 2017, you were identified as one of three White House officials involved in the handling of classified intelligence files that were inappropriately and secretly shared with Representative Devin Nunes, the then-Chairman of the House Intelligence Committee. The files, which showed that Trump campaign officials were swept up in U.S. surveillance of foreign nationals, were used to bolster President Trump's false accusations that the Obama Administration wiretapped phones at Trump Tower in 2016.

a. What was your involvement in the handling of classified intelligence files that were shared with Representative Nunes in 2017?

RESPONSE: I do not accept your assertion that I inappropriately and secretly shared files with Rep. Nunes. Beyond that, I cannot discuss information that may be subject to executive privilege.

b. Why did you share these files with Representative Nunes?

RESPONSE: Please see my answer to Question 7a.

c. When did you share these files with Representative Nunes?

RESPONSE: Please see my answer to Question 7a.

d. During our meeting, you told me that you also shared these files with then-House Intelligence Committee Ranking Member Adam Schiff. When did you share the files with Ranking Member Schiff compared to when you shared them with Representative Nunes?

RESPONSE: Without accepting your characterizations, public news reports indicate that then-Representative Schiff viewed intelligence at the White House in late March or early April 2017.

8. On January 19, 2021, President Trump appointed you as one of his seven representatives to the National Archives and Record Administration (NARA) "in all respects that pertain to the records of [his] Presidency." On August 12, 2022, John Solomon read a statement purportedly from President Trump's office claiming that President Trump "had a standing order…that documents removed from the Oval Office and taken to the residence were deemed to be declassified the moment he removed them." In 2023, President Trump was indicted by a grand jury with ultimately 40 felony counts related to mishandling classified documents post-presidency. Then a private citizen, President Trump publicly claimed that he declassified these documents, providing no proof of this assertion.

a. Did you play any role in the preparation of the August 12, 2022 statement made by John Solomon?

RESPONSE: No.

b. If not, were you and the other NARA representatives appointed by President Trump made aware of Solomon's statement before he made it on August 12, 2022?

RESPONSE: I was not. I cannot speak for others.

c. Is Solomon's statement true? Did President Trump issue a standing order declassifying documents removed from the Oval Office and taken to his residence?

RESPONSE: I have no basis to know.

d. How can you be trusted with classified and otherwise controlled government records as the Assistant Attorney General for the NSD in President Trump's second administration, when under your watch as his NARA representative President Trump egregiously mishandled classified and otherwise controlled government records and obstructed their recovery by NARA for over a year?

RESPONSE: . Without accepting your characterization of President Trump's actions, I believe my trustworthiness is clear. I have served in various national security roles throughout my career with access to the nation's most deeply guarded secrets. I have never been reprimanded or cited for mishandling classified information or controlled government records. I believe my record speaks for itself.

e. What policy changes would you support to improve compliance with the Presidential Records Act, Federal Records Act, and Freedom of Information Act, especially when national security matters are involved?

RESPONSE: I have not studied the issue closely and cannot comment.

9. In April 2024, you joined other former senior national security officials in a letter urging the Senate to adopt the Reforming Intelligence and Securing America Act and extend Section 702 of the Foreign Intelligence Surveillance Act (FISA). Section 702 has enabled warrantless access to Americans' data, and many members of Congress believe significant reforms of Section 702 are necessary.

a. Will you commit, if confirmed, to working with Congress on reforms that safeguard the Fourth Amendment rights of Americans when Section 702 is next before Congress for reauthorization?

RESPONSE: Yes, I will work with Congress on improving protections for Americans.

b. If confirmed, what will you do to improve the accuracy and candor of FISA applications submitted by NSD to the Foreign Intelligence Surveillance Court?

RESPONSE: Without agreeing with your insinuations regarding NSD, I will hold my staff to the highest standards of accuracy, ethics, and candor in all matters, including FISA applications.

c. Given the recent U.S. District Court for the Eastern District of New York decision in *United States v. Hasbajrami* that warrantless searches of the communications of Americans that have been swept up in surveillance under Section 702 of the Foreign Intelligence Surveillance Act violate the Fourth Amendment, please explain your position on whether a judicial warrant, with

appropriate exceptions for exigent and other special circumstances, should be required before searching such communications.

RESPONSE: Since I am not in NSD, I have not studied the latest district court opinions. If confirmed, I will continually review all pertinent case law and assess the implications for NSD's operations.

d. If you oppose such a requirement, what safeguards do you believe are sufficient for protecting Americans' privacy and Fourth Amendment rights?

RESPONSE: Please see my response to Question 9c.

10. The growth of machine learning technology and artificial intelligence (AI) capabilities have fundamentally changed commercial privacy and security issues. As foreign actors develop more sophisticated AI capabilities, the technology is changing the national security threat landscape.

a. How do you assess the threat posed by generative AI to national security, particularly in election disinformation, deepfakes, or identity spoofing?

RESPONSE: Such threats do exist.

b. Do you believe existing criminal statutes are sufficient to address AI-enabled cybercrime and other related national security threats?

RESPONSE: I commit to using current statutes to address such threats and to working with Congress and the Administration on improving current law to enhance such efforts.

c. What role should NSD play in advising other agencies or the White House on regulating or securing critical AI and other infrastructure systems?

RESPONSE: I believe NSD has an important role in advising various national security actors in the government on AI. If confirmed, I commit to working with the Administration to help counter the threats posed by AI.

d. In your view, what criteria should trigger a Committee on Foreign Investment in the United States review of a tech company acquisition, particularly in cases involving personal data or AI capabilities?

RESPONSE: I cannot address a hypothetical scenario without studying the specific facts and circumstances of the matter.

11. Recent cyber campaigns by Chinese state-backed actors have targeted critical infrastructure, including telecom and cloud systems.

a. What role should NSD play in deterring and responding to such attacks?

RESPONSE: If confirmed, I will enforce existing Federal law as appropriate to prevent and deter such attacks. And I will work to ensure that we are collecting the information needed to protect the nation through FISA and other authorities.

b. If confirmed, how would you approach evaluating the national security risks of Chinese-linked investments in American cloud, data, and biotech firms?

RESPONSE: If confirmed, I will consult with career staff at NSD and across the Department to make informed decisions.

12. State-sponsored cyberattacks are increasingly a cybersecurity threat to national security.

a. If confirmed, how will you coordinate with other agencies (like the Cybersecurity and Infrastructure Security Agency and National Security Agency) and the private sector to investigate and disrupt state-sponsored cyber operations?

RESPONSE: If confirmed, I will work with my interagency and industry partners to enforce existing Federal law as appropriate to prevent, disrupt, and deter such operations.

b. Do you support the public attribution of state-sponsored cyberattacks through criminal indictments, even when prosecution is unlikely? What benefits and risks to this approach do you see?

RESPONSE: I cannot address a hypothetical scenario without studying the specific facts and circumstances of the matter. In any such case, I commit to following all applicable laws and Department best practices, in consultation with the Attorney General, Deputy Attorney General, and ethics counsel.

c. If confirmed, will you advocate for greater declassification of cyber threat intelligence in criminal or civil actions to raise public awareness and deterrence?

RESPONSE: I generally support greater transparency and the need to be open with the public.

13. You have occasionally commented on the law of war, including at a September 2023 Federalist Society event.

a. What criteria do you believe must be met under domestic and international law before the United States may lawfully use military force abroad, including conducting lethal strikes?

RESPONSE: The use of military force is one of the most serious and consequential decisions any Administration can take. Deciding whether to do so depends heavily on the facts and circumstances present when a decision is called for.

b. Under what circumstances, if any, do you believe it would be lawful for a president to use military force without Congressional authorization?

RESPONSE: Please see my response to Question 13a. I believe that the Office of Legal Counsel has issued several public opinions on this question.

c. Do you believe that the executive branch, including the Federal Bureau of Investigation, can violate international law, including customary international law and treaties to which the United States is a party?

RESPONSE: I cannot address a hypothetical scenario without studying the specific facts and circumstances of the matter.

14. Last week, public reporting detailed a shocking security breach involving Defense Secretary Hegseth and other Cabinet officials over Signal, a commercial messaging app. During your hearing, I asked you whether this breach should be investigated by the Justice Department. You stated that you did not "know what the facts actually are" and "wouldn't want to opine on that until [you] knew what they were."

You also told Senator Schiff that you had not read the Signal chat and did not know of the surrounding circumstances, in part due to your preparation for your hearing.

More than a week has now passed since news of this security breach broke and your hearing took place.

a. Do you agree that the Department of Justice must thoroughly and impartially investigate this breach?

RESPONSE: As I testified before Congress, I have not carefully reviewed the article referenced in the question. I would need to have more detailed information and relevant facts to make an informed determination.

b. If criminal violations have occurred, do you agree that the Justice Department must fairly and impartially prosecute those responsible?

RESPONSE: Please see my response to Question 13a.

c. If confirmed to lead NSD, would you be comfortable with NSD officials using an unsecure commercial messaging app to share and discuss highly sensitive, classified, or controlled information?

RESPONSE: Classified information must be shared in a manner that is appropriate for the level of classification. If confirmed, I will ensure that NSD complies with all applicable laws and procedures on the sharing of classified information.

On March 31, I sent a letter with other Senators to Attorney General Bondi, urging her to appoint a Special Counsel to thoroughly and impartially investigate this security breach.

d. Do you agree that Attorney General Bondi should appoint a Special Counsel to thoroughly and impartially investigate this security breach?

RESPONSE: Please see my response to Question 13a.

On April 1, additional public reporting revealed that members of President Donald Trump's National Security Council, including National Security Advisor Michael Waltz, have conducted government business over personal Gmail accounts.

e. Do you believe it is appropriate for members of the National Security Council to use personal Gmail accounts to conduct government business?

RESPONSE: Please see my response to Question 13a.

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible. Where indicated, please provide only yes or no answers.

1. On July 25, 2019, President Trump had a phone call with Ukrainian President Zelenskyy, in which Trump asked Zelenskyy to investigate Joe and Hunter Biden. When the content of this call was reported to you, why did you suggest that the record of that call be moved to a system reserved for highly classified information?

RESPONSE: Without accepting your characterization of my actions, I cannot discuss information potentially subject to executive privilege.

2. Is it proper for government officials to discuss planned military operations, including details about targets and weapon systems, through a commercial messaging app like Signal?

RESPONSE: As I stated at my hearing, it depends on the facts.

a. Is it proper to discuss which weapon systems will be used in a strike (*e.g.*, "F-18s," "MQ-9s," "sea-based Tomahawks") through a commercial messaging app like Signal?

RESPONSE: Please see my response to Question 2.

b. Is it proper to discuss the timing of a strike (*e.g.*, "1415: Strike Drones on Target (THIS IS WHEN THE FIRST BOMBS WILL DEFINITELY DROP, pending earlier 'Trigger Based' targets)") through a commercial messaging app like Signal?

RESPONSE: Please see my response to Question 2.

c. Is it proper to discuss the whereabouts of targets (*e.g.*, "Target Terrorist is @ his Known Location so SHOULD BE ON TIME") through a commercial messaging app like Signal?

RESPONSE: Please see my response to Question 2.

3. What is the standard for invoking the state secrets privilege?

RESPONSE: Consistent with the past practice of nominees to serve as Assistant Attorney General, it would be inappropriate for me to provide a position on behalf of the Department and the United States in response to this question.

4. Is it proper for the government to invoke the state secrets privilege to avoid answering a judge's questions, even *in camera*, about whether it complied with a court order?

RESPONSE: Please see my response to Question 3.

5. If you catch Putin and his agents meddling in American elections, will you hold them accountable even if they are interfering to help President Trump?

RESPONSE: Protecting the integrity of our elections is a critically important function of the Department.

6. If confirmed, how will you maintain your independence from the president? Under what circumstances should the Department maintain its independence from the president?

RESPONSE: If I am confirmed, I will uphold my oath to the Constitution.

7. If confirmed, what will you do if representing the interests of the United States conflicts with the interests of the president?

RESPONSE: Please see my response to Question 6.

8. If you are confirmed, what would you do if the Attorney General or President directs you to take a position for improper reasons?

RESPONSE: I must respectfully reject your premise; the President has never directed me to do anything for improper reasons.

9. Do you believe that judges who issue orders that are unfavorable to the Trump administration should be impeached?

RESPONSE: Impeachment is an authority that is vested exclusively in the House of Representatives. As a nominee, it is inappropriate for me to comment on the potential actions of the House of Representatives.

10. Do you believe a federal judge issuing a temporary restraining order against the executive branch is tantamount to a coup?

RESPONSE: No.

11. Do you believe it is appropriate to refer to judges who rule against President Trump as "political terrorists"?

RESPONSE: I would not refer to them in that manner.

12. Did Joe Biden win the 2020 presidential election?

RESPONSE: Joe Biden was certified as the President of the United States.

13. Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

RESPONSE: Protesters attacked police officers at the U.S. Capitol on January 6, 2021, and many of them were subsequently prosecuted.

14. Does the 22nd Amendment permit a president to be elected more than twice?

RESPONSE: I have not had an occasion to consider the question. However, it is my understanding that a person may only be elected President for two terms.

Senate Judiciary Committee
Questions for the Record
on the Nomination of John Eisenberg
to be Assistant Attorney General for the National Security Division
April 1, 2025
Senator Amy Klobuchar

1. In 2023, your predecessor traveled to Kiev. He described how parts from U.S. and European manufacturers were found in Russian weapons and equipment seized in Ukraine. The Justice Department made it a priority to prosecute efforts to evade global sanctions and export controls.

   - Will you commit to fully enforcing the export control and economic sanctions laws?

     Response: As with all other laws for which the National Security Division is responsible, the Division will enforce export control and economic sanction laws consistent with prosecutorial discretion, the resources available, and the Attorney General's priorities for the Department generally and the Division specifically.

   - Will you commit to continuing to enforce these laws against those who supply and aid Russia's war against Ukraine?

     Response: Please see my response immediately above.

2. The U.S. faces a range of threats from Russian, Chinese, and Iranian malign activities designed to interfere with the 2024 election.

   - Do you agree that foreign actors attempting to interfere with elections are national security threats?

     Response: Yes.

   - Will you commit to ensuring that the National Security Division does everything in its power to safeguard future elections from foreign election interference?

     Response: Yes.

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR COONS

1. If President Trump asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no.

   RESPONSE: I respectfully reject your premise; the President has never asked me to do anything illegal or unethical.

   a. If you would not resign, what would you do?

   RESPONSE: See my response to question 1.

2. How would you respond if your role at the Department of Justice required you to pursue a policy directive that was unconstitutional?

   RESPONSE: Justice Department lawyers should always uphold their oaths to support and defend the Constitution and act in accordance with laws, regulations, and Department policies.

3. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

   RESPONSE: The Constitution sets out the remedy.

4. As a DOJ lawyer, when is it appropriate to refuse to follow a directive from the President?

   RESPONSE: Justice Department lawyers should always uphold their oaths to support and defend the Constitution and act in accordance with applicable laws, regulations, and Department policies.

5. When is it appropriate for the DOJ to decide not to defend a federal law?

   RESPONSE: It is my understanding that 28 U.S.C. § 530D applies to situations in which the Department determines not to defend unconstitutional federal laws.

6. Do you agree that the DOJ has an independent obligation to evaluate the legality of the President's policy proposals?

   RESPONSE: Justice Department lawyers should always uphold their oaths to support and defend the Constitution and act in accordance with applicable laws, regulations, and Department policies.

7. What is your understanding of the DOJ's contact policy regarding interactions between the DOJ and White House officials?

   RESPONSE: It is my understanding that Attorneys General have issued memoranda governing Department officials' contacts with the White House. If confirmed, I would comply with all memoranda from the Attorney General; I would also comply with the law and the Constitution.

8. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute a political opponent?

   RESPONSE: Please see my answer to Question 4.

9. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute an individual or corporation where that action was not justified by the facts and the law?

   RESPONSE: Please see my answer to Question 4.

10. In a memo to all DOJ employees, Attorney General Pam Bondi stated that Department attorneys who refuse to advance arguments "deprive[] the President of the benefit of ***his*** lawyers." I want you to focus on the part of this statement that references Department attorneys as President Trump's lawyers.

    a. Do you agree with this characterization of Department attorneys by Attorney General Bondi?

       RESPONSE: Department employees work for the United States and the American people. The President is the elected representative of the American people.

b. Do you consider the Assistant Attorney General for the National Security Division to be "the President's lawyer"?

RESPONSE: Please see my answer to part a of this Question.

c. Who does the DOJ National Security Division work for?

RESPONSE: The United States and the American people.

11. Section 702 of the Foreign Intelligence Surveillance Act (FISA) is up for reauthorization this year. Do you think the Constitution requires that law enforcement obtain a warrant before accessing Americans' communications collected pursuant to Section 702?

RESPONSE: It is my understanding that Section 702 is not up for reauthorization until April 2026. In my view, Section 702 is an incredibly valuable tool to protecting against threats to our national security. At the same time, we have an obligation to protect the civil liberties of Americans. If I am confirmed, I would talk to the experts in the National Security Division to get a better understanding of this issue and with the Deputy Attorney General and the Attorney General to determine what additional steps should be taken to protect civil liberties of Americans.

12. Do you believe that government officials who break national security protocols, or disclose sensitive information on unsecure networks, should be held accountable?

RESPONSE: Of course. But what that means depends on all of the facts.

a. What is the correct legal recourse for any such improper disclosures?

RESPONSE: Please see my answer to Question 12.

b. What do you believe is the proper course of action following any such disclosures?

RESPONSE: Please see my answer to Question 12.

13. Under what circumstances may the President declare an invasion, pursuant to the *Alien Enemies Act*, and what role does Congress play in any such determination?

RESPONSE: As I am not currently in the National Security Division, I have not had occasion to study this issue in detail. If confirmed, I will do so if this question arises in my work.

14. How do you define a foreign adversary?

RESPONSE: I agree with the description laid out in the 2025 Annual Threat Assessment that foreign adversaries challenge U.S. interests in the world by attacking or threatening others in their regions, with both asymmetric and conventional hard power tactics, and promoting alternative systems to compete with the United States, primarily in trade, finance, and security.

15. In an Executive Order, President Trump prohibited the Attorney General from enforcing the *Protecting Americans from Foreign Adversary Controlled Applications Act* (otherwise known as the TikTok ban) for 75 days. That 75-day period ends on April 5, 2025.

    a. Is the administration required to enforce the TikTok ban thereafter? Please address the national security concerns regarding TikTok's data collection practices and relationship with a foreign adversary.

       RESPONSE: As I am not currently in the National Security Division, nor was I at the Department when this law was enacted. I have not had occasion to study this issue in detail. If confirmed, I will do so if this question arises in my work.

16. Do the protections afforded to interactive computer services by Section 230 of the *Communication Decency Act* shield social media platforms and the algorithms fueling them from liability for advancing terroristic causes?

    RESPONSE: As I am not currently in the National Security Division, I have not had occasion to study this issue in detail. If confirmed, I will do so if the need arises.

    a. What incentives exist for social media platforms to address adversarial foreign interference on their platforms?

       RESPONSE: Please see response to Question 16.

17. Social media has enabled unprecedented amounts of Americans' personal data to be accessible to foreign adversaries, posing a risk of geopolitical manipulation. If confirmed, what tools does the National Security Division have to address the issue?

       RESPONSE: Please see my response to Question 16.

    a. How will you use those tools?

       RESPONSE: Pleas see my response to Question 16.

18. How important is the issue of foreign interference in U.S. elections and what role does your office play in addressing this issue?

    RESPONSE: If I am confirmed, it will be very important to me to help to ensure that our elections are free from foreign interference.

19. What is the appropriate balance between privacy protections and the need for government access to data in national security crises?
    a. Please discuss specific laws, regulations, and policies in your answer.

RESPONSE: Please see my response to Question 11. Protecting the national security often requires weighing the need to collect information against the need to protect the civil liberties of Americans. If I am confirmed, I will look for ways to increase the protection of the civil liberties of Americans.

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
March 26, 2025

QUESTIONS FROM SENATOR MAZIE K. HIRONO

1. Since President Trump took office, all four Deputy Assistant Attorney Generals in the National Security Division (NSD) have been removed. All were career prosecutors. The person originally appointed as acting head of the Division was replaced within only a few weeks of starting the job. This turnover has hollowed out the Division's institutional knowledge and endangers national security.

    a. **Is institutional knowledge important to the work of the National Security Division?**

    RESPONSE: Generally, institutional knowledge can be helpful in any institution, but I believe the National Security Division still has such knowledge.

    b. **What involvement, if any, did you have with the decision to remove NSD's Deputy Assistant Attorneys General?**

    RESPONSE: Since I am not currently in NSD I was not involved with the personnel decisions.

2. On March 26, 2025, *The Atlantic* published an article entitled "Here Are the Attack Plans That Trump's Advisers Shared on Signal." Please review the article before answering the following questions.

    a. **Is sharing of classified information over unclassified channels prohibited?**

    RESPONSE: Generally, yes.

    b. **If a member of the military or Intelligence Community shares classified information over an unclassified channel, can they be subject to discipline or dismissal?**

    RESPONSE: It depends on the facts of the case.

    c. In one screenshot, an individual identified as "John Ratcliffe," the name of President Trump's Director of the Central Intelligence Agency states, "From CIA perspective, we are mobilizing assets to support now but a delay would not negatively impact us and additional time would be used to identify better starting points for coverage on Houthi leadership." **As a nominee to lead the National Security Division, if true, is the information provided in this Ratcliffe message the kind of information you would expect to be classified?**

RESPONSE: As I testified before Congress, I would need to have more detailed information and relevant facts to make an informed determination.

d. In one screenshot, an individual identified as "Pete Hegseth," the name of President Trump's Secretary of Defense states the times and movements of military assets. Specifically:

   i. Hegseth writes "1215et: F-18s LAUNCH (1st strike package)." **As a nominee to lead the National Security Division, if true, is the information provided in this message by Hegseth the kind of information you would expect to be classified?**

      RESPONSE: Please see my response to Question 2c.

   ii. Hegseth writes "1345: "Trigger Based" F-18 1st Strike Window Starts (Target Terrorist is @ his Known Location so SHOULD BE ON TIME) – also, Strike Drones Launch (MQ-9s)." **As a nominee to lead the National Security Division, if true, is the information provided in this message by Hegseth the kind of information you would expect to be classified?**

      RESPONSE: Please see my response to Question 2c.

   iii. Hegseth writes "1415: Strike Drones on Target (THIS IS WHEN THE FIRST BOMBS WILL DEFINITELY DROP, pending earlier "Trigger Based" targets)." **As a nominee to lead the National Security Division, if true, is the information provided in this Hegseth message by Hegseth the kind of information you would expect to be classified?**

      RESPONSE: Please see my response to Question 2c.

   iv. Hegseth writes "We are currently clean on OPSEC." **As a nominee to lead the National Security Division, if true, is the information provided in this message by Hegseth the kind of information you would expect to be classified?**

      RESPONSE: Please see my response to Question 2c.

e. In one screenshot, an individual identified as "Michael Waltz," the name of President Trump's National Security Advisor states "The first target - their top missile guy - we had positive ID of him walking into his girlfriend's building and its now collapsed." **As a nominee to lead the National Security Division, if true, is the information provided in this message by Michael Waltz the kind of information you would expect to be classified?**

   RESPONSE: Please see my response to Question 2c.

f. In general, is the movement of military assets during a military operation the kind of information you would expect to be classified?

RESPONSE: Often, yes.

g. If you have declined to answer any of the above questions, is it because the members of President Trump's administration named above could be subject to prosecution by the National Security Division under 18 U.S.C. § 793(f)?

RESPONSE: I have responded to all of the questions above.

Nomination of John Andrew Eisenberg
To be Assistant Attorney General for the National Security Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR SCHIFF

1. Have you ever contributed to any Department of Justice Attorney General or Office of Legal Counsel Opinions regarding warrantless wiretapping? If the answer is yes, please list each respective opinion you contributed to below.

RESPONSE: I have contributed to various OLC opinions during my time at the Department. However, I cannot recall each individual opinion that I contributed to in order to list them.

2. Have you ever contributed to any Department of Justice Attorney General or Office of Legal Counsel Opinions regarding torture? If the answer is yes, please list each such opinion you contributed to below.

RESPONSE: Please see answer to Question 1.

3. You served as the Legal Advisor on the National Security Council during the first Trump Administration. In your role as the NSC's Legal Advisor, you participated in numerous Principals Committee meetings and other conversations led by the National Security Advisor, including those involving planned military activity and other sensitive national security matters.

a. During the first Trump Administration, did any of the National Security Advisors hold or coordinate Principal-level meetings or discussions using unclassified messaging applications?

RESPONSE: Not to my knowledge.

b. During the first Trump Administration, are you aware of any meetings coordinated by the National Security Council regarding planned military activity being held or conducted using unclassified messaging applications?

RESPONSE: Not to my knowledge.

4. Are you aware of any NSC meetings, Principals meetings, or Deputies meetings conducted using a commercial messaging or email application since January 1, 2025?

RESPONSE: In my current position at the Department, I have not attended such meetings, so I do not know how these meetings are conducted.

a. If so, how many?

RESPONSE: Please see my response to Question 4.

5. You have served as Senior Counselor to the Attorney General at the Department of Justice since February 2025. Did anyone from the Department of Justice participate in the "Houthi PC Small Group" message chain, which was reportedly initiated by National Security Advisor Michael Waltz in March 2025?

RESPONSE: Not to my knowledge.

a. If so, who participated?

RESPONSE: Please see my response to Question 5.

b. Did they use their work or personal devices?

RESPONSE: Please see my response to Question 5.

c. Were they participating from a secure facility accredited for classified conversation or electronic communication?

RESPONSE: Please see my response to Question 5.

6. Are you aware of the National Security Advisor convening any other meetings that relied on Signal or other commercial messaging or email applications beyond the "Houthi PC Small Group" described in the Atlantic since you arrived at the Department of Justice in February 2025?

RESPONSE: No.

7. Are there heightened concerns and precautions to protect the security of classified information when government officials with security clearances travel overseas?

RESPONSE: Yes. Government officials should consult with their security offices and follow recommended precautions when they anticipate working overseas.

8. Reporting indicates that Steve Witkoff, President Trump's envoy, was in Russia when he was included in the group Signal chain. Do you think Russia would have an interest in hacking and spying on the phone of someone like Mr. Witkoff?

RESPONSE: Please see my response to Question 7. This is not an appropriate forum to comment on national security threats posed by any specific country.

9. What laws protect sensitive national security information from disclosure?

RESPONSE: Several laws protect sensitive national security information. Without additional information about the specific facts and circumstances, I am unable to answer.

10. Do you support DOJ opening an investigation into the apparent unauthorized disclosure of classified national security information contained in the "Houthi PC small group" chat discussion referenced in the article?

RESPONSE: As I stated at my hearing, I would need to know more information about the matter to make a determination.

11. Since the beginning of the new Administration, several senior career attorneys at the National Security Division have been reassigned or terminated. This includes four Deputy Assistant Attorney Generals in the Division: George Toscas, Eun Young Choi, Melissa MacTough, Brad Wiegmann, and the executive officer of the division, Scott Damelin. Do you know any of these former NSD officials?

RESPONSE: Yes, I know some of these people.

a. Were they all career personnel, as opposed to political appointees, at NSD when they were removed from their positions?

RESPONSE: I believe they were career personnel.

b. Given their collective several decades of service at DOJ, how is our national security strengthened by removing these officials?

RESPONSE: I am not in NSD and so cannot offer an opinion.

c. How do you plan to ensure their departures do not interfere with your ability to effectuate the mission of the National Security Division?

RESPONSE: If confirmed, I will work to ensure any open positions are filled by strong candidates.

12. Before or since the inauguration, has President Trump or any another official at the White House ever asked, suggested, or implied that you or anyone at the National Security Division should open or undertake a review or an investigation of anyone?

RESPONSE: No.

13. Do you agree it would be improper for the President or the White House to direct, task, or otherwise provide input on whether the DOJ should initiate or undertake a review of activities by current or former U.S. government officials or other private citizens?

RESPONSE: I cannot address a hypothetical scenario without studying the specific facts and circumstances of the matter. I commit to following all applicable laws in consultation with the Attorney General, Deputy Attorney General, and ethics counsel.

14. Do you agree it would be improper for the President or the White House to direct, task, or otherwise provide input on whether the DOJ should initiate or undertake an investigation of current or former U.S. government officials or other private citizens?

RESPONSE: Please see my response to Question 13.

15. Do you agree it would be improper for the White House to direct, task, or otherwise provide input on whether the DOJ should pursue criminal charges against current or former U.S. government officials or other private citizens?

RESPONSE: Please see my response to Question 13.

16. Please guarantee in writing to this Committee that any and all investigative decisions taken by the U.S. Department of Justice's National Security Division during your tenure, if confirmed by the Senate, will be free from any political, partisan, financial, or personal motive, including your own.

RESPONSE: All investigative decisions will be based on the facts and applicable law.

17. Please guarantee in writing to this Committee that any and all investigative decisions taken by U.S. Department of Justice's National Security Division during your tenure, if confirmed by the Senate, will not be informed in any way by the desires or direction of President Trump, the White House, or any associates of President Trump.

RESPONSE: Please see my response to Question 16.

18. Would you resign as U.S. Department of Justice's National Security Division if you were ever ordered or directed to take any actions that are unlawful or unconstitutional?

RESPONSE: Please see my response to Question 16.

19. On July 21, 2021, Attorney General Garland issued a memorandum on the "Department of Justice Communications with the White House," more commonly referred to as the White House Contacts policy. Please guarantee you will abide by the restrictions in this memorandum.

RESPONSE: I commit to following all applicable laws and Department policy in consultation with the Attorney General, Deputy Attorney General, and ethics counsel.

20. Whistleblowers play a critical role in calling out waste, fraud, and abuse across government, including at the National Security Division. If confirmed, do you commit to protecting and in no way adversely affecting the employment of any employees who report internal waste, fraud and abuse of authority, including any activity that may involve you, through the proper channels to DOJ management, to the DOJ Inspector General, and to Congress?

RESPONSE: Yes.

21. If confirmed, do you commit to not retaliating in any way against whistleblowers across the federal government if they disclose wrongdoing by the Trump Administration, including President Trump or you, as is required by law?

RESPONSE: Yes.

22. Do you believe that the President of the United States or other White House officials have the authority to fire career DOJ officials, including attorneys in DOJ's National Security Division?

RESPONSE: I have not studied the issue or applicable law. Therefore, I cannot comment on what personnel authorities the President has.

a. If you do, do you believe that the President of the United States or other White House officials *should* exercise such an authority to fire career DOJ officials, including attorneys in the National Security Division? Please explain your reasoning.

RESPONSE: Please see my response to Question 22.

23. Will you cooperate with efforts at the Justice Department and in Congress to improve laws and policies regarding whistleblowers to make sure they have stronger legal protections?

RESPONSE: Yes.

24. Do you believe any of the following are inappropriate topics in a conversation between the Assistant Attorney General for the National Security Division and the President:

a. Directing the AAG for the National Security Division to initiate an investigation or prosecution?

RESPONSE: I cannot comment on a hypothetical. If confirmed, all investigations and prosecutions will be based on the facts and the applicable law.

b. Suggesting that "someone" should initiate an investigation or prosecution?

RESPONSE: Please see my response to Question 24(a).

c. Directing or suggesting a specific action in an ongoing investigation or prosecution?

RESPONSE: Please see my response to Question 24(a).

d. Selecting the timing of investigative steps or criminal charges of pending investigations?

RESPONSE: Please see my response to Question 24(a).

25. Do you believe any of the following are inappropriate topics in a conversation between the Associate Attorney General for the National Security Division and any political allies of the President, including special government employees within the White House or another federal agency:

a. Directing the AAG for the National Security Division to initiate an investigation or prosecution?

RESPONSE: Please see my response to Question 24(a).

b. Suggesting that "someone" should initiate an investigation or prosecution?

RESPONSE: Please see my response to Question 24(a).

c. Directing or suggesting a specific action in an ongoing investigation or prosecution?

RESPONSE: Please see my response to Question 24(a).

d. Selecting the timing of investigative steps or criminal charges of pending investigations?

RESPONSE: Please see my response to Question 24(a).

26. Do you agree that increased political influence over prosecutorial decisions by the AAG for the National Security Division would institute a significant shift from the Justice Department's nonpartisan norms?

RESPONSE: The Department's investigative and prosecutorial decisions should be based on the facts and the applicable law.

27. Have you used Signal or other commercially available messaging or email applications to communicate with individuals at the White House, DOJ, or FBI regarding ongoing or anticipated reviews or investigations, including law enforcement sensitive information?

RESPONSE: No.

GIBSON DUNN

David P. Burns
Partner
T: +1 202.887.3786
M: +1 301.502.0899
dburns@gibsondunn.com

March 24, 2025

United States Senate Judiciary Committee
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of John Eisenberg for Assistant Attorney General for National Security, U.S. Department of Justice

To the Honorable Members of the United States Senate Judiciary Committee:

I write in full support of the confirmation of John Eisenberg for Assistant Attorney General for National Security, U.S. Department of Justice. I had the honor of serving as the Principal Deputy Assistant Attorney General for the National Security Division of the Department of Justice from 2018 to 2020, as well as the Acting Assistant Attorney General of the Criminal Division at the end of the first Trump Administration. Earlier in my career I was an Assistant United States Attorney for the Southern District of New York, also working on national security cases. In my National Security Division role, I had the opportunity to work with John on numerous important national security matters involving a wide range of issues while he served as Legal Advisor to the National Security Council and Deputy Counsel to the President for National Security Affairs. John has a calm and professional demeanor and a keen intellect. He demonstrated the ability to maintain composure in times of crises and deliver sound judgment. He also possesses superior national security subject matter expertise. Having worked directly with and observed John in National Security Council meetings and other settings, I can attest to his high qualifications, steadfast character, and dedication to our nation's security. As I have told those who currently work in the National Security Division, they – and the nation – are fortunate to have John as the candidate for this critical position.

John's former Department of Justice experience also make him well prepared for an Assistant Attorney General role. He previously served as Associate Deputy Attorney General and Deputy Assistant Attorney General in the Office of Legal Counsel, where he handled intricate legal challenges in counterterrorism, intelligence, and national defense. John understands the important mission and ideals of the Department, and I am confident he will uphold the Department's values with integrity.

The national security threats facing our country today are daunting. We are confronted with threats of espionage, cyberattacks, terrorism, and state-actor malign influence campaigns, in an ever-evolving geopolitical landscape. The National Security Division requires a leader who can safeguard our citizens while upholding the rule of law. John is the candidate who will ensure that the Division fulfills its critical mission and operates ethically in the face of these challenges.

I wholeheartedly endorse John's nomination without hesitation and urge the Senate Judiciary Committee to confirm him. His intellect, experience, and character make him an outstanding choice to serve as Assistant Attorney General for National Security.

Sincerely,

GIBSON, DUNN & CRUTCHER LLP

David P. Burns

DPB

108847607.2

March 24, 2025

Chairman Chuck Grassley
Ranking Member Dick Durbin
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin:

I write in enthusiastic support of the nomination of John Eisenberg to serve as Assistant Attorney General for National Security. President Trump has made a strong choice in nominating John to this position, and I am thrilled at the prospect of John once returning to public service.

I have known John for over 25 years. We were students together at the Yale Law School in the 1990s, and we worked together as deputy assistant attorneys general in the Department of Justice's Office of Legal Counsel ("OLC") during the George W. Bush Administration. We also worked closely during President Trump's first term, where I served as Assistant Attorney General for OLC from November 2017 through January 2021, and John served as Deputy Counsel to the President and Legal Advisor to the National Security Council.

John is a lawyer of the highest integrity and of excellent judgment. He is a lawyer's lawyer, whose work is consistently marked by intellectual rigor, a dedication to the rule of law, and a deep-seeded commitment to our national security. John's career has been marked his consistent willingness to dedicate his skills to the service of the Nation. During the first Trump Administration, John repeatedly demonstrated his commitment to ensuring that President Trump and his national security team received candid and principled legal advice, and that the national security policy makers made their decisions consistent with the law.

I worked with John on countless different matters, many of which involved our Nation's most sensitive and important programs, and ones that frequently required John to advise on complicated issues of domestic and international law, often on a highly expedited time frame. We worked together in providing legal advice on the President's use of military force, covert actions, treaty powers, and the laws governing foreign intelligence surveillance. His performance was marked by grace under fire and a capability to distill complicated legal issues to succinct actionable advice. John worked through multiple National Security Advisers and multiple White House Counsel, each of whom appreciated the value that he brought to the President and to the Administration.

In sum, I believe John has the experience, judgment, legal acumen, and character that suits him well to head the National Security Division. At a time when we face a complex and dynamic array of threats—including cyberattacks, terrorism, resistance to

necessary sanctions, and geopolitical tensions, John's extensive experience at both the Justice Department and the White House could not be more useful.

I recommend him to this Committee without reservation.

Sincerely,



Steven A. Engel

March 19, 2025

The Honorable Charles E. Grassley
Chairman
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Re: *Nomination of John A. Eisenberg*

Dear Mr. Chairman and Members of the Committee:

We write in support of the nomination of John A. Eisenberg to serve as Assistant Attorney General for the National Security Division (NSD) at the United States Department of Justice.

We have known Mr. Eisenberg for nearly 20 years and have served with him at the Justice Department and in private practice. We know him to be a person of high integrity and excellent judgment and are confident he will uphold the fundamental values of the Justice Department to pursue prosecutions in an impartial and independent way. We also know from our work with John that he is deeply committed to protecting the American people from threats to our national security and is keenly aware of the need to utilize all available legal and investigative tools to accomplish that end in a manner that is consistent with the Constitution and our laws.

John's experience and legal skills make him particularly well suited to serve in this position. Early in his career as a Deputy Assistant Attorney General in the Office of Legal Counsel, he was responsible for addressing some of the most difficult legal problems facing the Executive Branch, including in matters related to national security. As an Associate Deputy Attorney General, he managed the Department's national security portfolio, including overseeing the work of the NSD. As Legal Advisor to the National Security Council, John oversaw the entire national security operation of the Executive Branch and regularly provided legal advice on the most critically important and sensitive matters.

By virtue of his experience, temperament, judgment, and legal ability, we believe Mr. Eisenberg will serve ably and honorably in this important role. We hope the Committee will promptly consider his nomination and report him favorably to the full Senate for confirmation.

Sincerely,

Mark R. Filip
Deputy Attorney General
United States Department of Justice
2007-2009

Brian A. Benczkowski
Assistant Attorney General – Criminal Division
United States Department of Justice
2018-2020

March 24, 2025

Chairman Chuck Grassley
Ranking Member Dick Durbin
224 Dirksen Senate Office Building
Washington, DC 20510
Chairman Grassley and Ranking Member Durbin,

We, the undersigned former colleagues of Mr. John Eisenberg, whose nomination to serve as Assistant Attorney General for National Security is currently before your esteemed committee, hereby express our unequivocal support for his confirmation. We offer this testimony based on our direct observations of his exceptional moral character, profound expertise, and extensive experience.

Mr. Eisenberg is a proven leader with a distinguished record of successfully addressing the complex national security challenges facing the United States. His conduct has consistently exemplified the highest standards of professionalism, unassailable integrity, and commitment to fairness. He has been an invaluable colleague and a respected mentor, leaving an enduring positive impact on those with whom he has collaborated. We have witnessed his remarkable ability to synthesize intricate legal and security matters into coherent, actionable strategies, all while maintaining an unwavering commitment to the rule of law.

Mr. Eisenberg possesses an unwavering dedication to the rule of law and an unwavering commitment to the security of our nation. He will provide steadfast leadership in this position, upholding the core values of the Department of Justice.

We firmly believe that Mr. Eisenberg is the ideal candidate to lead the National Security Division. His confirmation would not only uphold the principles and mandate of the Department of Justice but would also ensure that this critical division is led by an individual of unparalleled competence, well-equipped to navigate the exigencies of this pivotal juncture in our nation's history. We therefore offer our unqualified endorsement of his nomination and respectfully urge the committee to confirm him without reservation.

Respectfully submitted,

Alexander B. Gray
Former Deputy Assistant to the President and Chief of Staff, White House National Security Council (2019-2021)

Amy M. Wells-Morgan
Former Deputy Legal Advisor, National Security Council (2018-2019)

Anthony Ruggiero
Former Deputy Assistant to the President and Senior Director for Counterproliferation and Biodefense, National Security Council (2019-2021)

Coreen Mao
Former Deputy Legal Advisor, National Security Council (2020-2021)

E. Erin Walsh
Former Deputy Assistant to the President and Senior Director for African Affairs, National Security Council (2019-2021)

Julia Bristol
Former Special Assistant, National Security Council and Department of Homeland Security, Office of the Secretary (2019-2021)

Karl Gunderson

Major General (Ret.) Lee K. Levy II
NASA Advisory Council (2018-2021)
Commander, Air Force Sustainment Center (2016-2018)

Marc Krickbaum
Former Counsel to the Deputy Attorney General (2008-2009)

Michael Ellis
Former Deputy Legal Advisor, National Security Council (2017-2020)
Former Senior Director for Intelligence Programs, National Security Council (2020-2021)

Spencer R. Fisher
Former Deputy Legal Advisor, National Security Council (2019-2021)

Sue J. Bai
Former Deputy Assistant to the President and Principal Deputy Legal Advisor, National Security Council (2020-2021)

Debevoise & Plimpton

Debevoise & Plimpton LLP
66 Hudson Boulevard
New York, NY 10001
+1 212 909 6000

Michael B. Mukasey
Of Counsel
mbmukasey@debevoise.com
+1 212 909 6062

March 24, 2025

Chairman Chuck Grassley
Ranking Member Dick Durbin
224 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin,

I served as the 81st Attorney General of the United States under President George W. Bush from 2007 to 2009, and before that as a U.S. District Judge for the Southern District of New York, from 1988 to 2006. I enthusiastically endorse the nomination of John Eisenberg to serve as Assistant Attorney General for National Security.

As you may recall, the period of my service as Attorney General was a time of heightened national security concerns. During John's service as Associate Deputy Attorney General and Deputy Assistant Attorney General in the Office of Legal Counsel, I worked with him frequently on matters relating to counterterrorism, national defense and intelligence gathering. We have stayed in touch since, including during his service as Legal Advisor to the National Security Council and Deputy Counsel to the President for National Security.

John's work was marked by scrupulous integrity, intellectual rigor, a commitment to the rule of law, and dedication to protecting the security of our country. These qualities were brought to bear with a calm demeanor that inspired the confidence of colleagues and superiors alike, and an ability to translate complex legal principles into actionable guidance, and to do so even under the intense pressure inherent in dealing with national security issues. At a time when we face a complex and dynamic array of threats – including cyberattacks, terrorism and geopolitical tensions, John's extensive experience at both the Justice Department and the White House could not be more useful.

In sum, I believe he has the experience, and the qualities of mind and character that suit him ideally to head the National Security Division.

Respectfully,

Michael B. Mukasey

March 23, 2025

The Honorable Chuck Grassley
Chairman
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
Committee on the Judiciary
U.S. Senate
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin:

I write to provide my strongest support of the nomination of John Eisenberg as Assistant Attorney General for National Security. I have known John for almost two decades, including the entire time of his distinguished career serving our country and protecting the national security of the United States.

John's deep and varied experience make him exceptionally qualified to head the Department of Justice's National Security Division. As General Counsel to the first three Directors of National Intelligence, I directly worked with John on critical legal issues addressing the highest priority national security threats facing the country. Despite being early in his career, John had the highest respect of senior Intelligence Community and Department of Justice leaders. He was often looked to for his highly valued input and advice on the most significant national security legal issues.

John's experience as Assistant to the President and Legal Advisor to the National Security Council for four years for President Trump provided him unmatched experience with the array of national security issues facing the country each day. His distinguished service resolving the most critical national security legal issues across agencies for four years provides the best qualification possible for his position at the National Security Division.

John will be an exceptional leader of this critical part of the Department of Justice mission. John has the highest level of integrity and intellectual rigor. He is a professional with the highest standards that he expects of himself and others.

In nominating John, the President has selected an exceptionally qualified person with both rare deep national security experience and the highest character expected of a leader at the Department of Justice. The country is fortunate that John has agreed to continue his distinguished career in public service. I urge his swift confirmation by the U.S. Senate.

Thank you for your consideration.

Sincerely,

Benjamin A. Powell

Benjamin A. Powell

HON. JOSEPH E. SCHMITZ

March 24, 2025

The Honorable Charles E. Grassley
Chairman, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Richard J. Durbin
Ranking Member, Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510

SUBJ: Letter of Recommendation for John Eisenberg

Dear Chairman Grassley and Ranking Member Durbin:

For reasons explained below, I most strongly recommend John Eisenberg for Senate confirmation as the Assistant Attorney General for National Security. During the first Trump Administration, I met John Eisenberg when he was serving as Legal Advisor to the National Security Council. Based on my interaction with Mr. Eisenberg, I know him to be a highly professional attorney, an honorable public servant, and an expert in National Security issues.

As a former Senate-confirmed Inspector General of the Department of Defense (2002-2005), I took an interest in the May 18, 2022, Report of Investigation by the Office of the Inspector General of the Department of Defense titled, "Whistleblower Reprisal Investigation: Lieutenant Colonel Yevgeny S. Vindman, National Security Council, Washington D.C." This Report of Investigation was based on a military whistleblower reprisal complaint by LCOL Vindman that, among other allegations, "Mr. Eisenberg significantly changed his duties and responsibilities to a level inconsistent with his grade." The Report of Investigation "found, based on a preponderance of the evidence, that the Complainant was the subject of unfavorable personnel actions from administration officials, as defined by section 1034, title 10, United States Code (10 U.S.C. §1034), 'Protected communications; prohibition of retaliatory personnel actions'."

My first observation about this May 18, 2022, Report of Investigation, is that it has no signature page. That never would have happened when I was serving as Inspector General of the Department of Defense. As a matter of basic accountability, I insisted that the official responsible for any published report be identified in the published work product.

My second observation is that this is the entirety of the "Recommendation" paragraph on page 34 of the Report of Investigation: "We make no recommendation with respect to the Complainant, who has been promoted to the rank of Colonel and has achieved correction of his performance record. We make no recommendation with respect to the White House officials, who did not work in the DoD, named in this report. These officials have all departed their positions in the White House." This non-recommendation "Recommendation" paragraph is highly unusual *at best*. I can't imagine a legitimate justification for expending taxpayer dollars on a published Inspector General report with no recommendation.

Based on these two irrecularities, I would not give credance to any criticism of Mr. Eisenberg based on this highly-irregular Report of Investigation by the Office of the Inspector General of the Department of Defense.

In conclusion, I most strongly recommend John Eisenberg for Senate confirmation as the Assistant Attorney General for National Security.

Very Respectfully,

Joseph E. Schmitz

5502 Parkston Road; Bethesda, Maryland 20816 | Cell. Phone: (703) 992-3095 | E-Mail. jschmitz@jesplc.com

Dear Members of the United States Senate Judiciary Committee:

As former leaders of the Department of Justice National Security Division, we write in support of John Eisenberg, the nominee for Assistant Attorney General for National Security.

Congress established the National Security Division nearly 20 years ago to carry out the Justice Department's highest priority of keeping the American people safe. For the past two decades, NSD has fulfilled that mission by pursuing justice to protect the United States from threats to our national security and ensuring that these efforts comply with the Constitution, adhere to the rule of law, and uphold our founding values.

The work of the National Security Division has never been more vital — or more challenging. Today, our nation faces a wide range of complex and evolving threats. These include international and domestic terrorism, nation-state sponsored lethal targeting of American civilians and officials, transnational repression of dissidents, foreign malign influence and election interference, national security cyber threats, and the illicit procurement of sensitive American data and technology.

The National Security Division's dedicated career workforce is the backbone of the effort to combat these threats. NSD's career attorneys and professionals carry out this work by investigating and prosecuting terrorists, spies, and malicious cyber actors; providing legal and policy guidance to the intelligence community, including the FBI, as well as policy makers; obtaining authority to carry out intelligence activities in a manner consistent with the Constitution and legal requirements; and reviewing and mitigating risks posed by foreign investments in the United States.

Along with NSD's career workforce, the Division must have a leader with deep experience in national security and an abiding commitment to the rule of law. John Eisenberg has extensive and highly relevant national security experience at the intersection of law, policy, and operations. From his time at the Justice Department, he understands the bedrock norms and values of the Department and knows how NSD carries out its mission with fidelity to those core principles.

We worked with John at the Justice Department when he served in leadership roles in the Deputy Attorney General's Office and in the Office of Legal Counsel and can speak to John's national security work in those important positions. In his DOJ service, John tackled extraordinarily complex national security legal and policy challenges involving counterrorism, intelligence, and national defense. John demonstrated an

exceptional capacity to translate complex legal principles into actionable guidance and concrete results. In particular, John's leadership and expertise were instrumental to the effort to reform and modernize the Foreign Intelligence Surveillance Act and enact Section 702, which remains an indispensable intelligence authority to this day. In addition, John contributed significantly to the effort to establish and shape NSD's role in conducting rigorous and effective oversight of the FBI and other intelligence agencies. John helped guide NSD during its first few years to build the capacity to protect the nation from threats while at the same time safeguarding the civil liberties of our citizens and upholding the Constitution.

As former leaders, we care deeply about the mission and the people of NSD. We recognize the essential role of NSD and its career workforce in protecting the United States. We believe NSD must have experienced leaders who are accountable to Congress and the American people.

We urge the Senate to support NSD's national security mission by confirming John Eisenberg to serve as Assistant Attorney General.

Sincerely,

Kenneth L. Wainstein
Assistant Attorney General for National Security (2006-2008)

J. Patrick Rowan
Assistant Attorney General for National Security (2008-2009)

David S. Kris
Assistant Attorney General for National Security (2009-2011)

Matthew G. Olsen
Assistant Attorney General for National Security (2021-2025)

UNITED STATES SENATE

COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

   Brett Allen Shumate

2. **Position**: State the position for which you have been nominated.

   Assistant Attorney General, Civil Division, U.S. Department of Justice

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

   February 2025 – Present
   U.S. Department of Justice
   Tax Division
   950 Pennsylvania Avenue NW
   Washington, DC 20530
   Deputy Assistant Attorney General

   Residence: Falls Church, Virginia

4. **Birthplace**: State date and place of birth.

   1981; Fairfax, Virginia

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

   Wake Forest School of Law, 2003 – 2006
   J.D. – May 2006

   Furman University, 1999 – 2003
   B.A. – May 2003

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name

and address of the employer and job title or description.

February 2025 – Present
U.S. Department of Justice
Tax Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

January 2025 – February 2025
U.S. Department of Justice
Civil Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Acting Assistant Attorney General

August 2019 – January 2025
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001
Partner

June 2017 – June 2019
U.S. Department of Justice
Civil Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

January 2015 – June 2017
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Partner

September 2007 – December 2014
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Associate

August 2006 – August 2007
U.S. Court of Appeals for the Fifth Circuit
Bob Casey United States Courthouse
515 Rusk Avenue
Houston, TX 77002

Law Clerk for Chief Judge Edith H. Jones

May 2005 – August 2005
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Summer Associate

July 2004 – August 2004
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
230 North Elm Street
2000 Renaissance Plaza
Greensboro, North Carolina 27401
Summer Associate

July 2003 – August 2003
Kraftson Caudle LLC
1600 Tysons Boulevard
McLean, VA 22102
Intern

Uncompensated Affiliations

May 2004 – July 2004
U.S. Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Law Clerk

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

   I have not served in the U.S. military. I have registered for selective service.

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

   Recommended lawyer in telecoms, *The Legal 500 United States*, 2020 – 2024

   Recommended lawyer in appellate law, *The Legal 500 United States*, 2016 – 2017

Burton Award for Distinguished Legal Writing, The Burton Awards, 2016

Rising star in telecommunications, *Law360*, 2016

"Legal Lion," *Law 360*, Weekly Verdict Column, 2014

Order of the Coif, 2006

CALI Excellence for the Future Award: Highest Grade in Equitable & Legal Remedies, 2006

CALI Excellence for the Future Award: Highest Grade in Federal Criminal Law, 2006

CALI Excellence for the Future Award: Highest Grade in Agency, 2006

CALI Excellence for the Future Award: Highest Grade in Risk Regulation Law & Policy, 2006

CALI Excellence for the Future Award: Highest Grade in Federal Jurisdiction, 2006

Lonnie B. Williams Scholarship, 2004 – 2006

CALI Excellence for the Future Award: Highest Grade in National Security Law, 2005

CALI Excellence for the Future Award: Highest Grade in Sales, 2005

CALI Excellence for the Future Award: Highest Grade in Jurisprudence, 2005

Who's Who: American Law Students, 2005

Runner-up Best Memorial, Jessup International Law Moot Court Competition, East Regional, 2005

Best Advocate, Jessup International Law Moot Court Competition, East Regional, 2005

CALI Excellence for the Future Award: Highest Grade in Legislation & Administrative Law, 2004

Runner-up Best Brief, 2004 Walker Moot Court Competition

CALI Excellence for the Future Award: Highest Grade in Legal Research and Writing III, 2004

CALI Excellence for the Future Award: Highest Grade in Contracts I, 2003

Phi Beta Kappa, Gamma of South Carolina, 2003

Furman Alumni Award for Academic Excellence in History, 2003

D.H. Gilpatrick History Department Scholarship, 2002 and 2003

Odell Humanities Scholarship, 2001 – 2003

Who's Who Among Students in American Universities and Colleges, 2002

Pi Sigma Alpha, National Political Science Honor Society, 2002

Phi Alpha Theta, National History Honor Society, 2002

Southern Conference Academic Honor Roll, 2000 and 2001

Phi Eta Sigma, National Freshmen Honor Society, 2000

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

The Federalist Society for Law & Public Policy Studies
Member, 2004 – Present (with intermittent changes and lapses in membership)
Executive Committee, Administrative Law & Regulation Practice Group, 2019 – 2025
Executive Committee, Telecommunications & Electronic Media Practice Group, 2016 – 2017

American Bar Association
Member, 2007 – 2017

Federal Communications Bar Association
Member, 2008 – 2017

10. **Bar and Court Admission**:

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

Virginia, October 2006

District of Columbia, June 2007

There have been no lapses in membership.

b. List all courts in which you have been admitted to practice, including dates of

admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States (March 2010)

U.S. Court of Appeals for the First Circuit (March 2011)

U.S. Court of Appeals for the Second Circuit (January 2010)

U.S. Court of Appeals for the Third Circuit (February 2013)

U.S. Court of Appeals for the Fourth Circuit (November 2006)

U.S. Court of Appeals for the Fifth Circuit (August 2007)

U.S. Court of Appeals for the Sixth Circuit (December 2014)

U.S. Court of Appeals for the Seventh Circuit (December 2014)

U.S. Court of Appeals for the Eighth Circuit (December 2014)

U.S. Court of Appeals for the Ninth Circuit (March 2009)

U.S. Court of Appeals for the Tenth Circuit (February 2009)

U.S. Court of Appeals for the Eleventh Circuit (March 2011)

U.S. Court of Appeals for the D.C. Circuit (May 2008)

U.S. Court of Appeals for the Federal Circuit (March 2016)

U.S. District Court for the District of Columbia (April 2010)

U.S. District Court for the Eastern District of Virginia (April 2013)

U.S. District Court for the District of Idaho (November 2013)

U.S. District Court for the Eastern District of Texas (February 2021)

U.S. Court of International Trade (February 2016)

U.S. Court of Federal Claims (July 2016)

There have been no lapses in membership.

11. **Memberships**:

a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Teneo Network, Inc.
Member, 2019 – Present

Federalist Society for Law and Public Policy Studies
Member, 2004 – Present (with intermittent changes and lapses in membership)

b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements**:

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

I have done my best to identify all books, articles, letters to the editor, editorial pieces, and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

D.C. Circuit Finds Council on Environmental Quality's NEPA Regulations Are Unenforceable, Jones Day, Nov. 15, 2024. Copy supplied.

Supreme Court Overrules Chevron Deference, Jones Day, Jul. 2, 2024. Copy supplied.

Supreme Court Expands Window to Challenge Federal Regulations Under APA, Jones Day, Jul. 2, 2024. Copy supplied.

Canadian Drug Importation May Undermine Intellectual Property Protection, Jones Day, May 23, 2024. Copy supplied.

Delegation Dilemma: CFTC Rule Allows Staff to Circumvent Notice and Comment Rulemaking, Jones Day, May 14, 2024. Copy supplied.

OCC Proposal and Policy Statement on Bank Mergers Could Freeze the Banking Industry in Place, Jones Day, Feb. 14, 2024. Copy supplied.

SEC Rejects Call to Alter "No Admit/No Deny" Settlement Rule, Jones Day, Feb. 6, 2024. Copy supplied.

What About the Kitchen Sink? FSOC Plans Even More in 2024, Jones Day, Jan. 3, 2024. Copy supplied.

New FCC Rule Affects Consumer Consent for Robocalls and Robotexts, Jones Day, Dec. 1, 2023. Copy supplied.

DOJ's Immigration-Employment Program Faces Headwinds Amidst Milestone Settlement, Jones Day, Nov. 17, 2023. Copy supplied.

FDA Announces Proposed Rule Regarding Laboratory Developed Tests, Jones Day, Oct. 30, 2023. Copy supplied.

Grayscale Scores Win Against the SEC, but the Agency's Significant Market Test Remains Unaddressed, Jones Day, Sep. 5, 2023. Copy supplied.

Industry Anticipates Impending FDA Proposed Regulation Addressing Laboratory Developed Tests, Jones Day, Aug. 30, 2023. Copy supplied.

Federal Banking Agencies Propose Increased Capital Requirements for Large Banks, Jones Day, Aug. 1, 2023. Copy supplied.

FTC Public Comment Request Signals Continued Increase in State AGs Enforcement Efforts, Jones Day, Jun. 22, 2023. Copy supplied.

CFTC Staff Advisory Warns That SEF Prime Brokerage Arrangements Might Require DCO Registration, Jones Day, Jun. 8, 2023. Copy supplied.

FSOC Proposals Renew Threat of Nonbank "Systemically Important" Designations, Jones Day, May 5, 2023. Copy supplied.

CFTC Goes Beyond the Law to Pursue Nonexistent "Markets," Jones Day, Apr.

19, 2023. Copy supplied.

FAQs for Recent FTC Actions Against Employer/Employee Non-Compete Clauses, Jones Day, Jan. 11, 2023. Copy supplied.

The Back-and-Forth Continues: NLRB Once Again Seeks to Broaden Its Joint-Employer Standard, Jones Day, Sept. 15, 2022. Copy supplied.

Court of International Trade Remands Section 301 Tariffs to U.S. Trade Representative, Jones Day, Apr. 7, 2022. Copy supplied.

Ninth Circuit Approves California's Net Neutrality Law, Shifts Focus to FCC, Jones Day, Feb. 4, 2022. Copy supplied.

SCOTUS Evictions Decision Holds Lessons for Businesses, Bloomberg Law, Sept. 30, 2021. Copy supplied.

SEC Approves New Board Diversity Disclosure Requirements for Nasdaq-Listed Companies, Jones Day, Aug. 16, 2021. Copy supplied.

Biden Department of Labor Proposes $15 Minimum Wage for Federal Contractors, Jones Day, Aug. 11, 2021. Copy supplied.

Speeding Toward an Infrastructure Bill: Analyzing the Infrastructure Investment and Jobs Act, Jones Day, Aug. 3, 2021. Copy supplied.

White House Instructs Agencies to Analyze and Mitigate "Climate-Related Financial Risk," Jones Day, May 25, 2021. Copy supplied.

U.S. Supreme Court Delivers Procedural Win to Corporate Defendants in Climate Change Litigation, Jones Day, May 20, 2021. Copy supplied.

Supreme Court Rules Tax Penalty Does Not Bar Pre-Enforcement Regulatory Challenge, Jones Day, May 18, 2021. Copy supplied.

White House Seeks to Raise Minimum Wage for Federal Contractors, Jones Day, May 11, 2021. Copy supplied.

CFPB Requires Debt Collectors Seeking Evictions to Provide Notice of CDC Moratorium, Jones Day, Apr. 23, 2021. Copy supplied.

Supreme Court Excuses Administrative Exhaustion for Some Structural Constitutional Claims, Jones Day, Apr. 23, 2021. Copy supplied.

The Road Ahead for Net Neutrality and the First Amendment, Jones Day, Apr. 20, 2021. Copy supplied.

Section 230 a Focus of Debate, Reform Proposals, Jones Day, Apr. 8, 2021. Copy supplied.

Roads Less Traveled: Breaking Down President Biden's Plan for America's Deteriorating Infrastructure System, Jones Day, Apr. 7, 2021. Copy supplied.

Second Circuit Affirms Dismissal of New York City's Climate Suit, Jones Day, Apr. 6, 2021. Copy supplied.

U.S. Supreme Court Clarifies TCPA's Definition of "Autodialer," Jones Day, Apr. 2, 2021. Copy supplied.

Preparing for Regulatory Litigation in the Biden Administration (with Donald F. McGahn, II), National Law Journal, Jan. 28, 2021. Copy supplied.

White House Revokes Prior Administration's Regulatory Reform Executive Orders, Jones Day, Jan. 26, 2021. Copy supplied.

White House Orders Attempt to Regulate Prescription Drug Prices, Jones Day, Jul. 29, 2020. Copy supplied.

Avoiding Pandemic-Related Employment Litigation and Disputes, Jones Day, May 28, 2020. Copy supplied.

Is COVID-19 Guidance a Sword or Shield in Regulatory Enforcement and Litigation?, Jones Day, May 26, 2020. Copy supplied.

White House Orders Agencies to Provide Regulatory Relief During and After COVID-19, Jones Day, May 20, 2020. Copy supplied.

Fourth Circuit Holds That Climate Change Lawsuit Belongs in State Court, Jones Day, May 13, 2020. Copy supplied.

Federal Agencies Launch New Websites Containing All Guidance Documents Still In Effect, Jones Day, May 13, 2020. Copy supplied.

What GCs Need to Know About the Government When Reopening (with Donald F. McGahn, II), Bloomberg Law, May 8, 2020. Copy supplied.

Protecting Against False Advertising of COVID-19 Molecular or Antibody Tests, Jones Day, Apr. 27, 2020. Copy supplied.

Section 232 Update: Challenges to Steel and Aluminum Derivative Tariffs Are Succeeding, Jones Day, Mar. 12, 2020. Copy supplied.

Justice Kavanaugh Hints at Future Consideration of Nondelegation Doctrine (with John Cheretis), Washington Legal Foundation, Feb. 19, 2020. Copy supplied.

White House Seeks Input on Regulatory Enforcement Reforms, Jones Day, Feb. 13, 2020. Copy supplied.

Court Vacates $2 Million OFAC Penalty Against Exxon, Citing Lack of Fair Notice, Jones Day, Feb. 10, 2020. Copy supplied.

Ninth Circuit Dismisses Major Climate Change Lawsuit Against the Federal Government, Jones Day, Jan. 27, 2020. Copy supplied.

White House Executive Orders Limit Federal Agencies' Civil Enforcement Tools, Jones Day Oct. 11, 2019. Copy supplied.

D.C. Circuit Vacates FCC Order Preempting State Net Neutrality Regulation and Remands, Jones Day, Oct. 2, 2019. Copy supplied.

Injunctions on the Rise and Other Litigation Trends to Know (with Donald F. McGahn, II), The National Law Journal, Oct. 1, 2019. Copy supplied.

Facing FIRRMA: Proposed Regulations Expand Scope of CFIUS National Security Review Process, Jones Day, Sept. 26, 2019. Copy supplied.

Net Neutrality Proposals for Tech Platforms Raise First Amendment Concerns, Jones Day, Sept. 25, 2019. Copy supplied.

When Devising Your Litigation Strategy, Keep These Trends in Mind (with Donald F. McGahn, II), The National Law Journal, Sept. 24, 2019. Copy supplied.

Business and Commercial Litigation in Federal Courts, Fourth Edition in ABA L.J.: Litig. Section (2017) (with Megan L. Brown, Bert W. Rein, Richard W. Smith, Joshua S. Turner, Richard E. Wiley, Gregory M. Williams). I cannot locate a copy of this publication.

The International Comparative Legal Guide to: Telecoms, Media & Internet Laws & Regulations 2017 (with Jennifer Hindin), Global Legal Group, 2017. Copy supplied.

FCC's Use of "Fact Sheets" Short-Circuits the Administrative Procedure Act (with Dwayne D. Sam), Washington Legal Foundation, Nov. 10, 2016. Copy supplied.

10 Things to Know About Net Neutrality and Class Actions (with Stephen J.

Obermeier and Christen B'anca Glenn), Law360, Nov. 9, 2016. Copy supplied.

The FCC's Broadband Privacy Order: A New Privacy Framework (with Megan L. Brown, Scott D. Delacourt, Bennett L. Ross, Joshua S. Turner, Daniel P. Brooks, John T. Lin, Madi Lottenbach, Ari Meltzer, Katy M. Ross, and Dwayne D. Sam), Wiley Rein, Nov. 4, 2016. Copy supplied.

CFPB Launches Assault on Consumer Arbitration Clauses (with Megan L. Brown), Wiley Rein, May 5, 2016. Copy supplied.

Sponsored Data, Net Neutrality, and the 1st Amendment, Law360, Apr. 7, 2016. Copy supplied.

FCC Announces Consumer Broadband Labeling Initiative (with Bennett L. Ross), Wiley Rein, Apr. 4, 2016. Copy supplied.

Net Neutrality's Next Big Battle: Ad Blocking (with Bennett L. Ross and Max McCauley), L.A. Daily, Mar. 25, 2016. Copy supplied.

Business and Commercial Litigation in Federal Courts: Communications Litigation in Thomson Reuters, 4th Ed. (2016) (with Richard E. Wiley, Joshua S. Turner, and Megan L. Brown). Copy supplied.

D.C. Circuit Challenge to FCC's Authority Over Fax Advertisements Has Important First Amendment Implications, Bloomberg BNA's Telecommunications Law Resource Center, Dec. 12, 2015. Copy supplied.

Telecommunications & Electronic Media: Net Neutrality and the Rule of Law (with Richard E. Wiley), Engage: The Journal of the Federalist Society Practice Groups, July 2015 (with Richard E. Wiley). Copy supplied.

The FCC's Open Internet Order: New Net Neutrality Rules and Title II Regulation of Broadband (with Bennett L. Ross, Thomas J. Navin, and Eve Klindera Reed), Wiley Rein, Mar. 16, 2015. Copy supplied.

Supreme Court Empowers Federal Agencies to Upset the Settled Expectations of Regulated Industries (with Megan L. Brown), Wiley Rein, Mar. 10, 2015. Copy supplied.

FCC Adopts New Net Neutrality Rules and Imposes Title II Regulation on Broadband Services (with Bennett L. Ross and Thomas J. Navin), Wiley Rein, Feb. 26, 2015. Copy supplied.

D.C. Circuit Challenge to FCC's Authority Over Fax Advertisements Has Important First Amendment Implications (with Megan L. Brown), Privacy in Focus, Jan. 2015. Copy supplied.

The FCC's Expanding Use of Delegated Authority and the Dilemma of Appellate Jurisdiction in 31 Comms. Lawyer 2 (2015) (with Eve Klindera Reed and Jeremy J. Broggi). Copy supplied.

Don't Tread on the Internet (with Bennett L. Ross), L.A. Daily, Nov. 19, 2014. Copy supplied.

FCC Retroactively Waives Rule Requiring Opt-Out Notices on Fax Advertisements Sent with Prior Express Consent (with Scott D. Delacourt), Wiley Rein, Oct. 31, 2014. Copy supplied.

Emerging Guidance on TCPA Vicarious Liability, Privacy in Focus (Sept. 2014). Copy supplied.

Supreme Court to Review Administrative Procedure Act's Notice and Comment Requirements in Context of Interpretative Rules, Product Stewardship & Sustainability Report, Jul. 2014. Copy supplied.

Supreme Court to Review Administrative Procedure Act's Notice and Comment Requirements in Context of Interpretative Rules (with Megan L. Brown), Wiley Rein, Jun. 16, 2014. Copy supplied.

D.C. Circuit Vacates FCC "Net Neutrality" Rules, Wiley Rein, Jan. 15, 2014. Copy supplied.

Wiley Rein Files Amicus Brief on Behalf of NDIA Urging Dismissal of State-Law Tort Suits Against Contractors for Battlefield Conduct, Wiley Rein, Oct. 11, 2013. Copy supplied.

FCC Clarifies that a Seller May Be Held Vicariously Liable for the TCPA Violation of Its Telemarketing Firm (with Scott D. Delacourt), Wiley Rein, May 16, 2013. Copy supplied.

Testing the Limits of Chevron*: Judicial Deference to the FCC on Universal Service*, Bloomberg Law Reports, Feb. 13, 2012. I cannot locate a copy of this publication.

Wiley Rein Attorneys Achieve Successful Result in the U.S. Court of Appeals for Cancer Patient Seeking Asylum, Wiley Rein, Dec. 12, 2012. Copy supplied.

FCC Clarifies Telephone Consumer Protection Act Permits Confirmation Text Messages, Wiley Rein, Dec. 10, 2012. Copy supplied.

A Demand for Consistency in Deportation Decisions, N.J. L. J., Jan. 3, 2012. Copy supplied.

Implications of Ramirez-Villalpando v. Holder, Appellate Law360, Dec. 12, 2011. Copy supplied.

Wiley Rein Files Supreme Court Amicus Brief on Behalf of the Chamber of Commerce of the United States of America, Wiley Rein, Mar. 2, 2009. Copy supplied.

From "Sneak and Peek" to "Sneak and Steal": Section 213 of the USA Patriot Act in 19 Regent Univ. L. Rev. 203 (2006). Copy supplied.

Comment: Thou Shalt Not Speak: The Nondisclosure Provisions of the National Security Letter Statutes and the First Amendment Challenge in 41 Gonz L. Rev. 151 (2005). Copy supplied.

New Rules for a New War: The Applicability of the Geneva Conventions to Al-Qaeda and Taliban Detainees Captured in Afghanistan in 18 N.Y. Int'l L. Rev. 1 (2005). Copy supplied.

Taking the Next Step in Foreign Policy in 88 Furman Paladin 21 (2003). Copy supplied.

Peace Does not Come Without Expense in 88 Furman Paladin 20 (2003). Copy supplied.

"Enemy Combatant" Status Should Not Be Extended to U.S. Citizens in 88 Furman Paladin 19 (2003). Copy supplied.

U.S Foreign Policy Needs More Focus in 88 Furman Paladin 18 (2003). Copy supplied.

U.N. Has Key Development Role in 88 Furman Paladin 17 (2003). Copy supplied.

Allies? What Allies? in 88 Furman Paladin 16 (2003). Copy supplied.

Sentinel of Liberty: Patrick Henry in the Virginia Ratifying Convention of 1788 in 14 Furman Humanities Rev. 65 (2003). Copy supplied.

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

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have not located any such documents.

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

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have not located any such documents.

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

I have done my best to identify transcripts or recordings of all speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak without notes or speak from a handwritten outline. I did not retain the majority of the handwritten outlines and have attached all that I could find. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

September 20, 2024: Panelist, *How to Sue The Government—And Win!*, Washington, DC. I discussed regulatory litigation involving the federal government at the Chamber of Commerce. I have no notes, transcript, or recording. The address of the Chamber of Commerce is 1133 21st Street NW, Suite M200, Washington, DC 20036.

September 19, 2024: Speaker, *Protecting Property Rights Through Regulatory Litigation*, Chicago, IL. I discussed regulatory litigation involving property rights at the National Association of Realtors Legal Education Seminar. I have no notes, transcript, or recording. The address of the National Association of Realtors is 500 New Jersey Avenue NW, Washington, DC 20001.

April 16, 2024: Panelist, *Is Humphrey's Executor Still Relevant?*, Washington,

DC. Recording available at: https://fedsoc.org/conferences/twelfth-annual-executive-branch-review-conference-ebrxii?#agenda-item-breakout-panel-4.

April 10, 2024: Speaker, *Protecting Real Estate Owners and Operators Against Emerging Regulatory Risks: Junk Fees, Credit, Collection, and More*, Atlanta, Georgia. I discussed the real estate regulatory landscape. I have no notes, transcript, or recording. The address of Jones Day is 1221 Peachtree Street NE Suite 400, Atlanta, GA 30361.

February, 6, 2024: Guest Speaker, *George Mason University Scalia Law School's Separation of Powers Clinic*, Arlington, Virginia. I discussed my experience litigating the *Alabama Association of Realtors* case and my experience running the Federal Programs Branch. I have no notes, transcript, or recording. The address of George Mason University Scalia Law School is 3301 Fairfax Drive, Arlington, VA 22201.

November 13, 2023: Guest Speaker, *George Mason University Scalia Law School's Administrative Law Clinic*, Arlington, Virginia. I discussed my experience running the Federal Programs Branch. I have no notes, transcript, or recording. The address of George Mason University Scalia Law School is 3301 Fairfax Drive, Arlington, VA 22201.

February 4, 2023: Panelist, *Post-Pandemic Legal Landscape and the Next Crisis*, Orlando, Florida. Recording available at: https://fedsoc.org/conferences/ninth-annual-florida-chapters-conference?#agenda-item-panel-three-post-pandemic-legal-landscape-and-the-next-crisis.

October 13, 2022: Speaker, *National Association of Realtors Legal Education Seminar: Constitutional Law Keynote: Takings Challenges and Cases to Watch (Webinar)*, Washington, DC. I discussed takings cases. I have no notes, transcript, or recording. The address of the National Association of Realtors is 500 New Jersey Avenue NW, Washington, DC 20001.

July 13, 2022: Panelist, *Federal Agency ESG-Related Rulemakings (Webinar)*, Washington, DC. I discussed federal ESG regulations. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

January 27, 2022: Panelist, *A View From Washington: Regulatory and Legislative Developments During the Biden Administration (Webinar)*, Washington, DC. I discussed regulatory and legislative developments. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

January 12, 2022: Speaker, *U.S. Government Records & Disclosure (Webinar)*, Washington, DC. I discussed federal records and disclosure requirements. I have

no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

December 10, 2021: Speaker, *Vaccine Mandates and the Workplace – Legal and Practical Considerations for Employers (Webinar)*, Washington, DC. I discussed vaccine mandates. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

October 26, 2021: Panelist, *Litigation Strategy Forum for Administrative State Reform*, Alexandria, Virginia. I participated in a panel discussion hosted by the Pacific Legal Foundation and The Cato Institute about how litigation challenging the eviction moratorium could inform legal challenges to vaccine mandates. I have no notes, transcript, or recording. The address of the Pacific Legal Foundation is 3100 Clarendon Boulevard, Suite 1000, Arlington, VA 22201.

October 2021: Speaker, *Recent Trends in ESG Litigation*, Washington, DC. I discussed federal ESG regulations. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

September 28, 2021: Speaker, *Litigation Update: Alabama Ass'n of Realtors v. HHS (Webinar)*, Washington, DC. Recording available at: https://fedsoc.org/events/litigation-update-alabama-association-of-realtors-v-hhs.

September 2021: Speaker, *Alabama Ass'n of Realtors v. Dep't of Health & Human Servs.*, Washington, DC. I discussed *Alabama Ass'n of Realtors v. Dep't of Health & Human Servs.* I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

September 2021: Speaker, *The "Cancel the Rent Movement"– Conversation with the Plaintiff and Litigator that won the Eviction SCOTUS Case*, Adairsville, Georgia. I discussed *Alabama Ass'n of Realtors v. Dep't of Health & Human Servs.* at the Teneo Network, Inc. Annual Retreat. I have no notes, transcript, or recording. The address of Teneo Network, Inc. is 512 W MLK Jr. Boulevard, Suite 239, Austin, TX 78701.

September 2021: Speaker, *Judges, SCOTUS, and the Shadow Docket*, Adairsville, Georgia. I discussed emergency litigation in the Supreme Court of the United States at the Teneo Network, Inc. Annual Retreat. I have no notes, transcript, or recording. The address of Teneo Network, Inc. is 512 W MLK Jr. Boulevard, Suite 239, Austin, TX 78701.

June 3, 2020: Panelist, *Return to Workplace Legal Considerations U.S. Companies Need to Know Post-COVID-19 (Webinar)*, Washington, DC. I participated in a panel discussion about businesses operating in a post-COVID-19 environment. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

March 3, 2020: Speaker, *What In-House Counsel Need to Know About Agency Guidance: Banking Industry (Webinar)*, Washington, DC. I discussed regulatory and legislative developments. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

January 29, 2020: Speaker, *What In-House Counsel Need to Know About Agency Guidance (Webinar)*, Washington, DC. I discussed regulatory and legislative developments. I have no notes, transcript, or recording. The address of Jones Day is 51 Louisiana Avenue NW, Washington, DC 20001.

November 21, 2019: Speaker, *What In-House Counsel Need to Know About Agency Guidance: Telecommunications Industry*, Basking Ridge, New Jersey. I discussed regulatory and legislative developments at Verizon's headquarters. I have no notes, transcript, or recording. The address of Verizon is 1 Verizon Way, Basking Ridge, NJ 07920.

November 19, 2019: Speaker, *What In-House Counsel Need to Know About Agency Guidance: Retail Industry*, Bentonville, Arkansas. I discussed regulatory and legislative developments at Walmart's headquarters. I have no notes, transcript, or recording. The address of Walmart is 702 SW 8th Street, Bentonville, AR 72712.

October 29, 2019: Panelist, *The Future of Administrative Records after Department of Commerce v. New York (Teleforum)*, Washington, DC. Recording available at: https://fedsoc.org/events/the-future-of-administrative-records-after-department-of-commerce-v-new-york.

October 15, 2019: Speaker, *Jones Day Talks: The D.C. Circuit's Mixed Decision on Net Neutrality*, Washington, DC. Recording available at: https://jonesdaytalks.blubrry.net/2019/10/15/jones-day-talks-the-d-c-circuits-mixed-decision-on-net-neutrality/.

October 14, 2019: Speaker, *Jones Day Talks: Game Changer? California's Fair Pay to Play Act and the Future of College Sports*, Washington, DC. Recording available at: https://jonesdaytalks.blubrry.net/2019/10/14/jones-day-talks-game-changer-californias-fair-pay-to-play-act-and-the-future-of-college-sports/.

June 6, 2017: Moderator, *Litigation Update: United States Telecom Association v. Federal Communications Commission – Podcast*, Washington, DC. Recording available at: https://fedsoc.org/commentary/podcasts/litigation-update-united-states-telecom-association-v-federal-communications-commission-podcast.

February 21, 2017: Speaker, *Litigation Update: American Bankers Association and Washington Federal v. U.S – Podcast*, Washington, DC. Recording available at: https://fedsoc.org/commentary/podcasts/litigation-update-american-bankers-

association-and-washington-federal-v-u-s-podcast.

December 12, 2016: Speaker, *Free Speech and the Internet*, Washington, DC. Recording available at: https://www.youtube.com/watch?v=F9wo51gxEi0.

October 20, 2016: Speaker, *Taking the FCC to Court: An Adventurous Agency Faces Increasing Judicial Oversight*, Washington, DC. Recording available at: https://www.wlf.org/2016/10/21/wlf-legal-pulse/telecom-regulation-experts-question-fccs-conformity-to-law-constitution-at-wlf-briefing/.

June 20, 2016: Speaker, *Net Neutrality Survives D.C. Circuit Challenge: U.S. Telecom Association v. FCC*, Washington, DC. I discussed the FCC's net neutrality regulations at The Federalist Society. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street NW, Suite 300, Washington, DC 20006.

May 3, 2016: Speaker, *The President's Judicial Legacy*, Washington, DC. Recording available at: https://fedsoc.org/commentary/podcasts/the-president-s-judicial-legacy-podcast.

October 16, 2015: Speaker, *Net Neutrality Litigation*, Washington, DC. I discussed the FCC's net neutrality regulations at The Federalist Society. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street NW, Suite 300, Washington, DC 20006.

May 8, 2015: Panelist, *Consequences of Net Neutrality: Perspectives from Across the Industry, 2015 FCBA Annual Seminar*, Cambridge, Maryland. I discussed net neutrality at the Federal Communications Bar Association Annual Seminar. I have no notes, transcript, or recording. The address of the Federal Communications Bar Association is 1020 19th Street NW #325, Washington, DC 20036.

March 30, 2015: Moderator, *Understanding Net Neutrality and the Path Ahead*, Washington, DC. I moderated a panel on the nuts and bolts of Title II Reclassification at an event hosted by the Federal Communications Bar Association. I have no notes, transcript, or recording. The address of Wiley Rein is 2050 M Street NW, Washington, DC 20036.

March 18, 2015: Speaker, *The FCC's Open Internet Order: A New Era of Broadband Regulation (Webinar)*, Washington, DC. I discussed the FCC's net neutrality regulations. I have no notes, transcript, or recording. The address of the Wiley Rein is 2050 M Street NW, Washington, DC 20036.

March 12, 2015: Moderator, *The Nuts and Bolts of Title II Reclassification, FCBA CLE Seminar: Understanding Net Neutrality and the Path Ahead*, Washington, DC. I discussed net neutrality at the Federal Communications Bar

Association wherein the panel discussed new rules released by the FCC reclassifying broadband. I have no notes, transcript, or recording. The address of the Federal Communications Bar Association is 1020 19th Street NW #325, Washington, DC 20036.

March 11, 2015: Panelist, *Panel on Hot Issues in Tech Policy & Regulation, including Net Neutrality, from the Practitioner's View*, Cambridge, MA. I discussed policies and regulations concerning technology at Harvard Law School. I have no notes, transcript, or recording. The address of Harvard Law School is 1585 Massachusetts Avenue, Cambridge, MA 02138.

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

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Press Releases

Press Release, U.S. Dep't of Just., Office of Pub. Affs., Health Net Federal Services, LLC and Centene Corporation Agree to Pay Over $11 Million to Resolve False Claims Act Liability for Cybersecurity Violations (Feb. 18, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Office of Pub. Affs., District Court Enters Permanent Injunctions Prohibiting Unauthorized Debits to Consumer and Small Business Bank Accounts (Feb. 18, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Office of Pub. Affs., Saint Vincents Catholic Medical Centers of New York Agrees to Pay $29M to Resolve Alleged False Claims Act Violations (Feb. 14, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Office of Pub. Affs., Lockheed Martin Corporation Agrees to Settle False Claims Act Allegations of Defective Pricing (Feb. 6, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Off. of Pub. Affs., California Food Distributor Settles False Claims Act Liability Relating to Self-Disclosure of Small Business Contracting Violations (Jan. 29, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Off. of Pub. Affs., Jamaican Citizen Sentenced to Prison in Connection with Lottery Scheme (Jan. 28, 2025). Copy supplied.

Press Release, U.S. Dep't of Just., Off. of Pub. Affs., Pfizer Agrees to Pay Nearly 60M to Resolve False Claims Allegations Relating to Improper Physician Payments by Subsidiary (Jan. 24, 2025). Copy supplied.

Press Release, U.S. Dep't of Justice, Off. of Pub. Affs., Corporation and Former Chief Executive Officer Plead Guilty to Health Care Fraud and Tax Conspiracy (Jan. 24, 2025). Copy supplied.

Press Release, Wiley Rein, FCC Clarifies Telephone Consumer Protection Act Permits Confirmation Text Messages (Dec. 10, 2012). Copy supplied.

Interview

Adam Sege, *Rising Star: Wiley Rein's Brett Shumate*, Law360 (Apr. 8, 2016). Copy supplied.

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

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

I have not run for public office.

I have held the following appointed positions at the U.S. Department of Justice:

Deputy Assistant Attorney General, Civil Division, 2017 – 2019.
I was appointed by Attorney General Jefferson B. Sessions.

Acting Assistant Attorney General, Civil Division, January 2025 – February 2025.
I was appointed by Acting Attorney General James McHenry.

Deputy Assistant Attorney General, Tax Division, February 2025 – Present.
I was appointed by Attorney General Pamela Bondi.

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

I am a member of the Republican Party, but I have not held a position or played a

formal role in a political campaign.

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

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

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

From August 2006 to August 2007, I served as a law clerk for Chief Judge Edith H. Jones of the U.S. Court of Appeals for the Fifth Circuit.

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

I have not practiced alone.

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

July 2003 – August 2003
Kraftson Caudle LLC
1600 Tysons Boulevard
McLean, VA 22102
Intern

May 2004 – July 2004
U.S. Department of Justice
Office of Legal Policy
950 Pennsylvania Avenue NW
Washington, DC 20530
Law Clerk

July 2004 – August 2004
Brooks, Pierce, McLendon, Humphrey & Leonard, LLP
230 North Elm Street
2000 Renaissance Plaza
Greensboro, North Carolina 27401
Summer Associate

May 2005 – August 2005
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Summer Associate

September 2007 – December 2014
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Associate

January 2015 – June 2017
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
Partner

June 2017 – June 2019
U.S. Department of Justice
Civil Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

August 2019 – January 2025
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
Partner

January 2025 – February 2025
U.S. Department of Justice
Civil Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Acting Assistant Attorney General

February 2025 – Present
U.S. Department of Justice
Tax Division
950 Pennsylvania Avenue NW
Washington, DC 20530
Deputy Assistant Attorney General

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

I have not served as a mediator or arbitrator.

b. Describe:

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

In 2007, I joined Wiley Rein LLP, where my work included civil litigation and appellate matters. In 2017, I was appointed Deputy Assistant Attorney General for the Civil Division's Federal Programs Branch at the U.S. Department of Justice. In that role, I supervised attorneys defending the Executive Branch in cases challenging federal laws, regulations, and policies. In 2019, I became a partner at Jones Day, where my work included civil litigation and appellate matters. In January 2025, I was appointed Acting Assistant Attorney General for the Civil Division at the U.S. Department of Justice. In that role, I supervised attorneys within the Civil Division's Federal Programs Branch, Appellate Staff, Office of Immigration Litigation, Commercial Litigation Branch, Torts Branch, and Consumer Protection Branch. Since February 2025, I have served as a Deputy Assistant Attorney General in the Tax Division.

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

At Wiley Rein LLP, from 2007 to 2017, our clients included telecommunications providers that we represented in litigation and regulatory matters involving the Federal Communications Commission. From 2017 to 2019, in the Civil Division's Federal Programs Branch at the U.S. Department of Justice, I supervised attorneys defending the Executive Branch in cases challenging federal laws, regulations, and policies. At Jones Day, from 2019 to 2025, our clients included trade associations and companies that we represented in litigation and regulatory matters involving federal agencies. In January 2025, at the U.S. Department of Justice's Civil Division, I supervised attorneys within the Civil Division's Federal Programs Branch, Appellate Staff, Office of Immigration Litigation, Commercial Litigation Branch, Torts Branch, and Consumer Protection Branch. Since February 2025, I have served as a Deputy Assistant Attorney General in the Tax Division.

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

At the Department of Justice, 100% of my practice has been focused on litigation. I frequently appear in court on behalf of the United States. In private practice, 50% of my practice was focused on litigation challenging laws, regulations, and executive orders on constitutional and statutory grounds. I frequently appeared in court on behalf of my clients in these cases. The other 50% of my private practice

was focused on regulatory matters before federal agencies.

i. Indicate the percentage of your practice in:
   1. federal courts: 50%
   2. state courts of record: __%
   3. other courts: __%
   4. administrative agencies: 50%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 95%
   2. criminal proceedings: 5%

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

I have tried three cases to judgment. As Deputy Assistant Attorney General, I supervised the trial team, participated in trial strategy, and examined witnesses.

i. What percentage of these trials were:
   1. jury: ___%
   2. non-jury: 100%

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

I have not argued orally before the Supreme Court. I have served as counsel in the following filings before the Supreme Court:

Brief for the United States in Opposition, *Sandhills Med. Found. v. Ford*, No. 24-483, 2025 U.S. S. Ct. Briefs LEXIS 261.

Brief for the Federal Petitioner, *Fuld v. PLO*, Nos. 24-20 and 24-151, 2025 U.S. S. C. Briefs LEXIS 273.

Reply to Brief in Opposition, *Consumers' Research v. Consumer Prod. Safety Comm'n*, No. 23-1323, 2024 U.S. S. Ct. Briefs LEXIS 3094.

Petition for a Writ of Certiorari, *Consumers' Research v. Consumer Prod. Safety Comm'n*, No. 23-1323, 2024 U.S. S. Ct. Briefs LEXIS 2120.

Brief for *Amicus Curiae* National Association of Realtors® in Support of Petitioners, G-*Max Mgmt. v. NY*, No. 23-1148, 2024 U.S. S. Ct. Briefs LEXIS 1923.

Reply to Brief in Opposition, *Allstates Refractory Contractors v. Su*, No. 23-819, 2024 U.S. S. Ct. Briefs LEXIS 1773.

Petition for a Writ of Certiorari, *Allstates Refractory Contractors v. Su*, No. 23-819, 2024 U.S. S. Ct. Briefs LEXIS 345.

Brief *Amicus Curiae* of James P. Corcoran, Former New York Superintendent of Insurance in Support of Petitioner, *NRA of Am. v. Vullo*, No. 22-842, 2024 U.S. S. Ct. Briefs LEXIS 147.

Brief for *Amici Curiae* National Association of Realtors® et al., *Sheetz v. Cnty. of El Dorado*, No. 22-1074, 2023 U.S. S. Ct. Briefs LEXIS 3553.

Brief for *Amici Curiae* National Association of Realtors® et al., *Devillier v. Texas*, No. 22-913, 2023 U.S. S. Ct. Briefs LEXIS 3559.

Brief for *Amici Curiae* National Apartment Association et al., *Community Hous. Improvement Program v. City of NY*, Nos. 22-1095 and 22-1130, 2023 U.S. S. Ct. Briefs LEXIS 1795.

Brief for *Amici Curiae* National Association of Realtors® et al., *Tyler v. Hennepin Cnty.*, No. 22-166, 2023 U.S. S. Ct. Briefs LEXIS 775.

Brief for *Amici Curiae* National Association of Realtors® in Support of Petitioners, *Columbia House of Brokers Realty v. Designworks Homes*, No. 21-1217, 2022 U.S. S. Ct. Briefs LEXIS 1164.

Petition for a Writ of Certiorari before judgment, *DHS v. Regents of Univ. of CA*, No. 18-587 (filed Nov. 5, 2018).

Brief for the Respondents in Opposition, *Stagg P.C. v. Dep't of State*, No. 17-94, 2017 U.S. S. Ct. Briefs LEXIS 4348.

Brief for the Respondents in Opposition, *Defense Distributed v. Dep't of State*, No. 17-190, 2017 U.S. S. Ct. Briefs LEXIS 4330.

Reply Brief, *Tsolainos v. Cain*, No. 13-922, 2014 U.S. S. Ct. Briefs LEXIS 1619.

Reply Brief, *Scott v. Am. Fed'n of State, Cnty., & Mun. Emps. Council 79*, No. 13-841, 2014 U.S. S. Ct. Briefs LEXIS 1286.

Petition for a Writ of Certiorari, *Tsolainos v. Cain*, No. 13-922, 2014 U.S. S. Ct. Briefs LEXIS 367.

Petition for a Writ of Certiorari, *Scott v. Am. Fed'n of State, Cnty., & Mun. Emps. Council 79*, No. 13-841, 2014 U.S. S. Ct. Briefs LEXIS 118.

Petition for Rehearing, *Kwong v. Holder*, No. 12-150, 2013 U.S. S. Ct. Briefs LEXIS 3012.

Brief of the National Defense Industrial Association as *Amici Curiae* in Support of Petitioner, *Kellogg Brown & Root Servs. v. Harris*, No. 13-817, 2013 U.S. S. Ct. Briefs LEXIS 682.

Brief of the Judicial Education Project et al. as *Amici Curiae* in Support of Petitioners, *Dool v. Burke*, No. 12-738, 2013 U.S. S. Ct. Briefs LEXIS 204.

Brief for Intervenor-Respondent CellCo Partnership d/b/a Verizon Wireless, *City of Arlington v. FCC*, Nos. 11-1545 and 11-1547, 2012 U.S. S. Ct. Briefs LEXIS 5232.

Reply Brief, *Kwong v. Holder*, No. 12-150, 2012 U.S. S. Ct. Briefs LEXIS 4940.

Brief *Amici Curiae* for the National Association of Subrogation Professionals and the Self Insurance Institute of America, Inc. in Support of Petitioner, *U.S. Airways v. McCutchen*, No. 11-1285, 2012 U.S. S. Ct. Briefs LEXIS 3641.

Petition for a Writ of Certiorari, *Kwong v. Holder*, No. 12-150, 2012 U.S. S. Ct. Briefs LEXIS 3228.

Brief of the Chamber of Commerce of the United States of America as *Amicus Curiae* Supporting Petitioners, *American Tradition P'ship v. Bullock*, No. 11-1179, 2012 U.S. S. Ct. Briefs LEXIS 1805.

Petition for a Writ of Certiorari, *Ramirez-Villalpando v. Holder*, No. 11 415, 2011 U.S. S. Ct. Briefs LEXIS 1526.

Brief in Opposition for Respondent WRNN License Co., LLC, *Cablevision SYS Corp. v. FCC*, No. 09-901, 2010 U.S. S. Ct. Briefs LEXIS 1151.

Emergency Application to Vacate the Stay Pending Appeal and for Immediate Administrative Vacatur; Reply in Support of Emergency Application for a Vacatur of the Stay Pending Appeal; Reply in Support of Emergency Application to Vacate the Stay Pending Appeal, *Alabama Association of Realtors v. HHS*, No. 21A23. Copy supplied.

Brief of the Chamber of Commerce of the United States of America as *Amicus Curiae* in Support of Petitioner, *VFJ Ventures v. Surtees*, No. 08-916. Copy supplied.

Petition for Writ of Certiorari, *Alltel Communs. v. City of Springfield, Mo.*, 555 U.S. 1071 (2008) (No. 08-548). Copy supplied.

15. **Litigation**: Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

    a. the date of representation;

    b. the name of the court and the name of the judge or judges before whom the case was litigated; and

    c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

    1. Alabama Association of Realtors v. HHS
    Case Nos. 20-CV-3377, 21-5093, 21A23, 20A169
    2021 WL 4057718 (D.C. Cir. Sept. 3, 2021), 539 F. Supp. 3d 29 (D.D.C. 2021), 594 U.S. 758 (2021)
    U.S. District Court for the District of Columbia (Hon. Dabney L. Friedrich)
    U.S. Court of Appeals for the D.C. Circuit
    Supreme Court of the United States
    2020 – 2021

    My law firm represented property owners challenging the Centers for Disease Control and Prevention's (CDC) nationwide moratorium on evictions, which prevented property owners from evicting certain tenants who failed to pay rent during the COVID-19 pandemic. A federal district court in Washington, D.C. agreed that the moratorium exceeded the agency's statutory authority under the Public Health Service Act and vacated the moratorium nationwide. After the district court granted the government's motion for a stay pending appeal, my law firm asked the Supreme Court to vacate the stay. On August 26, 2021, the Supreme Court vacated the stay, allowing the district court's judgment to take effect. My work largely consisted of developing the legal arguments and appearing in the district court.

    Primary Co-Counsel:

    Charlotte H. Taylor

Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Autumn Hamit Patterson
Louisiana Department of Justice
Solicitor General Benjamin Aguiñaga's Office
1885 North Third Street
Baton Rouge, LA 70802
(225) 326-6079

Opposing Counsel:

Brian H. Fletcher
Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305
(650) 723-2465

Leslie Cooper Vigen
Meta Platforms, Inc.
575 7th Street NW, Suite 700
Washington, DC 20004
(650) 441-2248

2. Sanofi-Aventis U.S., LLC v. HHS
Case Nos. 21-CV-00634, 21-CV-0080621-3167, 21-3379, 21-3168, 21-3380, and 22-1676
570 F. Supp. 3d 129 (D.N.J. 2021), 58 F.4th 696 (3d Cir. 2023)
U.S. District Court for the District of New Jersey (Hon. Freda L. Wolfson)
U.S. Court of Appeals for the Third Circuit
2021 – 2023

My law firm represented Sanofi in litigation challenging the U.S. Department of Health and Human Services' (HHS) enforcement action under Section 340B of the Public Health Service Act. The U.S. Court of Appeals for the Third Circuit issued an opinion rejecting HHS's interpretation of Section 340B. My work largely consisted of developing the legal arguments.

Primary Co-Counsel:

Ashley C. Parrish
King & Spalding LLP
1700 Pennsylvania Avenue NW # 900

Washington, DC 20006
(202) 737-0500

Allon Kedem
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, DC 20001
(202) 942-5000

Opposing Counsel:

Alisa B. Klein
The Wilmington University School of Law
10 Beaver Valley Road
Wilmington, DE 19803
(302) 268-1280

Daniel J. Aguilar
Civil Division
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-2000

3. Verizon v. FCC
Case Nos. 11-1355, 11-1356
740 F.3d 623 (D.C. Cir. 2014)
U.S. Court of Appeals for the D.C. Circuit
2011 – 2014

My law firm represented Verizon in litigation challenging the Federal Communications Commission's Open Internet Rules. The U.S. Court of Appeals for the D.C. Circuit issued an opinion vacating some of the rules. My work largely consisted of drafting the briefs.

Primary Co-Counsel:

Helgi C. Walker
Gibson, Dunn & Crutcher
1700 M Street NW
Washington, DC 20036
(202) 955-8500

William Spencer Consovoy
Deceased

Eve Klindera Reed
Wiley Rein LLP
2050 M Street NW
Washington, DC 20036
(202) 719-7000

Opposing Counsel:

James M. Carr
The Law Offices of Baldwin & Briscoe, P.C.
3010 Robert S. Crain Highway
Suite 100B
Waldorf, MD 20601
(443) 853-8698

Nickolai Levin
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-2000

4. United States Telecom Association v. FCC
Case No. 15-1063
825 F.3d 674 (D.C. Cir. 2016)
U.S. Court of Appeals for the D.C. Circuit
2015 – 2017

My law firm represented Alamo Broadband and Daniel Berninger in litigation challenging the Federal Communications Commission's Open Internet Order reclassifying broadband service as a telecommunications service, subject to common carrier regulation under Title II of the Communications Act. The U.S. Court of Appeals for the D.C. Circuit issued an opinion upholding the rules and denying rehearing en banc. My work largely consisted of the drafting the briefs and arguing part of the appeal.

Primary Co-Counsel:

Michael K. Kellogg
Kellogg, Hansen, Todd, Figel & Frederick: P.L.L.C.
1615 M Street NW
Suite 400
Washington, DC 20036
(202) 326-7900

Opposing Counsel:

James M. Carr
The Law Offices of Baldwin & Briscoe, P.C.
3010 Robert S. Crain Highway
Suite 100B
Waldorf, MD 20601
(443) 853-8698

David M. Gossett
Davis Wright Tremaine
1301 K Street NW
Suite 500
Washington, DC 20005
(202) 973-4200

5. Campaign Legal Center v. 45Committee, Inc
Case No. 23-7040
118 F.4th 378 (D.C. Cir. 2024)
U.S. Court of Appeals for the D.C. Circuit
2022 – 2024

My law firm represented 45Committee in an appeal of a dismissal of a citizen suit under the Federal Election Campaign Act. The D.C. Circuit held that the plaintiff failed to satisfy the preconditions to bring a citizen suit. My work largely consisted of developing the litigation strategy.

Primary Co-Counsel:

Edward Stewart Crosland
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

Kevin P. Hancock
Campaign Legal Center
1101 14th Street NW
Suite 400
Washington, DC 20005
(202) 736-2200

6. Nissan Chemical Corporation v. FDA
Case No. 22-1598
2024 WL 3724686 (D.D.C. 2024)

U.S. District Court for the District of Columbia (Hon. Richard L. Leon)
2022 – 2024

My law firm represented Nissan Chemical Corporation in challenging the U.S. Food and Drug Administration's (FDA) regulatory review period determination for its drug. The U.S. District Court for the District of Columbia held that the FDA's shifting approach to calculating regulatory review periods deprived the patent owner of fair notice and that the agency's failure to publicly acknowledge its change in position violated the Administrative Procedure Act. My work largely consisted of developing the litigation strategy.

Primary Co-Counsel:

Colleen M. Heisey
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

James William Harlow
U.S. Department of Justice
Consumer Protection Branch
PO Box 386
Washington, DC 20044
(202) 514-2000

7. Heritage Action for America v. Federal Election Commission
Case No. 22-CV-1422
682 F. Supp. 3d 62 (D.D.C. 2023)
U.S. District Court for the District of Columbia (Hon. Carl J. Nichols)
2022 – 2023

My law firm represented Heritage Action for America in challenging a policy adopted by the Federal Election Commission to conceal the FEC Commissioners' votes deadlocking on whether administrative complaints warranted agency enforcement efforts. The U.S. District Court for the District of Columbia held that the Commission violated the Administrative Procedure Act. My work largely consisted of developing the litigation strategy and appearing in court.

Primary Co-Counsel:

Edward Stewart Crosland
Charles E.T. Roberts
Jones Day

51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

Kevin Deeley
Federal Election Commission
1050 First Street NE
Washington, DC 20463
(202) 694-1556

8. Exxon Mobil Corp. v. Arjuna Capital LLC
Case No. 4:24-CV-00069
737 F. Supp. 3d 444 (N.D. Tex. 2024)
U.S. District Court for the Northern District of Texas (Hon. Mark T. Pittman)
2024

My law firm represented Exxon Mobil Corporation in seeking a declaratory judgment that it may exclude a shareholder proposal from its proxy statement under SEC Rule 14a-8. After the organizations withdrew their proposal, the court dismissed the case as moot. My work largely consisted of developing the litigation strategy.

Primary Co-Counsel:

Mark Waldemar Rasmussen
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

Veronica Mary Renzi
Womble Bond Dickinson
2001 K Street NW
Suite 400 South
Washington, DC 20006
(202) 467-6900

9. Consumers' Research v. Consumer Product Safety Commission
Case Nos. 6:21-CV-256-JDK, 22-40328
592 F.Supp.3d 568 (E.D. Tex. 2024), 91 F.4th 342 (5th Cir. 2024)
U.S. District Court for the Eastern District of Texas (Hon. Jeremy D. Kernodle)
U.S. Court of Appeals for the Fifth Circuit

2021 – 2024

My law firm represented Jones Day represented Consumers' Research and By Two LLP in a constitutional challenge to the structure of the Consumer Product Safety Commission. The Fifth Circuit upheld the Commission's structure. My work largely consisted of developing the legal arguments and appearing in court.

Primary Co-Counsel:

Anthony J. Dick
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

James W. Harlow
U.S. Department of Justice
Consumer Protection Branch
PO Box 386
Washington, DC 20044
(202) 514-2000

Chetan A. Patil
U.S. Department of Justice
Federal Programs Branch
Civil Division
PO Box 883
Washington, DC 20044
(202) 514-2000

10. Allstates Refractory Contractors v. Su
Case Nos. 3:21 CV 1864, 22-3772
625 F.Supp.3d 676 (N.D. Ohio 2022), 79 F.4th 755 (6th Cir. 2023)
U.S. District Court for the Northern District of Ohio (Hon. Jack Zouhary)
U.S. Court of Appeals for the Sixth Circuit
2021 – 2024

My law firm represented Allstates Refractory Contractors in a constitutional challenge to the Occupational Safety and Health Administration's (OSHA) statute. The U.S. Court of Appeals for the Sixth Circuit upheld the statute. My work largely consisted of developing the legal arguments and appearing in court.

Primary Co-Counsel:

Anthony J. Dick
Jones Day
51 Louisiana Avenue NW
Washington, DC 20001
(202) 879-3939

Opposing Counsel:

Courtney L. Dixon
U.S. Department of Justice
Civil Division
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 514-2000

Alisa B. Klein
The Wilmington University School of Law
10 Beaver Valley Road
Wilmington, DE 19803
(302) 268-1280

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

    In private practice, my non-litigation work focused on regulatory matters before federal agencies. For example, I regularly drafted comment letters on proposed rules, advised clients on regulatory litigation, and defending clients in enforcement matters before federal agencies. In this regard, my most significant regulatory matters involved representing Sanofi before the Health Resources and Services Administration in matters related to the 340B Program. I have not performed any lobbying activities.

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

    I have not taught any courses on a full-time basis. On occasion, I have been asked to serve as a guest lecturer at educational institutions on various topics. I have described those lectures in response to Question 12(d) above.

18. **Deferred Income/ Future Benefits**: List the sources, amounts and dates of all

anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

Jones Day is holding approximately $46,500 as a mandatory retirement contribution that will be deposited into my 401(k) at the end of the calendar year. In addition, when I reach the age of 65, I will receive approximately $47,944.96 annually as part of the Jones Day defined benefit pension plan, assuming plan investment performance meets expectations.

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

None.

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

Please see my OGE-278 as provided by the Office of Government Ethics.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

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

    During the Department of Justice onboarding process in January 2025, I consulted with the Department of Justice's ethics office and the Civil Division's Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

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

If I am confirmed, any potential conflict of interest will be resolved in accordance with the applicable regulations in consultation with the Civil Division's Designated Ethics Officer. If confirmed, I will continue to consult with the Civil Division's Designated Ethics Officer about conflicts of interest and will recuse myself from any matter in which recusal is required.

23. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Throughout my career I have been committed to performing *pro bono* legal service. The matters on which I have worked have varied, but these matters have generally involved litigation. I successfully represented a *pro bono* client seeking disability benefits before the Social Security Administration, personally argued *pro bono* cases as part of the U.S. Court of Appeals for the Ninth Circuit's Pro Bono Program, and filed amicus briefs in the Supreme Court on behalf of *pro bono* clients. Altogether, I estimate that I have dedicated hundreds of hours to *pro bono* clients throughout my career.

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		558	282	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	2	565	386	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		627	261
Real estate owned – see schedule	1	482	300	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		71	858				
Cash value-life insurance		13	939				
Other assets itemize:							
Health Savings Account (Vanguard Total Bond Market Index and Vanguard Total Stock Market Index)		80	255				
Virginia 529 Plan #1		31	255				
Virginia 529 Plan #2		57	443	Total Liabilities		627	261
Virginia 529 Plan #3		70	619	Net Worth	4	366	589
Virginia 529 Plan #4		62	513				
Total Assets	4	993	850	Total Liabilities and Net Worth	4	993	850
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)			No
On leases or contracts				Are you defendant in any suits or legal actions?			No
Legal Claims				Have you ever taken bankruptcy?			No
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities	
IRA	
Held in Money Market	37,482.74
Global X FDS Artificial ETF	20,766.03
SPDR Bloomberg 3-12 Month T-Bill ETF	35,404.56
SPDR Dow Jones Indl Average ET UT SER 1	28,038.90
iShares TR Fltg Rate NT ETF	17,487.63
iShares Core S&P Mid-Cap ETF	30,760.41
iShares S&P Small-Cap 600 Value ETF	9,459.95
iShares S&P 500 Vaule ETF	59,435.51
iShares Russell 2000 ETF	23,405.54
ProShares S&P 500 Dividend Aristocrats ETF	21,568.14
SPDR SER TR S&P Dividend ETF	36,485.53
iShares Trust 1-3 Year Treasury Bond ETF	26,447.51
Invesco Exchange Traded FD TR S&P 500 Quality	31,620.89
SPDR S&P500 ETF Trust Trust Unit Depositary Receipt	36,544.38
Vanguard Index Funds S&P 500 ETF USD	32,881.31
Vanguard Index Fds Vanguard Total Stk Mkt ETF	167,195.45
Select Sector SPDR Trust Technology Select Sector USD DIS	19,158.32
Health Care Select Sector SPDR Fund	23,518.13
Consumer Discretionary Select Sector SPDR FUND	69,443.18
Roth IRA	
Held in Money Market	7,788.69
iShares Core S&P Mid-Cap ETF	14,399.64
SPDR S&P 500 ETF Trust Trust Unit Depositary Receipt	21,848.05
Vanguard Index Fds Vanguard Total Stk Mkt ETF	1,601.26
Brokerage	
Held in Fcash	512,612.04
iShares Core US Aggregate Bond ETF	78,072.20
Global X Fds Artificial ETF	120,149.92
SPDR Bloomberg 3-12 Month T-Bill ETF	34,123.01
Vanguard Bd Index Fds Total Bnd Mrkt	72,474.99
SPDR Dow Jones Indl Average ET UT SER 1	14,415.15
Vaneck ETF TR Vaneck Gold Miners ETF	17,316.15
iShares Core S&P Mid-Cap ETF	13,369.77
iShares S&P Small-Cap 600 Value ETF	12,416.80
iShares S&P 500 Value ETF	10,420.99
Oakmark Fund Investor Class	21,154.83
Invesco QQQ TR Unit SER 1	31,679.40
Invesco Exchange Traded Fd Tr S&P500 Eql Wgt	16,585.80
SPDR SER TR S&P Dividend ETF	17,084.09
iShares Silver TR iShares	5,800.00

Vanek ETF Trust Semiconductor ETF	40,150.11
Invesco Exch Traded Fd TR II S&P 500 HB ETF	32,356.38
Invesco Exchange Traded Fd TR S&P500 Quality	39,973.29
SPDR S&P500 ETF Trust Trust Unit Depositary Receipt	37,018.94
SSGA Active ETF TR SPDR TR Tactic	79,499.75
Vanguard Index Fds Vanguard Total Stk Mkt ETF	85,865.18
Materials Select Sector SPDR Fund	9,194.67
Select Sector SPDR TR Energy	26,112.15
Select Sector SPDR TR INDL	15,785.32
Select Sector SPDR Trust Technology Select Sector USD DIS	23,948.50
Health Care Select Sector SPDR FUND	19,763.55
Consumer Discretionary Select Sector SPDR Fund	15,849.66
401K	
Held in Money Market	3,776.80
Global X FDS Artificial ETF	29,289.00
SPDR Bloomberg 3-12 Month T-Bill ETF	28,628.35
SPDR Dow Jones Indl Average ET UT SER 1	25,519.72
iShares Core S&P Mid-Cap ETF	22,929.50
iShares S&P 500 Value ETF	16,757.45
iShares Russell 2000 ETF	16,244.30
Invesco QQQ TR Unit SER 1	40,441.39
Invesco Exchange Traded Fd TR S&P500 Eql Wgt	57,415.41
iShares Trust 1-3 Year Treasury Bond ETF	31,562.87
SPDR S&P500 ETF Trust Trust Unit Depositary Receipt	49,305.52
Vanguard Specialized Funds Div App ETF	7,075.38
Select Sector SPDR TR Indl	17,782.96
Select Sector SPDR Trust Technology Select Sector USD DIS	42,722.79
Total Listed Securities	$2,565,385.83

Real Estate Owned	
Personal Residence	$1,482,300.00
Total Real Estate Owned	$1,482,300.00

Real Estate Mortgages Payable	
Personal Residence – Mortgage	$627,261.00
Total Real Estate Mortgages Payable	$627,261.00

AFFIDAVIT

I, Brett Allen Shumate, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

~~2/12/~~ 2/11/25
(DATE)

Brett Allen Shumate
(NAME)

J Jargbo
(NOTARY)

District of Columbia
Signed and sworn to (or affirmed) before me on 2/11/25 by Brett Allen Shumate
Date Name(s) of Individual(s) making Statement

J Jargbo
Signature of Notarial Officer

Financial Services Rep
Title of Office

My commission expires: 9/14/2029

JEREMIAH JARGBO JR NOTARY PUBLIC DISTRICT OF COLUMBIA Exp. September 14, 2029

Nomination of Brett Allen Shumate
To be Assistant Attorney General for the Civil Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR DURBIN
Ranking Member, Senate Judiciary Committee

1. Last year, you participated in a Federalist Society panel discussion about the President's ability to remove the heads of independent agencies. During that discussion, you argued that "nearly all modern, independent agencies are unconstitutional" because of protections dictating that agency heads can only be removed for cause.

   This view directly contradicts the Supreme Court's decision in *Humphrey's Executor*, which held that removal protections for independent agency heads are constitutional. As I noted at your hearing, the Trump Administration has informed me that it will seek to have this precedent overturned. *Humphrey's Executor*, however, remains the law of the land.

   Since his inauguration, President Trump has fired Democratic members of the Equal Employment Opportunity Commission, National Labor Relations Board, Federal Election Commission, and Federal Trade Commission, among others.

   a. **Were these firings lawful under binding Supreme Court precedent? Please answer "yes" or "no."**

      Response: As I explained at the hearing, I appeared at this event on behalf of the law firm I worked for at the time that had a pending case on the topic of Presidential removal power. In that case, I represented our client's position that a certain agency's removal protections were unconstitutional. Because challenges to the removal of government officials are the subject of pending litigation, I respectfully decline to comment at this time on the President's removal of the government officials listed in your question.

   b. **In your view, could President Trump lawfully remove members of the Federal Reserve without cause?**

      Response: Because challenges to the removal of government officials are the subject of pending litigation, I respectfully decline to comment at this time on the President's hypothetical removal of other government officials.

2. When I asked at your hearing whether you have participated in discussions with Justice Department or White House officials about the plan to overturn *Humphrey's Executor*, you declined to answer. You stated that it would not be "appropriate to disclose what matters [you] advised on at the Department."

Both Republican and Democratic members of the Senate Judiciary Committee have previously taken the position that nominees before the Committee can and should answer questions about topics they have worked on while serving in a presidential administration. For example, a previous Republican Chairman stated that it was not an "unfair question" to ask then-Second Circuit nominee Steven Menashi whether he advised on specific topics while serving in the Trump White House Counsel's Office.

Given this context, please confirm whether you have participated in discussions with Justice Department or White House officials about the plan to overturn *Humphrey's Executor*.

Response: Given the Civil Division's responsibility to provide confidential legal advice to officials throughout the government, it would be inappropriate for me to discuss whether I have had internal deliberative conversations within the Justice Department or with White House officials about any particular matter.

3. I have long been concerned by the high levels of youth e-cigarette use. The Tobacco Control Act dictates that manufacturers first have to prove that an e-cigarette is "appropriate for the protection of public health"—that is, manufacturers must meet this burden and receive Food and Drug Administration (FDA) approval—before the product can enter the market.

   However, in recent years, the tobacco industry has flooded the market with flavored vaping devices designed for children that never received FDA approval. In my view, it is a failure of the FDA and the Civil Division that our laws, which were designed to protect children from nicotine addiction, have not been enforced.

   Will you commit, if you are confirmed, to prioritizing enforcement of the Tobacco Control Act against these e-cigarette manufacturers?

   Response: If I am confirmed, I will review the applicable ethics regulations and consult with the Civil Division's Designated Ethics Officer to determine whether it would be appropriate for me to participate in any matters involving e-cigarette manufacturers.

4. During your hearing, I asked you about President Trump's recent comments in support of providing January 6 offenders with financial reparations in the form of a compensation fund. He stated, in reference to January 6 defendants, that "a lot of the people that are in the government now talk about [financial reparations] because a lot of the people in government really like that group of people." You responded that you were unfamiliar with these comments.

   a. Now that you have had time to familiarize yourself with President Trump's comments, do you agree with him that January 6 insurrectionists, including those who violently assaulted law enforcement officers, deserve financial reparations?

Response: Because financial compensation for injuries caused by federal government employees in connection with their official duties should be determined by a court consistent with the facts and the law of each case, I respectfully decline to comment at this time on any hypothetical litigation against the federal government.

b. Have you participated in discussions with any Justice Department or White House officials about the possibility of providing January 6 defendants with financial reparations or setting up a compensation fund?

Response: Given the Civil Division's responsibility to provide confidential legal advice to officials throughout the government, it would be inappropriate for me to discuss whether I have had internal deliberative conversations within the Justice Department or with White House officials about any particular matter.

c. Are you among the government officials who "really like" January 6 offenders?

Response: Please see my responses to Questions 4a and 4b.

Nomination of Brett Allen Shumate
To be Assistant Attorney General for the Civil Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible. Where indicated, please provide only yes or no answers.

1. In our meeting, you said it was important for DOJ to provide independent, objective advice.

    a. Did DOJ provide independent, objective advice before President Trump issued the Executive Order on birthright citizenship?

    Response: Given the Civil Division's responsibility to provide confidential legal advice to officials throughout the government, it would be inappropriate for me to discuss whether or not I have had internal deliberative conversations within the Justice Department or with White House officials about any particular matter.

    b. Did you provide any advice related to the birthright citizenship Executive Order?

    Response: Please see my response to Question 1a.

2. If confirmed, how will you maintain your independence from the president? Under what circumstances should the Department maintain its independence from the president?

    Response: If confirmed, I will uphold my oath to support and defend the Constitution, and act in accordance with applicable laws, regulations, and Department policies.

3. If confirmed, what will you do if representing the interests of the United States conflicts with the political or personal or financial interests of the president?

    Response: Please see my answer to Question 2.

4. Your Senate Judiciary Questionnaire says that in 2019 you joined the Teneo Network.

    a. In your own words, what is the Teneo Network?

    Response: Teneo is a network of like-minded conservatives.

    b. How did you first hear about the Teneo Network?

    Response: I was invited to join Teneo in 2019.

c. Why did you choose to join the Teneo Network?

Response: I joined Teneo in 2019 to network with other like-minded conservatives.

d. What activities have you participated in as part of the Teneo Network?

Response: Since 2019, I have attended approximately two to three Teneo events each year, including Christmas parties and other social events, the 2021 retreat, the 2023 father-son retreat, and the 2024 legal summit.

e. Who funds the Teneo Network? Have you fundraised for it?

Response: I have donated to Teneo, but I have not fundraised for Teneo.

5. If you are confirmed, what would you do if the Attorney General or President directs you to take a position for improper reasons?

Response: The question poses a hypothetical, which I do not believe would occur. If confirmed, I will follow the law and uphold my oath to support and defend the Constitution.

6. Do you believe that judges who issue orders that are unfavorable to the Trump administration should be impeached?

Response: In general, the Department of Justice responds to an unfavorable decision by filing an appeal.

7. Do you believe a federal judge issuing a temporary restraining order against the executive branch is tantamount to a coup?

Response: In general, courts have authority to issue temporary restraining orders in appropriate cases.

8. Do you believe it is appropriate to refer to judges who rule against President Trump as "political terrorists"?

Response: I am not familiar with the statement quoted in this question but, generally speaking, I support the right of all individuals to free speech.

9. Did Joe Biden win the 2020 presidential election?

Response: Former President Joseph Biden was certified as the winner of the 2020 presidential election and sworn in as the forty-sixth President on January 20, 2021.

10. Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: I unequivocally condemn all violence that took place on January 6, 2021.

11. Does the 22nd Amendment permit a president to be elected more than twice?

Response: In my career as a lawyer, I have not had occasion to study this issue in depth.

Senate Judiciary Committee
Questions for the Record
on the Nomination of Brett Shumate
to be Assistant Attorney General for the Civil Division
April 1, 2025
Senator Amy Klobuchar

1. In 2022, Congress passed legislation that I led to end Big Pharma's sweetheart deal and empower Medicare to negotiate lower drug prices for seniors. As a result, Americans are expected to save $1.5 billion in out-of-pocket costs in 2026 alone. Big Pharma has taken to the courts to dismantle this law.

    - I was pleased to see the government file a brief in the Third Circuit in defense of the law. Will you commit to continuing to defend the law that allows Medicare to negotiate prescription drug prices?

      Response: I am recused from the litigation involving the Inflation Reduction Act's Drug Negotiation Program.

2. During the last Trump Administration, you chose not to defend in court the Affordable Care Act's coverage of pre-existing conditions.

    - Given the Republican Chair of the Health, Education, Labor and Pensions Committee Lamar Alexander called your position "as far-fetched as any I've ever heard" and three attorneys withdrew from the case and one even resigned in protest, how could you argue that there was no "reasonable argument" to be made in defense of the law?

      Response: In *Texas v. United States*, No. 4:18-cv-00167-O (N.D. Tex.), the Department of Justice filed briefs consistent with the Attorney General's June 7, 2018 letter to Congress. Although the district court agreed with the Department of Justice's position, the Supreme Court ultimately held in *California v. Texas*, 593 U.S. 659 (2021), that the plaintiffs lacked standing without reaching the merits.

3. The President has illegally fired two Senate confirmed commissioners on the FTC without cause. The Justice Department has made clear it will defend the President's actions. Last April, you said "nearly all modern, independent agencies are unconstitutional." But there is a 90 year old Supreme Court precedent directly upholding the constitutionality of the FTC Act (*Humphrey's Executor v. U.S.* 295 U.S. 602 (1935))

    - Regardless of your personal views, or that of the President's, isn't it true the Supreme Court has not overturned that decision?

      Response: *Humphrey's Executor* has not been overturned, but the Justice Department has notified Congress that the Department intends to urge the Supreme Court to overrule it.

    - In *PHH Corp. v. Consumer Fin. Prot. Bureau* (2018), Justice Kavanaugh, while serving on the D.C. Circuit, wrote that multi-member independent agencies are part of a "deeply

rooted tradition" that "has been widely recognized by leading judges, congressional committees, and academics…" Do you agree?

Response: Because challenges to the removal of government officials are the subject of pending litigation, I respectfully decline to comment at this time.

Nomination of Brett Allen Shumate
To be Assistant Attorney General for the Civil Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR COONS

1. If President Trump asked you to do something you judged to be illegal or unethical, would you resign? Please answer yes or no.

   Response: The question poses a hypothetical, which I do not believe would occur. If confirmed, I will always follow the law, as well as uphold my oath to support and defend the Constitution.

   a. If you would not resign, what would you do?

      Response: Please see my response to Question 1.

2. How would you respond if your role at the Department of Justice required you to pursue a policy directive that was unconstitutional?

   Response: Please see my response to Question 1.

3. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

   Response: The remedy would depend upon the facts and circumstances. The remedy could be imposed by a court of law, by Congress, or by voters at the ballot box.

4. As a DOJ lawyer, when is it appropriate to refuse to follow a directive from the President?

   Response: Justice Department lawyers should always uphold their oaths to support and defend the Constitution, and act in accordance with applicable laws, regulations, and Department policies.

5. What are the remedies available to a litigant who is dissatisfied with a court order?

   Response: Parties who are dissatisfied with a court order have the option to appeal the order to a higher court, up to and including the Supreme Court, and including the option to seek a stay of the court's order pending appeal.

   a. Would you ever advise a client to disregard a court order?

Response: I will always advise a client, whether in private practice or in government, to comply with court orders.

b. If President Trump instructed you to disobey an order from a federal judge, how would you respond?

Response: The question poses a hypothetical, which I do not believe would occur. If confirmed, I will always follow the law and uphold my oath to support and defend the Constitution.

c. If Attorney General Bondi instructed you to disobey an order from a federal judge, how would you respond?

Response: Please see my response to Question 5b.

6. When is it appropriate for the DOJ to decide not to defend a federal law?

Response: The Attorney General has a duty to defend the validity of Congressional enactments when there are reasonable arguments available to do so. An exception exists in certain cases where there is a conflict between a federal statute and the President's Article II authority. If confirmed, I commit to following these principles.

7. Do you agree that the DOJ has an independent obligation to evaluate the legality of the President's policy proposals?

Response: The Department's Office of Legal Counsel (OLC) provides legal advice to the President and all executive branch agencies. The Civil Division works closely with its client agencies to limit the potential for litigation and to prevent unfavorable outcomes should cases proceed in court. If confirmed, I commit to working with the relevant Department personnel, including OLC, to ensure the Department is fulfilling its duties to advise the President and federal agencies on the legality and constitutionality of their policies.

8. What is your understanding of the DOJ's contact policy regarding interactions between the DOJ and White House officials?

Response: If confirmed, I will comply with all applicable Justice Manual provisions and other guidance issued by the Attorney General regarding communication with the White House.

9. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute a political opponent?

Response: If confirmed, I will faithfully enforce the laws of the United States based on the facts and circumstances of each case.

10. How would you respond to the President calling on the Department via social media, a press conference, or other means, to investigate, sue, and/or prosecute an individual or corporation where that action was not justified by the facts and the law?

    Response: Please see my response to Question 9.

11. In a memo to all DOJ employees, Attorney General Pam Bondi, stated that Department attorneys who refuse to advance arguments "deprive[] the President of the benefit of ***his*** lawyers." I want you to focus on the part of this statement that references Department attorneys as President Trump's lawyers.

    a. Do you agree with this characterization of Department attorneys by Attorney General Bondi?

       Response: The Civil Division represents the United States in litigation, and in lawsuits in which the President is named as a defendant, the Civil Division represents the President in his official capacity.

    b. Do you consider the Assistant Attorney General for the Civil Division to be "the President's lawyer"?

       Response: Please see my response to Question 11a.

    c. Who does the DOJ Civil Division work for?

       Response: The DOJ Civil Division works for the people of the United States, who elected Donald J. Trump as the President of the United States.

12. Does the President have the Constitutional authority to impound funds duly appropriated by Congress?

    Response: Because some of the President's decisions with respect to federal funding are the subject of pending litigation, I respectfully decline to comment.

    a. If yes, under what circumstances?

       Response: Please see my response to Question 12.

    b. Since taking office, President Trump has worked to defund and shutter certain agencies, refusing to spend money duly appropriated by Congress for programs and agencies created by certain acts of Congress. Is this Constitutional?

       i. If yes, please explain.

          Response: Please see my response to Question 12.

13. On April 2, 2025, the Supreme Court unanimously upheld decisions by the Food and Drug Administration denying access to the market to certain flavored e-cigarettes.

    a. If confirmed, how do you plan to combat the unlawful sale and distribution of e-cigarettes?

    Response: If I am confirmed, I will review the applicable ethics regulations and consult with the Civil Division's Designated Ethics Officer to determine whether it would be appropriate for me to participate in any matters involving e-cigarette manufacturers.

    b. In June 2024, the DOJ and the FDA announced a multi-agency task force to combat the illegal distribution and sale of e-cigarettes. If confirmed, what, if any, actions will you take with respect to the operation of this task force?

    Response: Please see my response to Question 13a.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nominations Hearing | March 26, 2025
Questions for the Record for Brett Shumate

1. During an April 2024 Federalist Society panel, you argued that "*nearly all* modern, independent agencies are unconstitutional." You argued that *Selia Law* stands for the proposition that even multi-member independent agencies are unconstitutional if they exercise substantial executive power. **In your view, which few independent agencies *are* constitutional?**

   Response: As I explained at the hearing, I appeared at this event on behalf of the law firm I worked for at the time that had a pending case on the topic of Presidential removal power. In that case, I represented our client's position that a certain agency's removal protections were unconstitutional. Because challenges to the removal of government officials are the subject of pending litigation, I respectfully decline to comment at this time.

Nomination of Brett Allen Shumate
To be Assistant Attorney General for the Civil Division
Questions for the Record
Submitted April 2, 2025

QUESTIONS FROM SENATOR SCHIFF

1. In April 2024, you stated during a Federalist Society panel discussion that, "nearly all modern, independent agencies are unconstitutional" because of removal protections. Do you stand by that statement?

   Response: As I explained at the hearing, I appeared at this event on behalf of the law firm I worked for at the time that had a pending case on the topic of Presidential removal power. In that case, I represented our client's position that a certain agency's removal protections were unconstitutional. Because challenges to the removal of government officials are the subject of pending litigation, I respectfully decline to comment at this time on the President's removal of the government officials listed in your question.

2. On February 12, 2025, the Justice Department informed this Committee that it plans to ask the Supreme Court to overturn *Humphrey's Executor*, the landmark Supreme Court case from 1935 establishing that the President cannot remove the heads of independent federal agencies without cause. Please list below all of the cases that the Justice Department has already asked the Supreme Court to overturn.

   Response: To my knowledge, *Humphrey's Executor* is the only Supreme Court case that the Department of Justice, under the current Administration, has notified Congress that the Department intends to urge the Supreme Court to overrule in an appropriate case.

3. Please list below all of the cases that the Justice Department is planning to ask the Supreme Court to overturn.

   Response: Please see my response to Question 2.

4. Will the Justice Department be asking the Supreme Court to overturn *Brown vs. Board of Education*, 347 U.S. 483 (1954)?

   Response: Please see my response to Question 2.

5. Will the Justice Department be asking the Supreme Court to overturn *Obergefell v. Hodges*, 576 U.S. 644 (2015)?

   Response: Please see my response to Question 2.

6. Will the Justice Department be asking the Supreme Court to overturn *Miranda v. Arizona*, 384 U.S. 436 (1966)?

Response: Please see my response to Question 2.

7. Will the Justice Department be asking the Supreme Court to overturn *National Federation of Independent Business v. Sebelius*, 567 U.S. 519 (2012)?

Response: Please see my response to Question 2.

March 19, 2025

Via Email

The Honorable Charles E. Grassley, Chairman
The Honorable Richard Durbin, Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Nomination of Brett A. Shumate as Assistant Attorney General (Civil Division)

Dear Chairman Grassley and Ranking Member Durbin:

The undersigned partners at Wiley Rein LLP write to share our perspective as former colleagues of Brett Shumate, presently nominated by the President to serve as the next Assistant Attorney General ("AAG") for the Civil Division at the U.S. Department of Justice. We share below our experiences with Brett, and respectfully urge his confirmation.

Brett was a summer associate at Wiley Rein and spent the early years of his legal career after his federal clerkship as an Associate at the firm. He was easily elected to our partnership, where he served until his prior service at the Department of Justice. While at Wiley, we saw Brett distinguish himself in numerous ways that demonstrate that he possesses the experience, skills, temperament and character to well and faithfully perform the important duties of the office to which he has been nominated.

First, and critical to the position that he would assume if confirmed, Brett proved himself to be a skilled litigator and manager of complex cases and legal issues. He gained deep experience with administrative law, Constitutional issues, and the sort of complex federal disputes that he will manage at the Department. He also provided sound advice in counseling matters that helped avoid litigation, demonstrating that he will be a strong advisor within the Department both to senior leadership and the agencies that he and his team will represent in administrative and civil matters.

Second, Brett's work ethic shows he will be an effective AAG. While at Wiley, in addition to his substantial caseload for paying clients, Brett took on pro bono representations, which required substantial investments of time, both to help less fortunate individual litigants and gain extra court experience. Brett never shied away from the hard work and long hours needed to ensure zealous representation of all of his clients, as well as his own professional development. And he did all this while parenting a growing family with which he was actively involved.

Third, Brett proved himself a thoughtful leader in firm recruiting, professional development, and associate mentoring. Many of us had occasion to work with Brett to identify and cultivate talent at the firm, and Brett regularly sought out opportunities to help peers and subordinates develop as attorneys. This experience and his prior service as the lead official overseeing the Civil Division's Federal Programs Branch, supervising over 110 attorneys, have prepared him to manage the Civil Division as AAG.

Fourth, Brett demonstrated impeccable ethics and integrity. Brett could be counted on to handle complex situations with care and attention to his ethical obligations and duties to his clients and colleagues. He is thoughtful, honest, and trustworthy.

Based on our experience working with Brett over many years, we are honored to commend him to the U.S. Senate for the important role to which he has been nominated.

The undersigned attorneys respectfully submit this for your consideration. Please do not hesitate to contact any of us for additional information.

Thank you,

Jeremy J. Broggi

Megan L. Brown

Caleb P. Burns

Ralph Caccia

Edgar Class

David Gross

Jennifer D. Hindin

Kathleen A. Kirby

Scott M. McCaleb

Ari Meltzer

Stephen J. Obermeier

John R. Prairie

Eve Klindera Reed

D. Mark Renaud

Bennett L. Ross

Mark Sweet

Michael E. Toner

Wesley E. Weeks

David E. Weslow

Richard Wiley

Brandis L. Zehr

JONES DAY
51 LOUISIANA AVENUE N.W.
WASHINGTON, D.C. 20001-2113

GREGORY M. SHUMAKER
MANAGING PARTNER

TELEPHONE: +1.202.879.3939
FACSIMILE: +1.202.626.1700
WRITER'S DIRECT NUMBER:
+1.202.879.3679

March 20, 2025

Senator Charles Grassley, Chairman
Senate Judiciary Committee
135 Hart Senate Office Building
Washington, D.C. 20510

Senator Dick Durbin, Ranking Member
Senate Judiciary Committee
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Brett Shumate

Dear Members of the Judiciary Committee of the United States Senate:

We are partners in the law firm Jones Day. I am pleased to deliver this letter which expresses our enthusiastic support for the confirmation by the United States Senate of our former partner, Brett Shumate, as Assistant Attorney General of the Civil Division at the United States Department of Justice. Our partnership holds a broad range of policy and jurisprudential views, but we are united in our view, based on our experience and knowledge of Brett and his work, that he is highly qualified to lead the Civil Division.

Jones Day presently has approximately 2,500 lawyers in 40 offices across five continents. It ranks among the very largest law firms in the world. Jones Day began its existence as a law partnership in Ohio more than 130 years ago. We are proud of the contributions our colleagues have made in the service of this nation. Our former partner, Judge Gregory Katsas of the D.C. Circuit, served as Assistant Attorney General of the Civil Division from 2008-2009. We very much hope that our former partner, Brett Shumate, will now be confirmed to hold that office.

Brett is an intelligent and principled lawyer with unwavering integrity and outstanding discernment. During his prior service in the Civil Division as Deputy Assistant Attorney General for the Federal Programs Branch from 2017-2019, Brett was a skilled advocate who worked tirelessly to faithfully represent the interests of the United States in every case and matter on which he worked. Indeed, the *National Law Journal* described Brett as the Justice Department's "point man in court" and "first line of defense" who is "very, very sharp" and has "outstanding litigation judgment." In private practice at Jones Day, Brett continued to deliver compelling arguments in multiple federal district and appellate courts on behalf of our clients. He is a strategic, meticulous decision maker who brings to every legal problem an open mind and an uncompromising commitment to the rule of law.

Brett has excelled throughout his academic and legal career. He graduated, *magna cum laude*, from Furman University in 2003 and was elected to Phi Beta Kappa. He received his law

degree, *magna cum laude*, from Wake Forest University in 2006, where he was elected to Order of the Coif and served as Executive Editor of the *Wake Forest Law Review*. He then served as a federal law clerk to Judge Edith H. Jones on the United States Court of Appeals for the Fifth Circuit.

We hope and trust that Brett's integrity, proven leadership abilities, and dedication to serving our country with distinction will be recognized by your action to confirm.

Sincerely,



Gregory M. Shumaker

John M. Allan
Mark J. Andreini
Ryan J. Andreoli
S. Wade Angus
Catherine E. Arney
Anderson T. Bailey
Kyle M. Baltes
Jeffrey D. Baltruzak
Brett P. Barragate
Joe Beauchamp
Charles N. Bensinger III
Andrew J. Bentz
Rick Bergstrom
David S. Birnbaum
Carl E. Black
Ryan P. Blaney
Irina K. Bleustein
Bradley C. Brasser
Stephen J. Brogan
Erin L. Burke
Joanne R. Bush
Louis A. Chaiten
Edward S. Chang
Terri L. Chase
Tyrone R. Childress
Dickson C. Chin
Theodore T. Chung
Toni-Ann Citera
Andrew J. Clopton
Mark A. Cody
William D. Coglianese
Matthew C. Corcoran
Steven J. Corr
Steve Cottreau
Scott W. Cowan
Stephen J. Cowen
E. Stewart Crosland
Timothy R. Curry
Walter W. Davis
Leon F. DeJulius, Jr.
Jennifer L. Del Medico
Thomas Demitrack
William E. Devitt
Peter E. Devlin
Antonio F. Dias
Anthony J. Dick
Christopher H. Domingo
Ryan A. Doringo
Thomas E. Dutton
Michael P. Earley
Mark E. Earnest
Brian West Easley
Miguel Eaton
Sarah D. Efronson
Benjamin L. Ellison
Jeffrey B. Ellman
Robert S. Faxon
Meir Feder
Noel J. Francisco
Daniel N. French
Joshua L. Fuchs
James E. Gauch
Steven N. Geise
Todd R. Geremia
Alexis S. Gilroy
Michael R. Gladman
Michael A. Gleason
Joseph A. Goldman
Harold K. Gordon
John M. Gore
Jonathan V. Gould
Richard J. Grabowski
Brian R. Grady
Gerald M. Griffith
Jason R. Grove
Ashley Gullett
Michael P. Gurdak
Jonathan D. Guynn
Thomas A. Hamilton
Patrick Haney

Justin E. Herdman
Karen P. Hewitt
Morgan R. Hirst
Kevin P. Holewinski
Adam Hollingsworth
Rory T. Hood
Anthony M. Insogna
Sean E. Jackowitz
Jeffrey R. Johnson
Kurt A. Johnson
James M. Jones
Jeffrey J. Jones
Brian M. Jorgensen
Matthew A. Kairis
Sanjiv K. Kapur
Demetra Karamanos
Samir Kaushik
Rebekah Byers Kcehowski
Ferrell Keel
Christopher M. Kelly
Todd P. Kelly
Edward T. Kennedy
David C. Kiernan
James I. Kinnebrew
John M. Kirsner
Michael H. Knight
Tara C. Kowalski
Carl A. Kukkonen, III
Aldo L. LaFiandra
Matthew W. Lampe
Lisa S. Lathrop
Fernand A. Lavallee
William G. Laxton, Jr.
Andrew E. Lelling
Enrique A. Lemus
Heather Lennox
Randi C. Lesnick
Andrew M. Levine
Sarah L. Levine
Jonathan M. Linas
Jeffrey D. Litle
Traci L. Lovitt
Christopher Lovrien
Brinton Lucas
Thomas E. Lynch
Rory D. Lyons
John M. Majoras
C. Kevin Marshall
Rebecca C. Martin
Justin D. Martin
Alexander V. Maugeri
Joel T. May
John E. Mazey
Rosanna K. McCalips
Sidney Smith McClung
Michael J. McConnell
Brian D. McDonald
J. Bruce McDonald
Kristen Pollock McDonald
Donald F. McGahn II
Joseph Melnik
Caroline N. Mitchell
Yeah-Sil Moon
Hashim M. Mooppan
David M. Morrell
Eric H. Mosier
Rajeev Muttreja
Megan Newton
Kevin R. Noble
John J. Normile
Patrick J. Norton
Bridget K. O'Connor
Kelly V. O'Donnell
Philip M. Oliss
Mauricio F. Paez
Matthew E. Papez
Stephanie E. Parker
Stephen P. Parrinello
S. Christian Platt
Michael A. Platt

Alexander V. Potapov
James L. Poth
Victoria Cuneo Powell
Robert A. Profusek
Ricardo H. Puente
Kimberly J. Pustulka
Brian C. Rabbitt
Anna E. Raimer
Mark W. Rasmussen
Sharyl A. Reisman
T. Daniel Reynolds
Richard M. Rosenblatt
Benjamin Rosenblum
E. Michael Rossman
Albert J. Rota
William B. Rowland
Amanda S. Rush
Kevin M. Samuels
Joseph M. Sauer
James R. Saywell
Jeff Schlegel
Michael A. Schneidereit
Schuyler J. Schouten
Joseph B. Sconyers
Brian L. Sedlak
Brian G. Selden
Michael R. Shumaker
Howard F. Sidman
Courtney L. Snyder
Michael J. Solecki
Robert N. Stander
Andy R. Stanton
Eric P. Stephens
Neal J. Stephens
Craig E. Stewart
Jane Borthwick Story
Cary D. Sullivan
Tina M. Tabacchi
John C. Tang
Charlotte H. Taylor
Ryan C. Thomas
David S. Torborg
Sergio A. Tostado
Eric Tung
James S. Urban
Christoper Vergonis
John A. Vogt
Craig A. Waldman
Hank Bond Walther
Charles T. Wehland
Raymond J. Wiacek
Koree B. Wooley
Thomas D. York
Steven M. Zadravecz
Corey L. Zarse
Peter C. Zwick

STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

MIKE HILGERS
ATTORNEY GENERAL

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

March 21, 2025

The Honorable Richard J. Durbin
Ranking Member, Committee on the Judiciary
United States Senate
147 Dirksen Senate Office Building
Washington, DC 20510

Re: Letter of support from State Attorneys General regarding the nomination of Brett Shumate as Assistant Attorney General

Chairman Grassley, Ranking Member Durbin, and Members of the Committee:

We write as state Attorneys General in support of the nomination of Brett Shumate to be the Assistant Attorney General for the Civil Division of the United States Department of Justice. We ask that he be reported favorably by the Committee and ultimately urge his swift confirmation by the full Senate.

The Civil Division is the largest litigation unit at the Department of Justice, representing the Executive Branch against lawsuits, defending against challenges to federal programs, preserving the credibility of the government before the federal courts, protecting the public fisc, and ensuring that the President's policy agenda is successfully carried out.

As the chief legal or law enforcement officers for our respective States, we are regularly engaged in litigation in which the federal government is a party or amicus, and thus see the important work performed by attorneys from the Civil Division. We know better than anyone the importance of having a strong, principled, Senate-confirmed Assistant Attorney General to lead the Civil Division. We have every confidence that Mr. Shumate will lead the Civil Division with professionalism,

intellect, and judgment. And we have no doubt that he will serve President Trump, and ultimately the American people, with the utmost skill.

One need look no further than Mr. Shumate's resume, which includes both his tenure as a law partner at Jones Day, one of the nation's most elite law firms, as well as both his current and prior significant roles at the Department of Justice, to understand his fit for position for which he is nominated.

Mr. Shumate began his tenure in the second Trump Administration as the Principal Deputy Assistant Attorney General for the Civil Division. In that capacity, he also served as the Acting Assistant Attorney General for the Civil Division. Thus, Mr. Shumate has stood at the center of the most high-profile litigation that has arisen during the first weeks and months of the current Trump Administration. Mr. Shumate has appeared in matters argued in federal courts around the country, deftly defending challenged programs and initiatives, including several high-profile Executive Orders, advancing the interests of the federal government, and supporting President Trump's agenda. Nor is this Mr. Shumate's first foray into public service. Indeed, it is his third tour of duty at the Department of Justice, with his prior service under President Trump culminating in his leadership of the Federal Programs Branch and its more than 110 attorneys, a role in which he had responsibility for the federal government's highest-profile cases in the federal district courts.

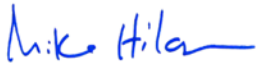
Mr. Shumate has played an important role in some of the most high-profile litigation during both of President Trump's terms in the White House: from the Emoluments Clause litigation to the legal battle over DACA and challenges to the President's ability to select and remove the head of the CFPB. In each of these matters—and many more—Mr. Shumate has worked diligently, advocated zealously, and maintained the highest degree of professionalism.

There is no doubt that the Civil Division will be at the forefront of many of the most consequential cases that arise during the current Administration. It is equally clear that Mr. Shumate is the right candidate to handle those matters, work with the States as adversaries and allies, and ensure that the Executive Branch, the President's agenda, and the public interest are protected in court with the best advocacy available.

Mr. Shumate has already demonstrated his ability to handle this job, his capacity to represent the United States with undeniable skill, and his dedication to faithfully defend the Constitution and the laws of the United States along the way.

We urge the Committee to act expeditiously on Mr. Shumate's nomination and report him favorably to the full Senate.

Sincerely,



Mike Hilgers
Nebraska Attorney General



Steve Marshall
Alabama Attorney General



Treg Taylor
Alaska Attorney General



Tim Griffin
Arkansas Attorney General



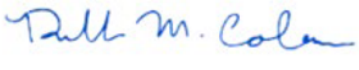
Chris Carr
Georgia Attorney General



Todd Rokita
Indiana Attorney General



Brenna Bird
Iowa Attorney General



Russell Coleman
Kentucky Attorney General



Liz Murrill
Louisiana Attorney General



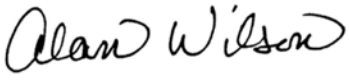
Lynn Fitch
Mississippi Attorney General



Andrew Bailey
Missouri Attorney General



Austin Knudsen
Montana Attorney General



Alan Wilson
South Carolina Attorney General



Jonathan Skrmetti
Tennessee Attorney General



John B. McCuskey
West Virginia Attorney General



Ken Paxton
Texas Attorney General

March 25, 2025

The Honorable Charles E. Grassley
Chairman, United States Senate
Committee on the Judiciary
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Richard J. Durbin
Ranking Member, United States Senate
Committee on the Judiciary
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Nomination of Brett A. Shumate as Assistant Attorney General (Civil Division)

Dear Chairman Grassley and Ranking Member Durbin:

As former officials from federal agencies across presidential administrations of both political parties, we write to express our strong support for the nomination of Brett A. Shumate to serve as the next Assistant Attorney General for the Civil Division at the U.S. Department of Justice.

At the Justice Department, the Civil Division performs a vital role serving as the main litigating component chiefly responsible for defending the laws, programs, and policies of the United States. The Civil Division also recovers monies owed to the federal treasury; defends civil claims brought against the United States; handles immigration litigation; enforces consumer protection laws; administers congressionally-established victim compensation funds (including the September 11th Victim Compensation Fund); and represents the United States in litigation in foreign courts (among other important functions).

With a distinguished career in law (including at the Justice Department) and devotion to the Constitution and rule of law, Brett Shumate is well-qualified to lead the Civil Division. A native of the Commonwealth of Virginia and the son of an attorney, Brett grew up hoping to practice law as well. He excelled as a student-athlete and was a varsity baseball pitcher at Furman University where he graduated magna cum laude in 2003. In 2006, he graduated magna cum laude from Wake Forest Law School after serving as the executive editor of the law review. He clerked for the Honorable Edith H. Jones on the U.S. Court of Appeals for the Fifth Circuit. For almost a decade thereafter, Brett was a litigation attorney with the law firm of Wiley Rein LLP in Washington, D.C., where he rose to become a partner in 2015 and earned a reputation as an accomplished and respected litigator and zealous advocate for his clients. In 2017, Brett answered the call to public service and was sworn in as the Deputy Assistant Attorney General in the Civil Division where he vigorously defended the interests of the United States in high-profile litigation across the country and demonstrated his ability to faithfully serve as a trusted public official. As the lead official overseeing the Civil Division's Federal Programs Branch, Brett supervised over 110 attorneys defending a wide array of federal departments, agencies, and programs. He personally argued dozens of cases in highly consequential matters involving national security, agency regulations, and federal spending, just to name a few. In that role, he also met regularly with federal agency

leaders and staff to provide legal counsel and help steer the United States through complex litigation. Prior to rejoining the Department earlier this year, Brett was a partner at the law firm of Jones Day in Washington, D.C. Over the course of his legal career, Brett has established himself as a trusted and respected litigator who conducts his work with the highest standards of professionalism and integrity. He is also a devoted husband, father, friend, and mentor who cares deeply about our Nation, its bedrock principles, and the freedoms we all cherish.

In sum, Brett Shumate has the experience, skills, temperament, and character to well and faithfully perform the important duties of this office. We are honored to commend him to the U.S. Senate for prompt confirmation.

Respectfully,

Alice LaCour, Counselor to the Attorney General, Senior Counsel and Chief Adviser to AAG Civil Division (2014-2020)

Andrew Lelling, U.S. Attorney, D. Mass. (2017-2021)

Ben Aguiñaga Chief of Staff, Civil Rights Division, U.S. Department of Justice (2017-2018)

Bert Rein, Deputy Assistant Secretary of State EB (1969-1972)

Beth Williams, Assistant Attorney General for the Office of Legal Policy (2017-2020)

Bethany Pickett Shah, Counsel to the Assistant Attorney General (2017-2019); Special Assistant U.S. Attorney, Eastern District of Texas (2020-2021)

Brian C. Rabbitt, Acting Assistant Attorney General; Criminal Division (2020); Chief of Staff and Senior Counselor to the Attorney General (2019-2020)

Brian Morrissey, Former Deputy General Counsel, U.S. Department of the Treasury (2019-2021)

Brian Pandya, Deputy Associate Attorney General (2019-2021)

Brinton Lucas, Deputy Associate Attorney General (2019-2021); Senior Counsel (2019) and Counsel to the Assistant Attorney General, Civil Division (2017-2019)

Charles E.T. Roberts, Trial Attorney, Federal Programs Branch (2019-2022)

Corinne Snow Chief of Staff, ENRD (2017-2019)

Dan Mauler, Trial Attorney, U.S. Department of Justice (2018-2021)

Dan T. Moss, Partner (17 years)

David A. Gross, DAS and Ambassador, U.S. Department of State (2001-2009)

David Morrell, Deputy Assistant Attorney General, Civil Division (2019-2020)

Drew Hudson, Counsel to the Assistant Attorney General (2017-2019)

E. Stewart Crosland, Counsel to Chairman of the Federal Election Commission (2015)

Edward C. O'Callaghan, Principal Associate Deputy Attorney General 2018-2019; AUSA SDNY (1999-2008)

Eric Dreiband, Assistant Attorney General, Civil Rights Division (2018-2021)

Eric Grant, Deputy Assistant Attorney General (ENRD) (2017-2021)

Eric Soskin, Inspector General, Department of Transportation (2021-2025)

G. Zachary Terwilliger, United States Attorney, Eastern District of Virginia (2018-2021)

George Fibbe, Deputy General Counsel for Litigation, Regulation & Enforcement, US Department of Energy (2017-2019)

Gilbert Dickey, Associate White House Counsel (2020)

Hashim Mooppan, Deputy Assistant Attorney General, Civil Appellate Staff (2017-2020); Counselor to the Solicitor General (2020-2021)

Holly Greaves, Former EPA CFO

James Burnham, Senior Counsel (2017-2018), Deputy Assistant Attorney General (2018-2020), Counselor to the Attorney General (2020)

Jeff Beelaert, Deputy Associate Attorney General (2020-2021)

Jeffrey B. Wall, Principal Deputy Solicitor General (2017-2021)

Jeffrey Wood, Acting Assistant Attorney General, ENRD (2017-2018)

Jennie Bradley Lichter, Counsel, OLP (2017-2019)

Jennifer Dickey, Principal Deputy Assistant Attorney General, DOJ Civil Division (2020); Deputy Associate Attorney General, DOJ (2019-2020); Special Assistant to the President (2019); Associate Counsel to the President (2018-2019); Counsel, DOJ Office of Legal Policy (2017-2018)

Jeremy Broggi, Associate Director, White House Office of Intergovernmental Affairs (2008-2009); Special Assistant, Office of the Vice President (2006-2008)

Jeremy M. Bylund, Deputy Associate Attorney General (2017-2018)

Jesse Panuccio, Acting Associate Attorney General and Principal Deputy Associate Attorney General (2017-2019)

John M. Gore, Acting Assistant Attorney General, Department of Justice Civil Rights Division (2017-2018); Principal Deputy Assistant Attorney General, Department of Justice Civil Rights Division (2018-2019)

John O'Quinn, Deputy Assistant Attorney General, Civil Division (2008-2009); Deputy Associate Attorney General (2006-2008)

John V. Coghlan, Deputy Assistant Attorney General (2020-2021)

Jonathan Berry, Counsel to the Assistant Attorney General, Office of Legal Policy (2017-2018)

Jonathan D. Brightbill, Environment & Natural Resources Division (2017-2021)

Jordan L. Von Bokern, Senior Counsel, Office of Legal Policy, U.S. Department of Justice (2018-2020), Trial Attorney, Federal Programs Branch, U.S. Department of Justice (2020-2022)

Joseph (Jody) Hunt, Assistant Attorney General, Civil Division (2018-2020), Chief of Staff to the Attorney General (2017), Director, Federal Programs Branch (2002-2017)

Justin Herdman, United States Attorney, Northern District of Ohio (2017-2021)

Kevin Marshall, Deputy Assistant Attorney General (Office of Legal Counsel) (2004-2007)

Matthew Z. Leopold, General Counsel, U.S. EPA (2018-2020)

Megan Leef Brown, Counsel to the Attorney General, Office of the Attorney General

Michael Fragoso, Deputy Assistant Attorney General (2018-2019)

Michael Murray, Principal Deputy Assistant Attorney General and Deputy Assistant Attorney General, Antitrust Division (2018-2021), Associate Deputy Attorney General (2017-2018)

Noel J. Francisco, Solicitor General (2017-2020)

Patrick Hovakimian, Associate Deputy AG; Deputy Associate AG (2017-2021)

Prerak Shah, Acting U.S. Attorney for NDTX (2021); First Assistant U.S. Attorney for NDTX (2020-2021) Deputy Assistant Attorney General (2020); Deputy Associate Attorney General (2019-2020)

R. Trent McCotter, Deputy Associate Attorney General (2020-2021)

Rachael Tucker Wyrick, Counselor to the Attorney General (2017-2019)

Richard E. Wiley, Chairman Emeritus of Wiley Rein LLP (1983-present)

Robert Luther III, Associate Counsel to the President (2017-2018)

Rod J. Rosenstein, Deputy Attorney General (2017-2019)

Roger Severino, Trial Attorney (2017-2021)

Sarah Levine, Deputy Assistant Attorney General in the Civil Division (2015-2017)

Schuyler J. Schouten, Special Assistant to the President, Senior Associate Counsel to the President, and Deputy Legal Advisor to the National Security Council (2017-2019)

Stacy Amin, Senior Associate Counsel to the President, Office of the White House Counsel (2017-2018); Chief Counsel, U.S. Food & Drug Administration and Deputy General Counsel, Department of Health and Human Services (2018-2021)

Stephen Cox, United States Attorney, Eastern District of Texas (2020-2021); Deputy Associate Attorney General (2017-2020)

Tom Johnson, General Counsel, FCC (2017-2021)

William R. Levi, Chief of Staff and Senior Counselor to the Attorney General (2020); Counselor to the Attorney General (2018-2019)

William McSwain, U.S. Attorney, Eastern District of Pennsylvania (2018-2021)

A P P E N D I X

The following submission is available at:

https://www.govinfo.gov/content/pkg/CHRG-119shrg61839/pdf/CHRG-119shrg61839-add1.pdf

Submitted by Ranking Member Durbin:

Alliance for Justice, letter, March 26, 2025 2

