

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

HEARING BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE ONE HUNDRED NINETEENTH CONGRESS FIRST SESSION

JUNE 4, 2025

Serial No. J-119-47

Printed for the use of the Committee on the Judiciary



*www.judiciary.senate.gov
www.govinfo.gov*

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

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

FIRST SESSION

JUNE 4, 2025

Serial No. J-119-47

Printed for the use of the Committee on the Judiciary



www.judiciary.senate.gov
www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON THE JUDICIARY

CHARLES E. GRASSLEY, Iowa, *Chairman*

LINDSEY O. GRAHAM, South Carolina	RICHARD J. DURBIN, Illinois,
JOHN CORNYN, Texas	<i>Ranking Member</i>
MICHAEL S. LEE, Utah	SHELDON WHITEHOUSE, Rhode Island
TED CRUZ, Texas	AMY KLOBUCHAR, Minnesota
JOSH HAWLEY, Missouri	CHRISTOPHER A. COONS, Delaware
THOM TILLIS, North Carolina	RICHARD BLUMENTHAL, Connecticut
JOHN KENNEDY, Louisiana	MAZIE HIRONO, Hawaii
MARSHA BLACKBURN, Tennessee	CORY A. BOOKER, New Jersey
ERIC SCHMITT, Missouri	ALEX PADILLA, California
KATIE BOYD BRITT, Alabama	PETER WELCH, Vermont
ASHLEY MOODY, Florida	ADAM B. SCHIFF, California

KOLAN DAVIS, *Chief Counsel and Staff Director*

JOE ZOGBY, *Democratic Chief Counsel and Staff Director*

CONTENTS

OPENING STATEMENTS

	Page
Grassley, Hon. Charles E.	1
Durbin, Hon. Richard J.	3
Hawley, Hon. Josh	8
Blackburn, Hon. Marsha	6
Schmitt, Hon. Eric	9

VISITING INTRODUCERS

Hagerty, Hon. Bill, U.S. Senator from Tennessee	6
---	---

NOMINEES

Bluestone, Zachary M.	39
Questionnaire	55
Responses to written questions	93
Additional materials	159
Divine, Joshua M.	40
Questionnaire	166
Responses to written questions	224
Additional materials	302
Hermendorfer, Whitney D.	11
Questionnaire	313
Responses to written questions	363
Additional materials	448
Lanahan, Maria A.	41
Questionnaire	487
Responses to written questions	523
Stevens, Cristian M.	42
Questionnaire	587
Responses to written questions	639

APPENDIX

Items submitted for the record	705
--------------------------------------	-----

CONFIRMATION HEARING ON FEDERAL APPOINTMENTS

WEDNESDAY, JUNE 4, 2025

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

The Committee met, pursuant to notice at 10:18 a.m., in Room 216, Hart Senate Office Building, Hon. Charles E. Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley [presiding], Lee, Cruz, Hawley, Kennedy, Blackburn, Schmitt, Moody, Durbin, Whitehouse, Klobuchar, Coons, Padilla, Welch, and Schiff.

Also present: Senator Hagerty.

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

Chairman GRASSLEY. Good morning, everybody. Today we'll consider five impressive judicial nominees. On our first panel, we'll hear from Whitney Hermandorfer, nominee for circuit judge for the Tennessee seat on the Sixth Circuit. On our second panel, we'll hear from four district court nominees; Joshua Divine, to the Eastern and Western District of Missouri, Zachary Bluestone, Maria Lanahan, and Christian Stevens to be Eastern District of Missouri. I'm grateful to my colleague, Senator Hawley and Schmitt for agreeing to co-chair this hearing when I leave in a few minutes.

The exercise of our constitutional advice and consent role for judicial nominations is one of the most important functions of our Committee for the obvious reason that Article 3 judges serve for life, and the judges we confirm will impact the lives of Americans for decades to come. I'm pleased that the President has sent five strong choices to the Senate for our first hearing.

Although the controversial moments in our Committee often draw the most attention, it's important to remember that we have a long tradition of cooperation across the aisle even in the face of heated political differences. Over the last 4 years, the Biden Administration put forward many controversial judicial nominees, most would not have been the choice of any Republican on the Committee, but elections, as we all know, have consequences.

Despite our disagreements with their judicial philosophy, a substantial majority of the judicial nominees during the last administration received bipartisan support, and as my colleague on my left here now, then he was Chairman of the Committee, Senator Durbin, "We are proud of the fact that these nominees have bipartisan support. More than 80 percent of them received bipartisan sup-

port.” I’m proud of that as well, and I hope that we can have the same bipartisan support for highly qualified nominees before us.

I worry that partisanship will hamper these efforts. Recently, the Ranking Member has raised the prospect of a blanket hold on U.S. attorney nominees. I hope that we can work together to avoid this. Confirming U.S. attorneys by roll call will consume more than 230 hours of Senate floor time and will keep us from working on other important matters for the American people. There is a long-standing precedent that U.S. attorneys are confirmed by voice vote, or unanimous consent with few exceptions.

I understand and know where some Democrats are coming from, and that is because our former Republican colleagues held several U.S. attorneys at the end of the last administration. But make no mistake, that this isn’t what you can legitimately call a precedent for blanket obstruction at the beginning of an administration before even a single one of these 93 U.S. attorneys have been filled.

Holds should be used selectively, and this Senator has used holds as well. Blanket holds intended to wholly obstruct the confirmation process, or misguided and threaten to undermine the Senate’s advice and consent. As the Ranking Member said in the last Congress, if the obstruction of U.S. attorneys is carried out, “public safety will suffer across the United States.” I agree with this sentiment and think that we should not place politics over keeping the Americans safe.

The Ranking Member, and I agree that as he says, “There cannot be one set of rules for Republicans and another set for Democrats,” or as I would like to say, “What’s good for the goose is good for the gander,” but we’ve also shouldn’t take a single Senator’s actions as setting precedent for Senate-wide precedent. This will result in inevitable and destructive race to the bottom.

As Chairman and Ranking Member, I hope together we can agree to maintain the traditions, so the Senate will work. We both remain committed to the blue slip despite pressure from respective sides. I hope that we can also remain committed to moving qualified U.S. attorneys efficiently and using holds only on an individual basis or as last resort.

Turning to our nominees now, today’s business, we’ll hear from five highly qualified lawyers. I’ll leave it to the introducers to describe their qualifications in depth, but I’ll briefly comment about the nominee to be Circuit Judge.

Whitney Hermandorfer is uniquely impressive even by high standards of this Committee. She’s clerked for three of the sitting Supreme Court justices. She was valedictorian of her law school, and she was co-captain of the women’s basketball team at Princeton. After one hard fought loss, her college basketball coach said simply, “She isn’t afraid of anybody.”

Ms. Hermandorfer’s grit is not limited to the basketball court. As a director of the U.S. Strategic Litigation Unit in Tennessee, she’s led major cases on important issues of civil rights and the separation of powers. She is widely praised by practitioners across the political spectrum for her brilliant legal mind, hard work, kindness, and professionalism.

Our district court nominees are also highly qualified, and I'll let Senator Hawley and Schmitt speak about them and their qualifications. We look forward to hearing from each of them today.

Now, Senator Ranking Member Durbin, Senator Durbin.

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

Senator DURBIN. Thanks, Mr. Chairman. This is an historic meeting for the approval of Federal judges. We're doing things differently today than they've ever been done since I served in the U.S. Senate. What's happened? Well, a decision was made last week by Attorney General Bondi that the Justice Department would no longer cooperate with the American Bar Association rating process for judicial nominees.

What's going on here? Why is this being changed so abruptly? Well, you look back and you can understand it, if you look at the history of it. During the first term of Donald Trump, the names were submitted to the American Bar Association of each of his judicial nominees. Nine of those nominees were found unqualified to serve on the Federal bench by the American Bar Association. Yet, President Trump in his first term, pursued anyway. Eight of them ended up being approved for the bench. What is that all about?

The American Bar Association has a process of going to the peers and colleagues of the nominees and asking; what was your experience in the courtroom as a judge, as co-counsel, as opposing counsel, what did you think this individual was doing in their professional capacity? Were they prepared for the case? Did they comport themselves honorably? Just basic questions. And the nominees then are subject to rating by the American Bar Association; qualified, well-qualified, unqualified.

Under Trump's first term, as I mentioned, 9 or 10 were found unqualified. Eight of them were approved for lifetime appointments to the Federal bench. All right, so Durbin, what about your nominees under President Biden? 235 were approved by this Committee? Were any of them found unqualified by the American Bar Association? Not one.

So, the difference is the Attorney General has decided to protect against the vulnerability that some nominees, maybe even some today might have been found unqualified. I think that's a mistake. I think that kind of professional valuation, which has been going on under, under Presidents of both political parties for decades should continue. But the Trump administration second term has decided the ABA is no longer welcome to review judicial nominees. That's a mistake.

And then there's the Trump Administration's rejection of the Federalist Society. The Federalist Society. I asked this question for 20 years, literally 20 years. What's going on here? Why is this the secret handshake of all the Republican nominees that they belong to the Federalist Society created by Leonard Leo and others?

What does it mean? A lot of the nominees would say, oh, it's just a free lunch. Go and listen to a lecture. It doesn't mean a thing, but it turns out to be a recurring pattern that if you're going to be considered as a serious nominee on the Republican side, you've got to be part of the Federalist Society.

But guess what happened? Just recently last week, President Trump wrote on Truth Social, “I am so disappointed in the Federalist Society because of the bad advice they gave me on numerous judicial nominees.” From President Trump. He also called one of the organization’s longtime leaders, Leonard Leo, “a real sleazebag who probably hates America.” From President Trump’s own mouth. Yet, during his first Presidential campaign, then candidate Trump quote said, we’re going to have great judges, conservative, all picked by the Federalist Society.

President Trump’s mindless inconsistencies are a classic example of situation ethics. But when they toss out the American Bar Association and they toss out the Federalist Society, they don’t want anyone looking over the shoulders of the nominees to find out what they believe, what they’ve said, what they’ve done. I don’t get it. I don’t think that’s in the best interest of picking the right people for the judiciary of either political party.

And then there’s this issue that the Chairman raised. And he and I are friends, so this is not a personal thing. We have been wrestling with this, at least between us, in conversation for weeks about how to resolve it. Here’s what it boils down to. Trump’s first term, 94 U.S. attorney appointees, Democrats in majority in the Senate. “Boy, that must have been a battle royal.” It was not. They were all approved by voice vote. In the Committee, voice vote on the floor, because that was a custom in practice.

We decided that we’d do a background check through the FBI of these U.S. attorney nominees, and then basically agreed to them on a bipartisan basis. Things were going along pretty well. I think both political parties felt that it was a fair process and then something happened. One of the Senators from the State of Ohio, JD Vance, who went on to become Vice-President, decided to object to these voice votes on the floor of the U.S. Senate.

So, he wanted to put 2 or 3 days of procedure into the choice of each of the U.S. attorneys. It stopped the process as the Chairman just noted, when you start taking 3 days or 4 days for 93 nominees, you start eating up the calendar of the Senate and they can’t do anything else.

I appealed to JD Vance, then-Senator at the time, saying you don’t want to do this. To put an end to this process is just not appropriate, and it’s not fair to these nominees. You’re not objecting to any single person being unqualified. You’re saying that every one of Biden’s nominees has to go through a 3-or 4-day process on the floor. It it’s just unmanageable, and it’s unreasonable.”

And guess what? The tables turn. There comes a time when you want to move these by voice vote and we’re going to have to say, as Democrats, we’re going to follow the Vance precedent. So, it isn’t just the fact that JD Vance started it, but I would go to the floor four different times asking for unanimous consent for him to reconsider this position. “Don’t do this. Stick with the original approach we used under President Trump at first term and President Biden as well.” He would not budge an inch.

And when he was off campaigning for a Vice-President, a group of Republican Senators, I’m not going to name names, but they’re all a matter of record, joined on the floor to sustain this Vance precedent. I’ve been saying to Chairman Grassley, you expect me

to just look the other way. Now, U.S. attorneys are coming before us and I'm supposed to say, "Well, let's go back to voice votes again."

One set of rules for Democrats, another set of rules for Republicans. That's the mess we're in. We can work this out and we should. I've got to hold on one nominee from Florida. I've spoken to both Florida Senators about it. It isn't personal. We've got to find a way out of this that is fair and bipartisan, and that we're going to stick with for both political parties. You just can't change the rules overnight. And that's what we're faced with.

So, Mr. Chairman, this is more than just the ordinary meeting of the nominees to be considered by this Committee. This is the first time there's no ABA involvement. The Federalist Society is now a suspect sleazebag group when used to be the required approval before anyone's taken seriously. And we still have to resolve the mess left behind by Vice President Vance.

Chairman GRASSLEY. I don't expect you to know this, but I had at least one conversation with——

Senator DURBIN. You want me to hear you?

Chairman GRASSLEY [continuing]. Yes, but I wanted to—I want to tell everybody. I want to, at least to my colleagues here, that I had at least one conversation with one of the Senators other than Vance that was holding up nominations because I thought this set a bad precedent. Maybe you and I can work it out. Can we?

Senator DURBIN. I hope so.

Chairman GRASSLEY. Okay. I do have a short rebuttal to what you said about the ABA. The ABA can still send letters to the Committee, just like any other organization. But Attorney General Bondi's decision to no longer provide them special access to nominees is hardly surprising. For decades, Republicans have criticized the progressive bias of the ABA. These complaints aren't new and are why the Bush administration stopped conferring with the ABA to select nominees.

Examples of bias by the ABA rating abound. Just last Congress, the ABA told us that the Biden appointee, Charnelle Bjelkengren, was "qualified" to be a Federal judge. At the hearing, she didn't even know what the Article 2 of the Constitution was. The same ABA famously told us that Republican appointee, Judge Frank Easterbrook, a highly respected law professor who had argued 20 cases before the Supreme Court was in some members estimation, not qualified.

The ABA has chosen to act as a partisan progressive organization. They advocate for transgender causes, racist DEI policies, and the outlandish assertion that the Equal Rights Amendment is now part of the Constitution. The ABA has recently sued the Trump administration for cutting USAID funding, and its current President has publicly attacked the administration.

The ABAs political bias is obvious and has been for years. It's no surprise that the current administration doesn't trust the ABA to be a neutral arbiter of the nominees' appointments.

Now, we'll go to Senator Blackburn to introduce the nominee from her State.

**OPENING STATEMENT OF HON. MARSHA BLACKBURN,
A U.S. SENATOR FROM THE STATE OF TENNESSEE**

Senator BLACKBURN. Thank you, Mr. Chairman, and I am absolutely so pleased to introduce Whitney Hermandorfer. She is President Trump's nominee to fill the vacancy on the Sixth Circuit Court of Appeals. She is his very first judicial nominee for his second term, and I am thrilled that we have such an outstanding and qualified nominee to come before us.

Whitney is a native Tennessean, and she grew up in the Nashville area. She attended the Harpeth Hall School where she was a standout, and today, we have a lot of those alums watching to see Whitney as she is here before our Committee. She received her BA magna cum laude from Princeton, where she was co-captain of the women's varsity basketball team. She received her JD from George Washington University, and as you mentioned Mr. Chairman, she graduated first in her class, and she served as editor-in-chief of the Law Review.

So, she is smart, she is athletic, she is well-rounded, she is accomplished, and that is repeated in her career. After she finished law school, she was an associate at Williams & Connolly where her practice mainly involved appellate litigation, and regulatory and administrative law. In addition, she has clerked for four Federal judges, including three Supreme Court justices; Justice Alito, Justice Barrett, and then-Judge Kavanaugh when he was on the DC Circuit.

After clerking, Whitney joined Williams & Connolly, again, from 2021 to 23. In 23, Whitney also served as an adjunct professor at her alma mater, George Washington University Law School. Since 2023, Whitney has served as director of the Strategic Litigation Unit in the Office of Tennessee Attorney General Jonathan Skrmetti. In that role, Whitney leads a team of talented attorneys in the AGs office fighting to protect the interest of Tennesseans and our State, and active policies.

In his second term, President Trump is looking to fill our Federal judiciary with the best of the best. There is no doubt in my mind that Whitney fits this mold. She will be a tireless advocate for our Constitution, someone who will apply the law as it is written, not try to rewrite the law or the Constitution from the bench, and she's imminently qualified to serve on the Sixth Circuit.

I could not be more honored than to support her nomination. And Mr. Chairman, I'm looking forward to working with you and Leader Thune to really get her confirmation completed very soon, and see her seated on the bench.

Thank you.

Chairman GRASSLEY. Senator Hagerty.

**STATEMENT OF HON. BILL HAGERTY,
A U.S. SENATOR FROM THE STATE OF TENNESSEE**

Senator HAGERTY. Chairman Grassley, Ranking Member Durbin, thank you for allowing me to join today. It's my privilege to join Senator Blackburn in introducing Whitney Hermandorfer, a terrific Tennessean, and someone who is now President Trump's nominee to be Circuit Judge of the United States Court of Appeals for the Sixth Circuit.

Whitney's story begins at home in our home State of Tennessee. Let me begin with her academic background. She may well be the most credentialed lawyer to ever appear before this Committee. Whitney began at Princeton University earning her sociology degree magna cum laude. While she was excelling in the classroom, she was a leader on the court, a different sort of court, serving as co-captain of the women's varsity basketball team.

Next, George Washington University Law School. She graduated first in her class. Not only that, Whitney served as editor-in-chief of the Law Review, making her scholastic success all the more impressive. Whitney then accumulated the most prestigious series of clerkships that I've ever seen. She clerked on the District of DC for my friend, Judge Dick Leon, for then Circuit Judge Brett Kavanaugh. And finally, on the U.S. Supreme Court for Justices Samuel Alito and Amy Coney Barrett. Frankly, that's remarkable.

Most recently, she served as the director of the Strategic Litigation Unit in the office of the Tennessee's Attorney General. She served as the lead strategist and advocate for the State of Tennessee in its most complex and its most sensitive cases. We just distinguished herself in that role as an advocate.

She brings profound insights regarding the structure, the genius of our Constitution. She weaves careful, nuanced reasoning throughout her briefs and oral arguments, earning the respect of the judges before whom she appears. She's proven that she has the experience and the demeanor that our very best judges possess.

Though impressive, Whitney's professional achievements are only one side of this exceptional person. Her story is classic Tennessee. She hails from Franklin just south of Nashville, child of a songwriter, a musician, and a stay-at-home mother. She graduated from Harbert Hall High School, and was the co-captain of her school's basketball team that won the State championship during Whitney senior year.

Now back at home in the rolling hills of middle Tennessee, Whitney fills what little spare time she has as a proud wife and mother of three daughters, and somehow still finds the time to fit in coaching her daughter's third grade basketball team and teaching Sunday school at her church. You can't spend 5 minutes with Whitney and not be impressed by humility and her genuine kindness. Her optimism is simply infectious.

But perhaps most important is Whitney's genuine love for our Constitution. She understands the Constitution must be interpreted according to its original meaning, that its meaning doesn't shift due to changes in public opinion, nor the preferences of whoever it is that's sitting on the bench. Whitney is the very best and the very brightest that our Nation can offer.

I'm confident that Whitney will, if confirmed, administer justice without fear or favor, and without preference to the poor, rich, the weak, or the powerful. Whitney Hermendorfer is an outstanding nominee to serve in the Sixth Circuit, and I urge all my colleagues in the Committee to quickly advance her nomination. Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator Hagerty. And if you want to, you can stay here, go, whatever you want to do, Senator.

Now, we're going to have Senator Hawley and Senator Schmitt. We'll start with Senator Hawley.

**OPENING STATEMENT OF HON. JOSH HAWLEY,
A U.S. SENATOR FROM THE STATE OF MISSOURI**

Senator HAWLEY. Thank you very much, Mr. Chairman. This is a great day for the State of Missouri. It is an honor today to introduce four outstanding Missourians who are being nominated by President Trump for the Federal bench. And we're very proud of the fact that these are President Trump's first judicial nominees from the State of Missouri.

Let me start with Missouri's Josh Divine, who is our current solicitor general. Josh's experience as solicitor general is wide-ranging. He has litigated in trial courts and appellate courts in the State Supreme Court, in Federal trial courts, in Federal appellate courts, dozens and dozens. It may be hundreds of times by this point. And any way you look at his record, his success record, it's astounding.

Just to quantify it in dollar terms, Josh, as Solicitor General of Missouri, has won in dollar terms, he has a \$725 billion, that's with a B, billion dollar win record for the State of Missouri, including a judgment against China for the harms caused to Missourians during COVID-19 of \$25 billion.

Josh comes to us from Yale Law School. He's been a clerk at the U.S. Supreme Court for Justice Clarence Thomas. He worked in the Missouri Attorney General's office, first as a deputy solicitor general, where I had the privilege to hire him in 2017. Been here in the Senate as chief counsel to me, serving on this Committee, and then back to the Solicitor General's office now in the State of Missouri.

And he's done all of this while serving his wife and family, which is probably the most important service he's rendered. They're here today, his beautiful and brilliant wife, Elizabeth, and their six children. And I think, I hope it's okay if I tell everybody that number seven is on the way. So, Elizabeth and the kids are all with us today, and we are so so glad to have them.

I'll just add one other note, which is something about Josh's personal fortitude. Just a couple of years ago, while he was in the midst of these very high profile, high intensity, high stakes lawsuits. Josh suffered a catastrophic accident and was confined to a wheelchair. His early prognosis was he may not ever walk again, but Josh fought to regain his ability to walk just as he has fought for Missourians in court day in and day out.

And you'll see here in a moment when he walks to the table that he has now fully regained his ability. We thank the Lord for that. But we also look at his tenacity and the character that it displays like Josh Divine.

Maria Lanahan comes to us from the Missouri Attorney General's Office. She's a graduate of Gonzaga University, the University of Chicago Law School, and she has been a force as the principal deputy solicitor general in the State of Missouri. Here, again, Maria's experience is wide-ranging, litigating in courts at every level, trial courts, appellate courts, Federal courts, State courts.

Before joining the attorney general's office, she had elite federal clerkships. She served in private practice, she did in-house counsel work. I'm really taken with what Missouri Attorney General Andrew Bailey, who's here today, by the way. We welcome you, General Bailey. It's great to see you. Andrew said that Maria was, in his view, one of the finest legal minds in America, and one of the finest legal minds he has ever served with. It's a delight to see Maria here today.

Zach Bluestone, his legal career has taken him literally everywhere, and he has excelled everywhere he's been. He's had stints at Georgetown, the University of Oxford, Harvard Law. Zach is surely among the best educated lawyers that we'll see on this Committee. He clerked on the Eighth Circuit Court of Appeals. He has worked in all three branches of the Federal Government. He has significant trial and appellate experience in both Federal and State court. He worked ably by my side in the Missouri Attorney General's office as we worked to protect the Constitution and the law. And his record as a prosecutor is absolutely second to none.

And finally, Hon. Chris Stevens. I know Senator Schmitt will want to say a lot more about Judge Stevens. So, let me just say briefly, we're so proud that he is a Missourian through and through. He's a sixth generation Missourian who did his undergraduate work at the University of Missouri, graduated from the University of Missouri School of Law, spent 15 years as a Federal prosecutor in our State. I'm told he is one of the best Federal prosecutors we've ever had in the State of Missouri, and is now serving ably on the bench in the State of Missouri.

He was first assistant to Senator Schmitt, and he is going to make an absolutely terrific Federal judge. I will just say finally, Mr. Chairman, in closing, these are four tremendously, immensely superlatively qualified nominees, and I look forward to seeing them approved by this Committee and confirmed in due course on the floor of the Senate. Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator Hawley. And Senator Schmitt.

**OPENING STATEMENT OF HON. ERIC SCHMITT,
A U.S. SENATOR FROM THE STATE OF MISSOURI**

Senator SCHMITT. Thank you, Mr. Chairman. It is a great day for Missouri, and it is an honor, special honor to have the four, the first four picks come from our State. I share that sentiment with Senator Hawley and also, I know it's a big day for them. It is also, I feel like I can share in a little of that pride with all four having worked with me in the Missouri Attorney General's office at different times in different tenure.

These nominees also have something else in common. If you look at their legal experience, it's marked by exemplary public service to the people of Missouri, protecting their liberties, protecting their safety, and upholding the rule of law. I'm so proud of their careers that they've led that has led them to this day, and that President Trump has made such spectacular picks for these important positions.

They're among the finest judges—they will be among the finest judges on the Federal bench. I'm confident of that. They each also

have the highest moral and intellectual fiber. They each possess great experience, wisdom and judgment. But rather than lumping them all together, let me introduce them briefly, individually.

Chris Stevens, who now serves as a judge, has dedicated his life to keeping Missourians safe and promoting law and Order. He's a judge currently at the Missouri Court of Appeals for the Eastern District. He was my first assistant attorney general, and before that was my criminal chief when I succeeded Josh Hawley, Senator Hawley.

As Attorney General, you know, you have to build a team, and you have to really utilize that social capital that hopefully you've built up and you asking around who are going to fill some of these important positions when you're new to that spot in your core team. And his name just kept coming up over and over by respected lawyers that I knew. And I knew that we wanted to have a role to play in keeping Missouri safe.

And so Chris doesn't live too far from where I live. And we met at PJ's Tavern and had a couple Busch Lights, and I immediately knew that Chris Stevens was the right guy. And he proved it over and over that he is somebody very capable.

Outside of his tenure in the Missouri Attorney General's Office, he had a distinguished career graduating with academic honors from both the University of Missouri undergrad and at the University of Missouri School of Law, where he was editor-in-chief of the Missouri Law Review. Judge Stevens clerked for Chief Judge Bowman II on the United States Court of Appeals for the Eighth Circuit, and entered private practice at Bryan Cave, before serving as an Assistant U.S. Attorney for the Eastern District of Missouri for 15 years. And as Senator Hawley mentioned, one of the most accomplished Federal prosecutor we've seen in generations.

He was then a partner at Armstrong Teasdale. After working at the Attorney General's Office with me, Judge Stevens joined the Missouri Court of Appeals, where he is been a judge for 4 years now. He is a great husband to his wife, Lee, and a great father to his children, a devout Catholic. I'm confident that Chris Stevens does the right thing every single time, and I'm very confident he'll be a great Federal judge.

Maria Lanahan has dedicated her career to a life of public service as well. I had the pleasure of hiring Maria at the Missouri Attorney General's Office, first in the Solicitor General Unit which was then led by United States Solicitor General John Sauer which we're also proud to call a Missourian, as well as first deputy solicitor general in my office. Maria's determination, focus, and pursuit of the truth helped her excel in protecting Missourians rights, reigning in the excesses of big government and defending the State in court.

Maria attended Gonzaga University where she was a member of the Gonzaga Women's Basketball Team, and graduated summa cum laude from there. She then attended the University of Chicago School of Law, where she was the article's editor at the University of Chicago Law Review. She clerked for Honorable Brian Zahra on the Michigan Supreme Court, before clerking for Honorable Raymond Gruender, who I also see here today on the United States Court of Appeals for the Eighth Circuit in St. Louis.

Maria worked for Thompson Coburn and Charter Communication as litigation counsel. She has been a rockstar in the Missouri Solicitor General's Office for the past 5 years. Maria has great legal experience in the private sector, in-house clerking, and in government.

Maria is incredibly active in the St. Louis community coaching youth basketball as a big sister in the Big Brothers Big Sisters of Eastern Missouri, supporting her local parish, and in helping provide local educational opportunities for St. Louis Youth. Maria is a great wife to her husband, Michael, who's here today, a great mother to their children, and also, a devout Catholic.

With her moral character, academic success, her professional experience and legal acumen, she's going to be a terrific and great addition to the Eastern District of Missouri. Welcome, Maria.

Zach Bluestone. I just want to say a quick word also about Zach. I had the pleasure of having Zach in my office on the Solicitor General Unit for the first 2 years that I was Attorney General of Missouri. He went on to the U.S. Attorney's Office, has done great work there. He's intelligent, has all the credentials. Georgetown, Oxford, Harvard Law. He's had world class training.

His time as a lawyer has been barked by nothing but success. He also clerked for Judge Gruender in the Eighth Circuit Court of Appeals, worked for Senator Jim Talent and Senator Orrin Hatch, a former Chairman of this Committee. He served with distinction in the U.S. Attorney's Office for the Eastern District of Missouri. For the last 5 years, he's worked in all three branches of government and in both State and Federal Government.

He's dedicated his life to promoting law and order in our State, and has done with such distinction in his views toward the rights and privileges of the American citizens who stand accused of crimes. He's a man of the highest moral character, a faithful Christian. He's also going to make an excellent judge.

Josh Divine. A lot has been said about Josh. He's done great work with Attorney General Bailey, did work great work with Senator Hawley, worked for me very briefly before coming to the Senate. He's brilliant, motivated somebody, widely respected for his thoughtful approach to law, to moral questions, and to keeping Missouri safe. He's going to be a great judge as well. Thank you, Mr. Chairman.

Chairman GRASSLEY. Thank you, Senator Schmitt. Now, would Ms. Hermendorfer, please come to the table. And before you're seated, would you please let me swear you in.

[Witness is sworn in.]

Chairman GRASSLEY. Please be seated. And our custom is that before you give your opening statement, if you want to introduce anybody please do that. Proceed.

**STATEMENT OF WHITNEY D. HERMANDORFER, NOMINEE TO
SERVE AS UNITED STATES CIRCUIT JUDGE FOR THE SIXTH
CIRCUIT**

Ms. HERMANDORFER. Thank you so much, Chairman Grassley. Good morning, Ranking Member Durbin, Members of the Committee, thank you so much for scheduling this hearing to consider

my nomination. Thank you also to Senator Blackburn and Senator Hagerty for the very generous introduction and for your support.

I'd also like to thank President Trump for the great honor of this nomination. I have here my family with me, my wonderful husband, Greg, our three daughters aged nine, five, and two. So, far so good girls. They make it through the introduction, that's a win from my perspective. My parents, Cliff and Leslie Downs, are also here. My father-in-law, Wayne Hermendorfer is with us as well. My mother-in-law, Carol is home helping watch our dog, which is an important member of our family because he keeps my husband company in a house full of girls otherwise.

We have a dear friend, Jess Black, also with us, family watching at home in Nashville. We are blessed to be with many family members, my sister, Julianne, and her husband Luke, their two children. My brother-in-law and sister-in-law, Ajay and Jenny Hermendorfer, also in Nashville, with their two kiddos, one on the way. So, many family members have given me support throughout my life as have so many members of the legal community, coaches, teammates, teachers colleagues, mentors, of course, the judges for whom I've clerked. I can't express enough the gratitude I feel for their mentorship and support throughout my legal career.

And I'm just so honored to be here. Thank you so much.

Chairman GRASSLEY. Are you done? You got an opening statement?

Ms. HERMANDORFER. I was told to keep it brief, so that's what I tried to do, Chairman.

Chairman GRASSLEY. Okay. Then we will go to questions. You've obtained clerkships. It's an impressive accomplishment for a young lawyer to be before Supreme Court clerkships. It's a mark of great academic distinction. It seems to me, without knowing all the history of clerks, that you're kind of in a category all by yourself.

Having clerked for three sittings Supreme Court justices, one-third of the court, what lessons from your clerkship will you take to the bench if confirmed as a circuit judge?

Ms. HERMANDORFER. Clerking for the distinguished justices for whom I clerked was tremendous honor. Something I never anticipated I have the privilege of doing. I learned, Chairman, the importance of the judicial process. We have a deliberative judicial process and an adversarial system for a reason. We receive briefing, we hear argument from the parties. We discuss issues with colleagues. And through that process, the correct rule of law emerges. And that is what is to be followed, and that might sometimes diverge from how you originally thought a case might come out.

So, the importance of the process is one thing I learned. Of course, I had exposure at all three levels at the Federal Judiciary to a tremendous volume and array of types of legal matters from sentencing, hearing revocations to the most meaningful constitutional questions at the Supreme Court of our generation. So, I learned that each case, no matter its importance to the Nation, is important to the parties and should be treated with respect and care.

And finally, I learned that you can go through that process and issue the correct rule of law. And in our system, people might not always agree with the decisions that courts hand down. And it's

important to understand that in our system decisions will not always be popular and that it takes grit and courage and determination to carry out your Article 3 obligation under the Constitution. And so those are things I witnessed in the jurists for whom I clerked, and I would try to take with me to the bench.

Chairman GRASSLEY. You've also practiced law at a highly regarded law firm, and you've led litigation for the State of Tennessee and some of our country's most important recent cases. Nevertheless, some progressive organizations have suggested that you lack the requisite experience to be a circuit judge. So, can you tell us how many cases you've served as counsel for a party or as an amicus?

Ms. HERMANDORFER. My best estimate is I've served as counsel in probably about 80 to 90 cases, distinct matters, ranging from State court, Federal Court. Primarily practiced in Federal Courts of Appeals and Federal District Court. And so, I think recently the cases have come fast and furiously, and I've been privileged to handle a number of nationally significant matters on behalf of my home State of Tennessee, as well as many other States.

Chairman GRASSLEY. Has your experience as a lawyer for the State of Tennessee on behalf of private clients prepared you to be a judge of the Sixth Circuit?

Ms. HERMANDORFER. I would hope they have, Chairman. Again, I've represented clients at the law firm of all types, from individual criminal defendants, to asylum seekers, to businesses, to Fortune 100 companies, to mom-and-pop stores.

In my current role as director of the Strategic Litigation Unit, I've recruited seven to eight attorneys into our office to litigate some of the Nation's most significant and complex constitutional, statutory, and administrative procedure matters on behalf of Tennesseans.

And through that experience, I have extensive knowledge of the Federal court system and of how to approach many of the legal issues that would come before me, if I were so fortunate as to be confirmed to the Sixth Circuit.

Chairman GRASSLEY. My last question is, please describe what judicial independence means to you?

Ms. HERMANDORFER. So, to me, judicial independence goes to the heart of the structure of our constitutional system. The Founders set up three branches of government, co-equal branches, and the Founders chose to vest accountability for two of those branches in the electoral process. So, lawmakers are elected and the President so, too, accountable to the people through the electoral process.

By contrast, the Framers placed accountability for Article 3 judges in a different place. And that is judges are intentionally not accountable to electoral politics or to the majority in a political sense. Instead, they're accountable to the Constitution and to the rules that bind the exercise of the Article 3 judicial power, and that includes limiting judgments to cases or controversies.

It means adhering to the jurisdictional limits that bind courts, and it means understanding that with the power to issue binding rulings that in some cases control the actions of private parties and coordinate branches of government, with that power comes great

responsibility to ensure that rulings are proper in scope and legality.

Chairman GRASSLEY. Thank you for answering my question. Now, it's up to Senator Durbin. But before he takes over, Senator Hawley, you will take over for me now, please. Go ahead, Senator Durbin.

Senator DURBIN. Thank you, Mr. Chairman. Welcome. Thank you very much for coming before us today and bringing your great family. Terrific. Glad that they're here.

So, let's get down to basics. Under Article 3, is your loyalty to the law and Constitution, or to the President who nominated you?

Ms. HERMANDORFER. Under both Article 3 and Article 6, the constitutional oath, the oath is to faithfully follow the laws that apply in a given case.

Senator DURBIN. And the Constitution?

Ms. HERMANDORFER. Absolutely.

Senator DURBIN. Is the executive branch required to follow the orders of a Federal court?

Ms. HERMANDORFER. So, of course, this is an issue before the Supreme Court right now. And what I heard the Solicitor General say is how I understand the law as well, which is if there's a judgment issued by a court as to the parties that absolutely binds the parties and the way to parties go about your business, if you disagree with an order, is to seek maybe a stay, or emergency relief, or appellate review.

Senator DURBIN. And after you've exhausted all of those opportunities, are you—is the executive branch of our Government required to follow the orders of the Federal Court.

Ms. HERMANDORFER. If the Supreme Court issues an order at the end of the appellate review process, that order is to be followed as to the parties in the case.

Senator DURBIN. Ms. Hermandorfer, I'm a little bit interested in the decision that you and the State of Tennessee made to file an amicus brief in the Supreme Court in the case of *Trump v. Casa*. That case involved challenges to President Trump's unconstitutional executive order that purports to end birthright citizenship.

President Trump's executive order has been blocked by a judge appointed by President Ronald Reagan, who said, and I quote, "I've been on the bench for over four decades. I can't remember another case where the question presented was as clear as this one. This is a blatantly unconstitutional order," referring to the order to end birthright citizenship. The State of Tennessee was not a party to that case. You filed this amicus brief voluntarily, and you reached a conclusion which the court ruled the most blatantly unconstitutional order in decades. Why?

Ms. HERMANDORFER. Of course, we were amicus in the case, and the decision was made by the Attorney General reflecting the values of Tennesseans that we were not satisfied that all of the information regarding the contemporaneous meaning of the 14th Amendment was being presented to the various courts, given that the litigation was proceeding so quickly and at such a pace through the TRO and PI process.

So, our role as amicus, as is any amicus role, was to bring additional information that could be helpful to the court's attention.

And what we did there was draw the court's attention to contemporaneous 1800's-era sources regarding the meaning of the 14th Amendment.

And I will note Ranking Member Durbin that even in courts that disagreed with the President's executive order, Tennessee's amicus brief was called out in particular as especially well written and mentioned by the judges in the hearing. So, I'm hopeful that we provided helpful information as the court decision considered the decision, which is all you can ask is to ensure the court has all the information before it as it deliberates.

Senator DURBIN. Did you agree with President Trump on this issue?

Ms. HERMANDORFER. So, the brief did not take an ultimate position with regard to the merits of the executive order. What it did was say the notion that this is an open and shut case, is hard to square with the contemporaneous evidence and executive branch practice in the latter 1800's interpreting the meaning of the citizenship clause. And so, I stand by completely those arguments and the historical sources that we advanced to the Court.

Senator DURBIN. You heard my opening remarks, perhaps when I relayed my experience with the so-called Federalist Society. I asked judicial nominee after nominee, why do you belong to this group? Well, it became pretty clear because this was the secret handshake, the calling card, if you wanted to be considered favorably to be a Republican nominee for a Federal judgeship.

Well, they seem to have fallen on disfavor with President Trump. Leonard Leo has been characterized by the President as a sleazebag, and he went on to say some other negative things about the Federalist Society. So, now there's a new operation called the Teneo Network. Are you familiar with the Teneo Network?

Ms. HERMANDORFER. Yes, Ranking Member Durbin.

Senator DURBIN. Do you realize it was created by that same old sleazebag, Leonard Leo?

Ms. HERMANDORFER. I don't think I was aware of that.

Senator DURBIN. What is it?

Ms. HERMANDORFER. The Teneo Network. And I am a member as disclosed on my SJQ. I'm a new member, so I haven't had too much involvement, I will say. My understanding is that it's similar to the Federalist Society in that it's kind of a debating network and a networking group where individuals from across industries can get together and discuss the issues of the day and get insights into what challenges might be facing various industries.

Senator DURBIN. Well, listen, you must lead a pretty busy life. Your professional responsibilities, your family responsibilities. Why would you want to join this network so you can—well, describe for me why would you want to join this network?

Ms. HERMANDORFER. So, it was commended to me by colleagues, and I'm always interested as a Tennessean in connecting with other Tennesseans to discuss the issues of the day. I have not had any meaningful involvement given that, I believe, I was asked to join or invited to join a week or so before I was informed that I was receiving the nomination. And so, I haven't attended since then, any sort of events or been involved.

Senator DURBIN. Thank you.

Senator HAWLEY [presiding]. I'm going to yield my time now to Senator Blackburn. Just before I do, I just want to just clarify one thing to make sure I understood your answer, Mr. Hermandorfer, to my friend, Senator Durbin's question. He's asking about the *Casa* case. He talked about your brief filed in the *Casa* case. The State of Tennessee was the party there filing, is that correct?

Ms. HERMANDORFER. That's right. And there's no filing that I would ever make or have made that would not reflect the interest of Tennessee.

Senator HAWLEY. You're representing your client, this is the State of Tennessee. You work for the State of Tennessee?

Ms. HERMANDORFER. That's correct. I'm a State public servant who has a client and adheres to the direction of my appointed boss, the Attorney General.

Senator HAWLEY. And I think your amicus brief also spent a good deal of time arguing that courts do not have Article 3 power to bind non-parties. In other words, it was about universal injunctions or nationwide injunctions. Wasn't that a core piece of your amicus brief?

Ms. HERMANDORFER. That was an important part of the brief?

Senator HAWLEY. Yes, I thought so. Senator Blackburn.

Senator BLACKBURN. Thank you, Mr. Chairman. And I have three letters I want to submit for the record before I begin my questions. One is from Tennessee Governor Bill Lee, and then a letter from 24 State Attorneys General, and a letter from Tennessee Attorney General Jonathan Skrmetti.

Senator HAWLEY. Without objection.

[The information appears as submissions for the record.]

Senator BLACKBURN. Thank you. And to Chairman Durbin, I'll be happy to talk with him about the Teneo Network. My son and his wife, and so many outstanding young individuals really benefit from that. It's been beneficial in their lives. So, I'll be happy to enlighten you at a future time.

I want to also mention, and for all of our nominees, my Democratic colleagues ask nearly every nominee this Congress, whether the executive branch must follow court orders and then they attack the nominees if they don't give a categorical yes or a no, because the question is nuanced in its academic.

Now, yesterday we had a hearing on overreach of district court judges and the universal injunctions. Now, my colleague, Senator Kennedy—

Senator KENNEDY. I deny—

Senator BLACKBURN [continuing]. Posed essentially—

[Laughter.]

Senator KENNEDY. I deny everything.

Senator BLACKBURN. You can't deny this one, buddy. And so, he posed essentially the same question to the panel, asking whether they would advise a client to defy a court order. Professor Shaw was the witness for the Democrats, and here is how she answered. And I'm going to quote her, "I would not rule out ever the possibility that a sufficiently egregious order there should be some consideration. If there's some way I think it's a qualified answer, yes. In an extremely narrow band of cases, I think it would be considered, yes."

So, the Democrats' own witness at yesterday's hearing on the issue of judicial overreach disagrees with them. I suggest when nominees are asked this question that is intended to be a "got ya" question that they just refer back to Professor Shaw's answer. I think it's unfair to attempt to conjure up disputes with a hypothetical. And these nominees are clearly committed to the law and to the rule of law.

Ms. Hermandorfer, I am so pleased that you are before us. I want you to just lay out for this body why you were qualified to serve on the Sixth Circuit.

Ms. HERMANDORFER. So, my substantive experience ranges across complex areas of law. I've litigated as counsel, dozens of cases in the Federal Courts across nine circuits. I've argued cases in Federal District Court, Circuit Courts, and counsel of record in Supreme Court cases, State Trial Court, State Appellate Courts.

So, I think my litigation experience serves me well, as does my clerkship experience in which I was working within the judicial branch, getting a firsthand view of the deliberative process and the importance of treating every case and every party with care and respect.

I think perhaps the most important qualification, my recent work is that I'm not a stranger to litigating cases that I know are going to be in the public spotlight and on which people have strongly held views in either direction.

And when you're in a case like that, it is absolutely imperative that you treat every issue in every party and every opposing counsel with respect because you have to model civility the most when you're in a hot button-type situation. And I've also gotten a bit of a backbone by knowing that what I do will not always be well received by all members of the public. And I've learned how to take criticism, and attacks, and personal threats, and move forward with professionalism and integrity.

Senator BLACKBURN. I know you're going to apply the law and you're going to protect people's individual rights. So, let's talk about how you will approach cases that come before you, and describe your method of statutory and constitutional interpretation.

Ms. HERMANDORFER. Sure. So, my method reflects the enacted text with the ratified text, reflects the will of the people as of the time of enactment or ratification. And so, the Supreme Court has instructed that if the meaning of the text at the time it was enacted or adopted is clear, then that is the meaning that fixes your interpretation and governs the legal issue that might be before the court.

Of course, there are situations in which you use other tools of interpretation; statutory structure, history precedent, and you use all of those tools to get to the answer that binds the parties. And in no instance is your own view about what the policy should be govern or enter into the inquiry.

Senator BLACKBURN. Thank you. I yield back.

Senator HAWLEY: Senator Whitehouse.

Senator WHITEHOUSE. Thank you very much. Welcome.

Ms. HERMANDORFER. Thank you.

Senator WHITEHOUSE. We are here in the Senate Judiciary Committee in interesting times given the food fight that has erupted in

the far right between what I would call the Leonard Leo, big polluter faction of the court capture effort, and the Trump MAGA election denial faction of the far right. And it's going to be interesting to watch as different candidates come forward, whether they look more like Leonard Leo, big polluter faction sorts, or whether they look more like MAGA election denial sorts.

But clearly, when you've got the President blowing up Leonard Leo as somebody who hates America, something is going on. What we do know is that probably \$600 million was spent in the dark money court capture scheme that has been operating now for well over a decade, well over two decades actually in this country.

And the still funds front groups that come before the Supreme Court on a regular basis and a little orchestrated flotillas to give the justices the message as to what it is that the big donors behind that whole enterprise want. And it may be that what President Trump is beginning to notice is that the justices that he put on the Supreme Court are actually more responsive to the Leo polluter operation than they are to Trump and his MAGA allies.

If you look at the record, the fossil fuel industry essentially wins every time something important to them gets before the Supreme Court and Trump is not winning every time. And it may have come to his notice that there's a bit of a difference between who's winning all the time and who isn't. And there's every reason to believe that during Trump-1, Leonard Leo and Don McGahn, who was his White House legal counsel, were actually operating for the benefit of the Koch brothers and the big polluters, that side of the operation, and that that's where the loyalty and the policy fell.

There doesn't seem to be any doubt any longer that this in fact, was a political operation. Just recently, the Wall Street Journal, which has long been the mouthpiece of the Leo polluter side of this current squabble, published an interview claiming that those judges have achieved goals for the conservative movement that have been on the agenda since the 1970's.

They're trying to make Trump happy with the decisions that he made and to reassure him that this is a really big Trump achievement. Whereas Trump and some of his allies are starting to recognize maybe this wasn't such a Trump achievement after all. Maybe he's the one who got played in this game. Maybe all those front groups that are appearing before the Supreme Court in those little flotillas and are getting those wins are actually reporting to somebody completely else than Trump and Trump world.

So, this is indeed very interesting times. You are affiliated with the Teneo Group, which is a Leonard Leo group. Interestingly, in the recent hearing that my colleague just referred to about the newly discovered "shock, shock" that there are national injunctions going on here.

The two Republican witnesses, one was sat in a chair paid for by Leonard Leo and his Marble Trust operation that he ran, runs billion-dollar slash fund for him from a billionaire, pretty sweet deal, and the other one wouldn't answer where his chair money came from. It got laundered through donors trust, the so-called "ATM" of the far right, and he wouldn't even answer whether he knew or not where the money for his chair was coming from.

So, my default proposition is that if he won't say it probably is also Leonard Leo in the Marble Trust operation. So, even in our hearings right here, we have this very potent internal food fight between the Leo polluter faction and the MAGA election denial faction. And I just wanted to take my time and point this out because I think it's highly revelatory about what has been done to the judicial branch of government by the far right. Thank you, Chairman.

Senator HAWLEY. Senator Schmitt.

Senator SCHMITT. Thank you. I want to first say a brief word on the judicial nomination success that just happened within the last week that we led right here on this Committee, kicking the woke, failed American Bar Association out of its privileged spot in the judicial selection process.

In March, I sent a letter, a letter along with four other Members of this Committee informing the American Bar Association that we would no longer consider ABA recommendations on pending legislation or nominees crippling their role in the Senate's piece of the judicial confirmation process.

Last Friday, attorney General Bondi joined our cause telling the ABA that it would be treated no differently than any other leftist activist group in the DOJ piece of the judicial confirmation process. I invite the rest of my colleagues to join this important cause.

The ABA is an ideologically captured institution, and it has failed in its core mission while the ABA stayed silent during the weaponization of our justice system under Merrick Garland and Joe Biden, the ABA now has something to say on nearly every policy position by the Trump administration.

Beyond that, the ABA has embraced cultural Marxism by forcing its DEI and woke initiatives on law schools across the country. When we look at these videos from law school graduations, we see activists, not lawyers, not future jurist, not people who can keep our streets safe. And this is downstream from the disastrous policies put in place by the American Bar Association. The American Bar Association was also biased in his judicial selection process against Republican President's nominees.

It is high time for us to completely sever our link once and for all. This Committee should treat the ABA no differently than any other leftist activist group in our internal process for future legislative recommendations. And I applaud Attorney General Bondi for taking this pivotal step at DOJ.

Ms. Hermandorfer, with that being said, I see that you're a member of the ABA while in law school. It's Okay, we all make youthful indiscretions. I'm not going to hold that against you. I've seen a lot of resumes in my previous job, and this one, it's very impressive. I think the breadth and the range of your experience, who you've had a chance to work with, who you've got a chance to sort of be mentored by, now in your role playing a similar role in mentoring lawyers and taking up important causes in Tennessee.

That experience spans from, you know, administrative law and free speech cases that often would come before the Supreme Court. I think it's important to point out that that in many ways, that breadth of experience can compare very well to somebody with maybe a perhaps more narrow focus for a longer period of time. In that experience, how do you think you bring that to this position

that you're being nominated for, a very important position, that experience you've had?

Ms. HERMANDORFER. Sure. So, I think familiarity with the subject matter, the bread and butter of Federal courts of appeals are, you know, statutory interpretation interpreting other legal texts, applying constitutional rules. And I've had the opportunity to immerse myself in that at the highest level for the past number of years now.

And so, I think familiarity with the subject matter allows you to immediately come in with confidence and fulfill, carry out your Article 3 role in deciding what the case requires holding. And I think being able to jump in is especially important given that many of these cases do proceed on an expedited timeline.

And I've litigated you know, emergency cases in the Sixth Circuit and you're often under the gun. And I think my practice has been very fast-paced; preliminary injunction motions, emergency appeals. And so that pace and complexity combined will, I would hope, suit me well to make an impact and help the court discharge its duties.

Senator SCHMITT. I think, you know, given the uniqueness of your background and the number of, I mean, justices on the Supreme Court that you've had a chance to work with, what would you say that you—what experience specifically would you say you've drawn from any one of them as far as decisionmaking or temperament?

Ms. HERMANDORFER. I think humility is one thing that really comes to mind. It is an extraordinary power, the Article 3 power to decide cases and controversies, and settles parties' rights and the most important cases, at least to the parties, and certainly to the country sometimes. And with that power, again, comes great responsibility and humility to understand the proper role of a judge is to interpret the law, and not to make the law or bend the law to whatever policy preferences the judge might have individually. And I think the justices and judges for whom I've clerked are models of that.

Thank you. Thank you, sir.

Senator HAWLEY. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chair. Ms. Hermandorfer, Donald Trump has said, "I have an Article 2—" this is an exact quote, "where I have the right to do whatever I want as President." You filed a brief supporting his ability to fire Inspector General, and in another brief, you supported his attempt to undermine Congress's authority to create independent agencies to protect consumers, writing, "Humphrey's branch-busting reasoning was wrong the day it was rendered."

What is your view of Congress's constitutional authority to enact laws and create checks on executive power?

Ms. HERMANDORFER. So, I was, of course, an advocate representing a client in all of those briefs. My current understanding of the Supreme Court's precedent with regard to the President's removal power is that when it comes to principal officers. So, that would include heads of independent agencies. The President, if that officer is exercising in the language of *Collins v. Yellen's* significant

executive authority, that that officer must be removed by the President no matter the size or role of the agency.

And in those cases you mentioned, Senator Klobuchar, the Supreme Court recently handed down an order staying the district court, D.C. Circuit's decision, and indicating that with respect, at least to the NLRB and the MSPB, that the President likely had the constitutional authority to remove those principal officers.

Senator KLOBUCHAR. And inspector generals, you believe the same principle applies?

Ms. HERMANDORFER. So, there are lines of cases discussing inferior officers. There is a dispute in the Inspector General's case about how to characterize Inspectors General if they are indeed characterized as principal officers, then under the reasoning of the Supreme Court there would be reason potentially to think that the Supreme Court's role in the law might govern. There are separate lines of authority for certain inferior officers. I stand by the positions in the brief and wouldn't want to otherwise prejudice the merits of any controversy that could come before me as a judge.

Senator KLOBUCHAR. Okay. Let's go back to your work as Tennessee attorney in the Tennessee Attorney General's Office, where you defended the State's near total ban on abortion, which does not provide any exceptions for rape or incest. The law also contained a narrow medical necessity exception that chilled doctors from providing patients with the care they need.

Isn't it true that as a three-judge panel in Tennessee noted, the record was, "replete with examples of abortion care being denied in health and life-threatening situations despite the State conceding that the—" now I'm talking, that the medical necessity exception would've entitled them to care under Tennessee's medical necessity exception?

Ms. HERMANDORFER. So, the decision of the three-judge panel at the preliminary phase was that the law should be interpreted to require and allow certain abortions provided in serious medical situations. Those included, the ones laid out in the order, things like premature, previable rupture of the membranes, insufficient cervix.

What the State had argued was the statute that Tennessee adopted used the same language that was used and approved by the Supreme Court in the *Casey v. Planned Parenthood* decision. It was always the State's position that the language allowed abortion care in those serious scenarios. And that is what the court held. And that's what the court held as a temporary injunction matter.

Senator KLOBUCHAR. Okay. So, I actually met one of the plaintiffs, Rebecca Milner. She had suffered preterm, premature rupture of membranes. Her baby was unlikely to survive. And continuing the pregnancy put Rebecca at risk of potentially life-threatening infection. Yet, because of the law, her Tennessee doctor denied her the abortion care she needed. As a result, she traveled to Virginia, she developed an infection, the doctor said, resulted from the delay in care and required emergency treatment for sepsis.

Given you argued the court should uphold that law, even if it didn't work to protect her health, what would you say to litigants who question that you can be even-handed in applying the law, including to women trying to vindicate their rights?

Ms. HERMANDORFER. So, what I would say is you can read the brief, and read the positions that Tennessee took in that case, and that I represented on behalf of my clients, and that was there were many serious medical scenarios in which abortion under the text of the law would and should be permitted. And I would say that we were carrying out the will of Tennesseans to have that type of life or health exception, but at the same time to vindicate a constitutional State amendment that makes clear that there is no otherwise non-medical right to an abortion under State law.

Senator KLOBUCHAR. One last question. We are—Steven Miller has said publicly that the White House is actively looking at suspending the writ of habeas corpus and, “A lot of it depends on whether the courts do the right thing or not.”

Conservative law Professor Jonathan Adler said the White House can look at this question all at once, but it is ultimately up to Congress whether the writ should be suspended. Do you agree that only Congress can suspend the right to habeas corpus?

Ms. HERMANDORFER. So, I think as you mentioned, that is an issue that is under active consideration by the political branches and could very well come before me, if I were confirmed as a judge. So, I think in prudence, as a judicial nominee, it would not be appropriate for me to pass on the validity of any such arguments.

Senator KLOBUCHAR. Okay. Thank you.

Senator HAWLEY. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. And thank you, Ms. Hermandorfer, for being willing to be here today and to be considered for this position.

I want get to questions in a moment. I do want to respond to a couple of assertions that have been made at this hearing already, some involving the American Bar Association, and some involving the Federalist Society, an organization that I belong to for the better part of the last 30 years.

Look, the Federalist Society is not an advocacy group. It does not advocate. It's regarded by many as a conservative group, and that's fair because a lot of its members happen to be conservative. But its events, unlike most American law school classrooms, are open to people of all viewpoints. In fact, the panel discussions that it sponsors routinely, as a matter of course, do have multiple views represented, differentiating it from many other organizations, including ABA-accredited law schools, including ABA discussions themselves.

The American Bar Association, I would add is about as independent, about as nonpartisan is about as ideologically even-handed as the Democratic National Committee. Now, the fact that the ABA first had an official role is itself stunning and alarming that it continued that long. The fact that it no longer plays an official role in this is appropriate. It's never appropriate in my view, particularly once the ABA decided to be a leftist organization, to be the lawyer's wing of the Democratic National Committee has made this inappropriate.

But if you want to attack the Federalist Society, look no further than the fact that the ABA is itself an advocacy organization. The Federalist Society is not. So what? It provides is an open forum for discussion among lawyers and law students, open forum in which

multiple viewpoints are in fact welcome. It's not an advocacy organization quite unlike the American Bar Association in that regard.

Ms. HERMANDORFER. You've accumulated a really impressive array of clerkships. It almost seems Grady to me that you've clerked for now three members of the current U.S. Supreme Court and very admirable that will serve you well. During that time. You've had the opportunity, well clerking for no fewer than four Federal judges slash justices to observe the role of the judiciary. How would you summarize your judicial philosophy?

Ms. HERMANDORFER. My judicial philosophy is that the law is to be interpreted by the judge and not made by the judge. And what I mean by that is, of course, there's new issue resolved and rulings made, but the judge is not supposed to, in the words of Alexander Hamilton in Federalist 78, "substitute his or her passion, or policy preference for the will of the people, and it's the will of the people that gives all of our laws and the Constitution validity, because that's the consent of the governed."

And so, the judge is intentionally unaccountable to the people because there are times when you, the judge, needs to issue counter majoritarian rulings and protect rights against the majority. But with that comes the responsibility to issue appropriate orders and abide the limits on judicial power.

Senator LEE. In the same issue of the Federalist Papers, Hamilton also differentiated between will and judgment. What's your—in a sentence or two, just tell me what your understanding is of the difference between will and judgment, and how you tell them apart as a judge?

Ms. HERMANDORFER. Judgment as a judge is applying the laws and the rules of decision neutrally to reach an outcome supported by the law. Will, by contrast, is super imposing the judge's own policy preferences against what the law would require and ruling that way in a case.

Senator LEE. When interpreting the text of a federal statute which will often be your role as a judge on the Sixth Circuit, you'll have to decide what it means. How best would you describe how to go about that subjective intent on the part of Congress as a whole subjective intent on the part of the sponsor, or this or that Committee staffer who happened to write this or that report? Is it the original public? Meaning? How do you go about it?

Ms. HERMANDORFER. So, the Constitution prescribes the appropriate way to make Federal law, and that's bicameralism and presentment of the text. And yes, so this will of the internal decision-making process or intention is not what you look to.

Senator LEE. I'm so happy to hear, hear you bring up Article 1, Section 7, one of the most overlooked parts of the Constitution, one of the most important and often overlooked. What happens when we neglect that the twin obligation, the twin prerequisites of Federal law-making, all Federal law-making bicameralism and presentment. What does that do?

Ms. HERMANDORFER. So, from a State's perspective, especially part of the grand compromise was having States with proportional representation in the Senate who could serve as a veto gate for any Federal legislation moving through. When you instead bypass that process and issue Federal rules that are not reflective of the demo-

cratic branches by capitalism and presentment, you have a situation where the people in the States are cut out of the political process and subjected to rules that they don't necessarily have accountability for.

Senator LEE. I tend to believe—I'll wrap up now. If I could just finish this thought, Mr. Chairman. I tend to believe that most of the problems in the Federal Government, most of the contention around it, most of the discord that you see, most of our national debt, most of our sprawling regulatory system, all emanates from deviation from the Constitution's twin structural protections.

The vertical protection we call federalism. The horizontal protection we call separation of powers. And within the legislative process are deviation from this concept of bicameralism and presentment being the indispensable condition, precedent that without which not of the legislative process.

We now have 100,000 pages of new law made each year by unelected unaccountable bureaucrats accountable to no one imposing legal obligations that if you don't obey them, we'll fine you millions of dollars, we'll shut down your business, can even send you to prison. All without the ascent of either House of Congress, much less both, and without presentment to the President.

This is wrong. And this is why you and others who have litigated some of these issues are right to point out the problem with so-called independent agencies. They lack under the Constitution any proper role in the lawmaking process that bypasses Article 1, Section 7. Thank you.

Senator HAWLEY. Senator Coons.

Senator COONS. Thank you very much. Ms. Hermendorfer, thank you for your service in the Tennessee Attorney General's office, and congratulations to you and your family for your nomination.

As you may know, I am not a reflexive no vote on nominees of a President of the other party. I've supported President Trump's judicial nominees in his first term when they had the qualifications and experience for the job, and the character and the independence to carry out the role of a judge, particularly circuit judge with integrity.

I am concerned about the striking brevity of your professional record. You graduated from law school just a decade ago and you spent 4 years with impressive clerkships, but often nominees for a position such as the Circuit have real experience in court. Have you ever served as the sole or chief counsel in any case, tried to a jury verdict?

Ms. HERMANDORFER. Not to a jury verdict, Senator.

Senator COONS. Have you ever served as the sole of chief counsel in any case tried to a final judgment?

Ms. HERMANDORFER. I've served as chief counsel in many final judgment cases in trial court. If you mean a bench trial—I'm sorry, I don't understand. A bench trial would be no, but final judgment, yes.

Senator COONS. How many direct examinations have you personally taken in Federal court?

Ms. HERMANDORFER. As an appellate lawyer, I don't usually take direct examinations of—the answer is zero.

Senator COONS. How many cross-examinations have you taken in Federal court?

Senator LEE. None.

Senator COONS. How many depositions have you taken?

Ms. HERMANDORFER. Again, as an appellate lawyer, that's not really part of my practice. I tend to——

Senator COONS. How many depositions have you defended?

Ms. HERMANDORFER. I have not defended depositions.

Senator COONS. How many Federal appellate oral arguments have you presented?

Ms. HERMANDORFER. Federal appellate oral arguments, that would be four.

Senator COONS. And how many Supreme Court oral arguments have you presented?

Ms. HERMANDORFER. None. Though I've second-chaired and been counsel of record in Supreme Court matters.

Senator COONS. I'll just point out that the jurist you've been nominated to replace, Judge Jane Stranch, had 31 years of legal experience under her belt when nominated to this position in the Sixth Circuit. And the ABA, although disregarded by some, has long had a standard that without more than a dozen years of federal service, they would deem someone unqualified for positions such as what you've been nominated for.

Let me move to a different issue. The Federal Rules of Civil Procedure, Number 65, sets out the rules of the road for issuing TROs and PIs, including whether a party moving must post a security bond. What factors should an appellate judge consider when ruling on a challenge to a security bond set or not set by a district court under FRCP 65(c) before issuing a TRO or a PI?

Ms. HERMANDORFER. So, this comes up sometimes when the State is a litigant and oftentimes parties can move to waive the security bond. And what a court is looking to is the gravity of harm to the potential appellant should the case—the disposition in the district court be allowed to move forward. So, it's similar to kind of the equitable considerations of harm, and the gravity of that harm, and whether it would be reputable or compensable on the other end.

Senator COONS. Thank you. And in what sorts of cases is it typical to set or require a security bond?

Ms. HERMANDORFER. So, I think cases in which there's going to be financial exposure, for example, on behalf of an appellant could be such a case where a, a bond might be posted.

Senator COONS. Contract case or a case involving infringement of a patent or something like that. Does your analysis change if the matter is a constitutional case brought by a private plaintiff against allegedly unconstitutional actions of the Federal Government?

Ms. HERMANDORFER. So, it's—I would have to take each constitutional violation and ruling on its own terms and wouldn't want to prejudge, but the equitable factors, of course would be the ones that I would apply in such a situation.

Senator COONS. How would you set a bond for something as foundational as a violation of the Constitution?

Ms. HERMANDORFER. I'm not sure I could answer that in the abstract, Senator.

Senator COONS. And I'm not sure District Court judges could answer that either. What tools does the Sixth Circuit or any circuit have to enforce its judgments? If you were confirmed and a party disobeys, an order of the Sixth Circuit, perhaps even one you wrote, what would you do?

Ms. HERMANDORFER. Well, I know that there are mechanisms by which, of course, judgments are entered, and executed, and enforced through Federal district courts.

Senator COONS. And what are those mechanisms?

Ms. HERMANDORFER. Well, the Federal District Court sometimes can issue contempt rulings, for example, that are appealable. And, you know, if you're talking about warrants or orders of those sort, I know the U.S. Marshals Office has some sort of involvement in that. But I confess this hasn't been part of something that I've litigated.

Senator COONS. And when would you feel you'd met the standard to call in the Marshals to execute your judgment?

Ms. HERMANDORFER. I think it's very difficult, again, to answer that question in the abstract. And I can just tell you, as a party, I've followed the appellate practice process whenever I felt as though a judgment had gone the wrong way against me and I've secured appellate relief in those situations.

Senator COONS. Last question. What would you do if the U.S. Marshals were to disobey and refuse to execute the judgment of the Circuit Court if they were instructed by the DOJ to stand down and to refuse to implement an order of the court?

Ms. HERMANDORFER. That would, as a probably junior appellate judge on my court, be something that I would look to my colleagues and whatever governing rules and precedents would govern that situation. But again, on the abstract as a hypothetical matter—

Senator COONS. Ms. Hermandorfer, I hope this is an abstract and hypothetical matter, but it's one that occupies quite a few of us and quite a bit of our discussion on this Committee as we come up against the question of whether or not we have a President willing to disobey orders of Federal courts. Thank you for your testimony. Thank you, Mr. Chairman.

Senator HAWLEY. Ms. Hermandorfer, we're going to go to Senator Moody, but let me just ask you beforehand just to make sure that I'm clear. My colleague was just asking about the number of cases that you've tried to a jury, and cross-examinations performed before a jury, and direct examinations performed before a jury. What court are you being nominated to?

Ms. HERMANDORFER. The Sixth Circuit Court of Appeals.

Senator HAWLEY. A court of appeals. Do you have any appellate experience at all?

Ms. HERMANDORFER. I have litigated probably over 100 appellate cases.

Senator HAWLEY. Over 100 appellate cases. How many different courts of appeals, how many circuits, how many different circuits have you argued or litigated in front of?

Ms. HERMANDORFER. I've argued in front of nine circuits and the Supreme Court—not argued, litigated.

Senator HAWLEY. Nine circuits and the Supreme Court, over 100 appellate cases. That sounds like quite a bit of experience to me. Senator Moody.

Senator MOODY. Thank you, Senator Hawley. And thank you for running such an efficient hearing today as our Chairperson. Appreciate your prior service to your State, ultimately, I believe to this country. Thank you for being here today and, and standing willing to answer some really tough questions.

I will note there's been a lot of attention brought to the ABA and whether or not every Senator on the Judiciary Committee or every Senator for that matter who of an ultimate vote considers or should consider any recommendations. And, you know, if that were important to the ABA over the many years that people have been pointing out, they are becoming and perceived more and more and more as a partisan group.

You would think they would stop doing things like awarding a progressive prosecutor who ultimately said that they would not prosecute laws that they didn't agree with politically and that a Governor had to remove from office after they were removed from office. Giving them an ABA award would seem to be inappropriate.

And so, I think that organization should probably take to heart everything that has been said today, because that's the kind of things that they're still doing. And if they want to be taken credible by the United States Senate in determining who would make good judges, maybe when a judge is removed for saying they would not enforce or follow laws they don't agree—or excuse me, a prosecutor was removed because they would not enforce laws they don't agree with, that might be something that would undercut the credibility of the ABA.

You have gotten questions about your lack of experience in the trial court. Some of that may be related from the fact that you are serving over just over a decade as a lawyer, and now you're going on to a very important appellate position. I think you'll be a great appellate judge. I am overwhelmed and really impressed by your background. I wonder if your—the predecessor and your role had clerked for three Supreme Court justices at the time that they were nominated. I doubt it.

I was a young judge when I became a judge. I served over a decade before I became the attorney general, and now a United States Senator. To some extent, I think that can bring a quality and a certain tenacity to move cases and a docket, and deliver expediency in the judicial system for the American people. That is much needed.

In your opinion, how important is efficiency of a docket to being a good judge?

Ms. HERMANDORFER. So, as a party who's often seeking relief from courts, efficiency of the docket goes to the heart of the fairness and integrity of our judicial system because everyone's heard the saying, "Justice delayed is justice denied." And I do think that is where my recent years of practice and the pace—again, I mean, there have been weeks when I've filed—there was a day I filed a supreme court brief and a district court brief on summary judgment the same day and the same case. That's how fast our cases move. And the volume of that and the pace of that is something

that I think would suit me well to do my best to hit the ground running and contribute to my colleagues to the best of my abilities.

Senator MOODY. And right now, more than ever, at this moment in time we have a President in office that is desperately trying to clean up a lot of mess that was created. And I believe I was the attorney general fighting against a lot of unlawful policies from the last administration. And so, in doing so, is having to make really hard decisions at a fast pace as an executive to deliver safety and security for the American people. That is just a fact.

And what we are seeing now every day are nationwide injunctions, another stay, another order that is in some way stymieing this executive from doing its job. And that is causing a lot of concern from the American public who wants to just feel safe and have some sort of order and stability in this country again. Whoever becomes a judge, an appellate judge, or even a district court judge, is going to have very critical matters and issues come before them dealing with separation of powers.

And it is so important that we have judges that understand the importance of that and can rule on it quickly so that an executive's hands aren't tied for 4 years, and they can't do what they have promised to do for the American people when it is within the law to do so.

In your experience, what have you done to fight for the separation of powers? You know, we're more and more evolving into what feels like a separation of parties, which is undermining the stability of this constitutional form of government instead of a separation of powers. And what are cases that you could highlight for this Committee, whereas an attorney you fought for the respect of separation of powers?

Ms. HERMANDORFER. So, I've litigated dozens of cases involving the attempt by the Federal Government to, through rulemaking, for example, impose a rule onto States and onto State citizens that did not ever go through Congress. That includes the Title IX case that includes cases like our challenge to the Section 1557 rule, which both of those involved gender, identity-based rules being applied to States through the executive branch and not through Congress. Other cases, many other such cases our office has litigated and all of those cases reflect the importance of our dual sovereign system and the importance of allowing States to govern themselves through their political processes absent proper lawmaking by the Federal branches.

Senator MOODY. Thank you so much. And Chairman Hawley, I owe you a minute.

Senator HAWLEY. That's right. I was so generous with your time, Senator. I'd like to enter into the record here, a letter from 18 appellate attorneys, including the former Solicitor General of the United States, Paul Clement, all endorsing Ms. Hermandorfer, talking about her experience, talking about her expertise, talking about her outstanding record.

Here's a representative, "Ms. Hermandorfer has a brilliant legal mind, an outstanding work ethic, a strong sense of fairness and justice, a collegial manner, which we're seeing today, and an extraordinary record of academic and legal achievement. Based on our experience with Ms. Hermandorfer and her distinguished ca-

reer in private practice and public service, we are confident that she possesses the character, temperament, and intellect to make her an asset to our Nation's judiciary."

And without objection, I'll enter that into the record.

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

Senator HAWLEY. Senator Welch.

Senator WELCH. Thank you. Thank you very much, Mr. Chairman. You know, you're hearing what is a real divide in the country and between the parties about what's happening in the justice system? I happen to think the ABA is an excellent organization. I'm disappointed the President is prohibiting the ABA from being involved. There's a different point of view on the so-called weaponization of what's happened in the Justice Department.

But one of the elements that's emerging now is an incredible amount of criticism from the executive branch of judges who make decisions that the executive disagrees with. For instance, President Trump referring to some judges said who decided against him, "U.S. hating judges who suffer from an ideology that is sick." There's a reference to by the President of judges who are "monsters" and want our country to go to hell. I don't think that's helpful.

And just let me ask you. You've had judges rule in your favor, you've had judges rule against you. Is it your view that in your experience when judges have ruled against you, it's anything other than the exercise of their responsibility to decide the cases as they see it, or is it motivated by some political ideology?

Ms. HERMANDORFER. Well, I think your question, question touches on foundational aspects of our system, which is there's obviously—we're a country that values political dialog very much. At the same time, there no doubt are limits on violence limits, on criminal threats, things like that. So, you know, I don't want anything I say here as a nominee to be seen as—

Senator WELCH. No, I'm asking—

Ms. HERMANDORFER [continuing]. Passing judgment.

Senator WELCH. You've been a litigant, so you had cases decided, I'd take it, for you and against you, in both cases. In either case, do you accuse the judges of having some political motivation when the judge decides against you?

Ms. HERMANDORFER. When a judge decides against me, I file an appeal and litigate the appeal. And I will say—I mean, I've been a public official subject to criticism, and all I can say is it's part of the job and you do your duties.

Senator WELCH. Right. Do you think it's proper for litigants to be used in that kind of language when they disagree with the decision that a court has made?

Ms. HERMANDORFER. Well, again, as a nominee, I don't want to give a thumbs up or thumbs down to any particular category of statements. It's a—

Senator WELCH. Alright. Well, let me ask you this. I know you signed a letter, I think, in your personal capacity, in support of—that was, I think, circulated and supported the Attorney General. And in that letter there was a reference to, "a dark chapter of the United States Justice Department." What specifically do you—were

you referring to when you signed the letter that had that phrase in it?

Ms. HERMANDORFER. So, that letter was on behalf of female members of the State Attorney General's offices. I could just tell you some——

Senator WELCH. No, I'm asking—I know who it was on behalf of, but what the letter specifically said you're referring to a dark chapter of the United States Justice Department. So, explain what that dark chapter was and what specifically you had in mind.

Ms. HERMANDORFER. So, I spent the past 2 years litigating against rules, including Title IX and others, that we did not feel, as an office and as my client, reflected the proper meaning of the law, and indeed dismissed many well-meaning, deeply held concerns on the part of many women and others.

And so, where I was coming from in signing that letter was, in my experience, litigating and often prevailing in those issues that we thought involved Federal overreach by the Department of Justice.

Senator WELCH. No, here's the issue for me that I think is getting so difficult in the courts. You can have different points. Citizens can have different points of view, and they don't have to attribute that difference to something radical anti-woman agenda or referring to the Justice Department as a dark chapter in the United States Justice Department.

Because this is a big country, people have different points of view. Everyone's free to advocate what it is they want to advocate for. But now, it is custom that if the decision goes against you, you have a President who starts talking about monsters who want to take our country to go to hell. I guess I can't ask you to answer that, but you're going to be assuming, if you're confirmed, you're going to have the responsibility for really helping create a culture within the judicial system that hopefully restores respect, and that means respect for people with whom one disagrees. Thank you. I yield back.

Senator HAWLEY. Ms. Hermendorfer, let me just stay with this question about the Title IX litigation that Senator Welch was just asking you about. Tell us about the Title IX litigation that you carried on behalf of the State of Tennessee.

Ms. HERMANDORFER. Sure. In April 2024, the Department of Education issued a final rule interpreting Title IX, which of course, bars discrimination on the basis of sex and any federally funded educational program, interpreting that language to bar discrimination on the basis of gender identity and other "sex-based characteristics."

And as part of that rule, which again, was a rule did not go through Congress, the Department of Education informed all federally funded educational institutions from pre-K through college that sex separated spaces like locker rooms and bathrooms must instead be assigned by gender identity and not sex. And in similar ways sex-separated programs like intramural sports and others fell in the ambit of that rule.

Senator HAWLEY. Let me just stop you right there. I want to make sure we understand the significance of this. What you're saying is that the Biden Administration used an administrative proc-

ess to interpret a law, landmark law passed by Congress Title IX to interpret it, to require your State, and indeed every State to allow men, biological men, into women's locker rooms to allow men, biological men into women's sports, to allow men, biological men into any space that a biological woman might otherwise claim under the ambit of Title IX. Is that correct?

Ms. HERMANDORFER. That's correct.

Senator HAWLEY. And so, you litigated on behalf of your State to preserve—would you say that Title IX is a landmark piece of legislation?

Ms. HERMANDORFER. Absolutely.

Senator HAWLEY. Would you say that Title IX took years, indeed, decades to achieve?

Ms. HERMANDORFER. That's correct.

Senator HAWLEY. Would you say that Title IX is a cornerstone of women's sports and the ability for women to have the same opportunities as men at the collegiate level, and indeed every level, to have sports opportunities, athletic opportunities, leadership opportunities? I mean, is this an important statute?

Ms. HERMANDORFER. It is. And for a former athlete, it hits especially close to home.

Senator HAWLEY. Yes. You've lived it, have you not?

Ms. HERMANDORFER. That's right.

Senator HAWLEY. So, when the Biden Administration issued a rule, not a law not passed by this Congress, a rule that would've completely changed the meaning of Title IX, would you say that that's a pro-woman agenda?

Ms. HERMANDORFER. We argued that the considerations of women were not adequately accounted for in the rulemaking process, and virtually every court to consider that rule. Almost a dozen agreed with the position Tennessee advanced on behalf of six States in our litigation.

Senator HAWLEY. Every Court virtually to consider the litigation agreed with your position. Is that correct?

Ms. HERMANDORFER. Including the Supreme Court in the stay application.

Senator HAWLEY. Including the Supreme Court of the United States. Would you say it is fair to call the effort to undermine a landmark piece of legislation for women that you yourself benefited from that fair and equal opportunity? Would you say it's fair to call that a dark chapter in the history of this country?

Ms. HERMANDORFER. Certainly on behalf of Tennesseans, we thought that that rule was unlawful and inappropriate, and we were, you know, happy to succeed in the litigation against it.

Senator HAWLEY. Well, I just want to tell you, I'm happy you succeeded in the litigation. As the father of a 4-year-old daughter, I'm delighted that you succeeded in the litigation. I want to thank you on behalf of her, my whole family. I want to thank you for going to battle for our daughters, for going to battle for the women you played sports with, for standing up for this landmark legislation and for fighting it.

And yes, I want to say it was indeed a dark chapter. The last 4 years have been a hellacious chapter in the Department of Justice. Those aren't your words, those are mine, to be clear. But I

think it's absolutely a fact whether we're talking about the assault on women's rights under the Title IX context and others, whether we're talking about the assault on religious believers.

Let's not forget, this is the Department of Justice that recruited informants into Catholic parishes in this country. If that's not a dark chapter in this country's history, I don't know what the heck is. This is a Justice Department that activated the Counter Terrorism Division, Counter Terrorism Division, against parents who went to school board meetings. If that's not a dark chapter, I don't know what is.

This is a government, an administration, the last 4 years, that collaborated with the biggest corporations in the world to censor speech they don't like, and then lie about it. If that's not a dark chapter, I don't know what is. In fact, I'd go so far to say it is the worst chapter, the worst in the history of the Department of Justice, the last 4 years.

Those are my views, not yours, Ms. Hermandorfer. But I'll just say, when it comes to the litigation that you carried out on behalf of the State of Tennessee, I think you did a great service, not just to Tennessee, but for the Nation. And I want to thank you for it. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. Ms. Hermandorfer, congratulations. Welcome. I'm thrilled that you are seated here before the Committee. You are the very first appellate court nominee put forth by President Trump in this new administration. And it's symbolic that the seat you've been nominated to fill is the same one Democrats tried to hand the nomination to a woman named Karla Campbell, Karla with a K, in the Biden Administration.

I'm glad that Republicans on this Committee stood firm and stopped Ms. Campbell's confirmation. She had a deeply troubling record. She affiliated with an explicitly Marxist organization that called for a working-class revolution and abolishing both the police and ICE. She financially supported a radical far left candidate that said that Republicans were "siding with the devil," and she repeatedly misled this Committee about her past.

That contrast tells a story. The Biden Administration tried to place a radical Marxist ideologue on the Sixth Circuit, a nomination that Republicans rightly stopped. And now under President Trump, we are restoring judges who respect the Constitution and the rule of law to the bench.

Ms. Hermandorfer, your academic record is extremely impressive. You've clerked for not one, not two, but three Supreme Court justices; then-Judge Kavanaugh, Justice Alito, and Justice Barrett. Now, I would note the Chairman clerked for one Supreme Court Justice, Senator Lee clerked for one Supreme Court justice, and I clerked for one Supreme Court justice. For the record, I'm going to say I'm that you clerked for three, and I may have to filibuster your nomination because of it.

But tell us what you learned clerking for those three jurists.

Ms. HERMANDORFER. So, I've taken so many lessons from those jurists. That the role of the judge is to carefully listen to all parties and carefully deliberate with respect to all cases that come before him or her, and to treat colleagues and litigants with respect, and

to understand that you can disagree about the law without being disagreeable.

I think the most important lesson, though, Senator Cruz, I learned, is that in our system, judges are intentionally insulated from political accountability precisely because they're going to issue rulings sometimes that some segments of the public or the majority may not agree with. And that's not always a pleasant task, but it's necessary to preserve our system.

And so, too, it's necessary that judges have backbone, and grit, and courage in carrying out their obligations under Article 3. And so those are attributes that I witnessed, and that I would try to take with me to the best of my abilities, were I fortunate enough to be confirmed?

Senator CRUZ. So, you also were a star basketball player at my alma mater, at Princeton.

Ms. HERMANDORFER. Star might be a little strong, Senator.

Senator CRUZ. You were captain of the team. Tell us what you learned about playing competitive basketball at the collegiate level.

Ms. HERMANDORFER. My basketball journey started when I was very young, and my four parents who are here, you know, drove me around probably to every gym in Tennessee so I could pursue my dreams of playing college sports. And there's nothing like having to wake up early at 5 a.m. in the snow and go down to the weight room to instill self-discipline and grit.

And I've carried those lessons and the work ethic with me. And I've been knocked down many times both on the court and off. And I learned that it's really about how you carry yourself, and your attitude, and your effort can get you through even when you're facing challenges.

And I guess lastly, I would say playing basketball, I've had the pleasure of getting to know girls from all walks of life, from all over the State, all over the country. And so, getting along with folks from different backgrounds and who have different perspectives is something I have experience and would also try to take with me.

Senator CRUZ. Talk to us about the First Amendment and the importance of the First Amendment.

Ms. HERMANDORFER. Without sounding trite, you know, it's the First Amendment, for a reason, it protects both—I mean, the five main free freedoms. You know, the free exercise of religion, there's also the establishment clause, of course freedom of the press, freedom to petition the Government when you're want to change a law, freedom to assemble.

And I can't remember if I said four or five, but the importance of that is that in our system, the people have the power to express their deeply held views and to try to make political change. And it's not up to the Government to stifle any views that it deems you know, heterodox or unorthodox. It is to protect the will of the people as they express it in their public accounts.

Senator KENNEDY [presiding.] Thank you, Professor. Senator Schiff.

Senator SCHIFF. Thank you, Mr. Chairman. Ms. Hermandorfer, welcome. I'm sure you're aware that it was recently said by President Trump, "It was suggested that I use the Federalist Society as a recommending source on judges. I did so, but then realized that

they were under the thumb of a real sleazebag named Leonard Leo. A bad person who in his own way probably hates America. I want to ask you about this. You're a member of the Federalist Society. Correct?

[Poster is displayed.]

Ms. HERMANDORFER. That's correct.

Senator SCHIFF. And for how long? For how many years?

Ms. HERMANDORFER. I believe I joined in law school Senator

Senator SCHIFF. So, over a decade ago, then?

Ms. HERMANDORFER. About a decade.

Senator SCHIFF. And were you recommended for a judgeship by the Federalist Society?

Ms. HERMANDORFER. I have no knowledge of why it was recommended or whether the Federalist Society had any role.

Senator SCHIFF. The Federalist Society does though recommend judges to the administration? Do they not or did they not?

Ms. HERMANDORFER. I had no involvement in that. I'm not sure I've seen reporting to suggest they had some involvement, but I have no personal knowledge of that, Senator.

Senator SCHIFF. Do you think having been a member of the Federalist Society for over a decade, that they're under the thumb of a real sleazebag named Leonard Leo? Is that your view?

Ms. HERMANDORFER. In my perspective, the Federalist Society has been a wonderful place to get together with the many, many lawyers who are members and learn about the law and discuss issues. Aside from my own experience, I, as a judicial nominee, I don't think it's appropriate for me to comment on any public policy debate about the Federalist Society or the particular quotation you're referencing.

Senator SCHIFF. Do you know Leonard Leo?

Ms. HERMANDORFER. I've met him a few times at Federalist Society events, but I wouldn't say that I know him well or that he knows me.

Senator SCHIFF. Do you concur with the President's assessment that he is a sleazebag?

Ms. HERMANDORFER. Again, Senator, that type of interpersonal or political dispute, I don't think is appropriate for me to comment on as a judicial nominee, given that either the President or Mr. Leo could come before me as party to a litigation.

Senator SCHIFF. You clerked for Judge Richard Leon, did you not on district court?

Ms. HERMANDORFER. That is correct.

Senator SCHIFF. How would you describe Judge Leon?

Ms. HERMANDORFER. When I worked for Judge Leon, I had a wonderful experience. I think he was a judge who treated everybody with fairness and impartiality, and was wonderful to his law clerks. And it was a very enjoyable year clerking for him.

Senator SCHIFF. And he took his responsibility seriously?

Ms. HERMANDORFER. In my experience, yes.

Senator SCHIFF. And upheld the law and the Constitution, in your view?

Ms. HERMANDORFER. We did our best to do so.

Senator SCHIFF. You're aware that he ruled against the administration and against the President with respect to the President's executive order against Wilmer Hale?

Ms. HERMANDORFER. I'm aware.

Senator SCHIFF. Do you agree with Judge Leon's decision that the executive order was unlawful?

Ms. HERMANDORFER. That's pending litigation and it would be very inappropriate for me to express a view on the merits of that litigation or any other act of litigation?

Senator SCHIFF. Well, no, the President has attacked the Federalist Society because the judges it has recommended don't always do what the President wants. Is that the role of a judge? Is that the role of Judge Leon or any other judge? Would that be your role to do what the President wants?

Ms. HERMANDORFER. That would not be my role. My role would be to carry out my oath, which would be to the Constitution first and foremost, and any other laws that bind the rules of decision.

Senator SCHIFF. So, you're willing to rule against the administration, against Donald Trump's executive orders if you believe them to be unlawful?

Ms. HERMANDORFER. If that's what the law requires, Senator.

Senator SCHIFF. You were also an attorney at Williams & Connolly. Is that correct?

Ms. HERMANDORFER. That's correct.

Senator SCHIFF. And they represent Perkins Coie and the executive order case against that law firm. Do they not?

Ms. HERMANDORFER. I'm aware of that fact.

Senator SCHIFF. Is it important that law firms be able to represent individuals or causes that are unpopular and that are at times in disagreement with the administration?

Ms. HERMANDORFER. So, certainly, as a lawyer who represents a client that has views that people don't always agree with, I think it's an important role of an attorney to take on matters no matter the political popularity.

Senator SCHIFF. So, you think it's appropriate for law firms to take on cases against the administration?

Ms. HERMANDORFER. I would not purport to limit any party in the representation that it would choose. And I don't want to be seen as commenting on any of the active litigation involving these issues.

Senator SCHIFF. And would you agree that it would be inappropriate for a President or administration to try to punish a law firm for taking on a client whose interest was adverse to the administration?

Ms. HERMANDORFER. So, Senator, you're referencing, I believe, the pending litigation. And again, I've articulated why it's important for clients to have law firms.

Senator SCHIFF. I'm not referencing any particular case. I'm asking you as a general principle, should the President of the United States be able to retaliate against a law firm that takes a case for a client whose interest is adverse to the administration?

Ms. HERMANDORFER. Again, embedded in the premise of that question is something that is referencing active litigation, and I, just as a matter of prudence, don't want to be seen as weighing in

either way on whether that has occurred in any of these executive order cases. I stand by my answer that it is, of course, the role of a lawyer to represent clients consistent with the bounds of the law and ethics, and that's what I've tried to do in my role.

Senator SCHIFF. Thank you, Mr. Chairman. I yield back.

Senator KENNEDY. Professor, tell me about the *Loper Bright* case.

Ms. HERMANDORFER. Sure. So, *Loper Bright* is the case that overruled the *Chevron* doctrine. And the *Chevron* doctrine or originally required that if there was an agency statute that governs an agency's conduct, the agency gets deference, meaning a thumb on the scale when it's interpreting what that statute might mean as it's carrying out its duties.

Loper Bright determined that that framework was inconsistent with the Administrative Procedures Act, and instead, that moving forward, court should decide all of those statutory interpretation cases as a de novo matter, meaning the agency doesn't get any sort of special head start.

Senator KENNEDY. How much difference did a Federal court have to give to an administrative agency under the *Chevron* doctrine?

Ms. HERMANDORFER. Sure. So, the court would originally make a step one determination about whether the statute was ambiguous or not. That's in the eye of the beholder sometimes. But if the court determined that the statute was ambiguous and the relevant sense, meaning it didn't resolve the question the agency was facing it would defer to the agency's view of the meaning so long as the agency's interpretation was well explained and reasonable.

Senator KENNEDY. What's the relationship, if any, between *Loper Bright* and *West Virginia v. VEPA*?

Ms. HERMANDORFER. So, that's a fascinating question. I think, you know, *West Virginia v. VEPA* applied *Chevron*, but said, we're less likely to find ambiguity. And indeed, Congress needs to speak clearly if the agency is purporting to resolve a matter of in the court's terms political or social significance.

And following *Loper Bright*, of course, there is no difference. And I think some have commented, including Justice Barrett, that the best way to think about *West Virginia v. VEPA* in interpreting statutes is that it informs the context of how we understand what the statutory terms mean in the context of an agency delegation. So, the fact that the agency is purporting to carry out its duties might resolve whether or not the particular question is sufficiently clearly delegated by Congress.

Senator KENNEDY. That just seems to me like a distinction without a difference. I mean, doesn't *Loper Bright* wipe out the need for *West Virginia v. VEPA*? Why do we still need a major question, Doctor?

Ms. HERMANDORFER. So, it's certainly true that *West Virginia v. VEPA*, I think was partially driven by non-delegation doctrine concerns and concerns about deferring to agencies. When doing so threatened our separation of powers after *Chevron* has been overruled. Of course, that might be relevant in a smaller number of cases. But I do think that the major questions doctrine still has vitality and understanding the best meaning of the statute as *Loper Bright* now requires.

Senator KENNEDY. What's the Public Rights doctrine?

Ms. HERMANDORFER. So, most recently, the Public Rights doctrine has been applied in the Seventh Amendment context. And the Supreme Court has a decision named *Jarkesy* where there's a line of precedent saying that if a matter involves public rights, so the conferral of a public benefit, for example that might be the type of matter that Congress can vest adjudication of in Article 1 Tribunal or an administrative agency.

Senator KENNEDY. What's a public right?

Ms. HERMANDORFER. That's a very difficult question to answer in many cases.

Senator KENNEDY. That's why I'm asking you.

Ms. HERMANDORFER. Yes. So, I think the best way to think about it is to contrast it with private rights. And what the Supreme Court has instructed with respect to private rights is that they're what we would think of as common law-type claims. So, contracts, property torts, the stuff of Westminster in the court's terms.

And so, if you have a matter like that, that's the type of matter that needs to go before a jury to ensure that the Seventh Amendment's jury protections are abided by contrast. If there's an internal administrative process, social security benefits things like that, that looks more like a public right, that wouldn't have existed, but for the Government granting it.

Senator KENNEDY. And what did the Supreme Court hold in—was it *Jarkesy*?

Ms. HERMANDORFER. That's right.

Senator KENNEDY. What did the Supreme Court hold?

Ms. HERMANDORFER. So, the Supreme Court there held that certain matters of the Securities and Exchange Commission actually looked more like common law fraud claims and more like property-based claims that must be tried to a jury in court and cannot be vested in the in-house SEC proceedings to be tried before an administrative tribunal.

Senator KENNEDY. My time is done. Thank you, Professor.

Senator HAWLEY [presiding]. Okay. Against my better judgment, I promised Senator Schiff because I skipped him in order, I promised him one more question. All right, Senator, this gavel will never come to me again, though, if you ask more than one question. So, I'm going to hold you to it.

Senator KENNEDY. Well, I've got the gavel.

[Laughter.]

Senator HAWLEY. Oh, there we go.

Senator SCHIFF. This is just in honor of Mike Lee's birthday. His wish was that I got an extra question. I wanted to just followup on one of your answers to Senator Durbin. He asked about the necessity of following court orders, and you were very specific in your answer and said that if the Supreme Court rules that you have to, then you have to follow the order as it pertains to the parties to the case.

I want to ask you about a lower court ruling, though. You would agree, would you not, that if a district court rules pending appeal, or pending any other stay or action by a higher court, that the parties covered by that order, including the administration, need to abide by that order?

Ms. HERMANDORFER. As I mentioned to Ranking Member Durbin, the normal course, if you disagree with the court order, is to seek appellate review in the way that you mentioned. Yes. I do note that my understanding is yesterday there was some testimony about, you know, particular cases and nuances of that debate that I think are active. And obviously, the interaction of Article 3 and Article 2 is an actively litigated matter. But absolutely, in the normal course, the proper way to vindicate your rights is through the appellate process.

Senator HAWLEY. Thank you. All right. All right. Thank you. Thank you, Senator. No, really, John?

Senator KENNEDY. Yes.

Senator HAWLEY. Oh, my gosh. Look at this. All order is dissolving. Okay, go ahead. But that's it, I'm serious. Senator Grassley's going to come in here and hit me with this gavel.

Senator KENNEDY. I want to be sure I understand, Professor. District court rules on the case. You got plaintiff and defendant. You are representing the plaintiff. Your plaintiff is very unhappy. Are there any circumstances under which you would advise the plaintiff to ignore the Federal court order?

Ms. HERMANDORFER. So, of course, as a judicial nominee, I would be trying to issue proper—

Senator KENNEDY. I don't want to split hairs here.

Ms. HERMANDORFER. No, the normal process is to—

Senator KENNEDY. I know what the normal process is. Can you think of any circumstances where you would tell the plaintiffs, "No, you don't pay attention to this Federal judge."

Ms. HERMANDORFER. So, the problem with answering it that categorically is that there are potentially some very extraordinary situations you could imagine—

Senator KENNEDY. Like what?

Ms. HERMANDORFER [continuing]. That could come before me as a judge—

Senator KENNEDY. Like what?

Ms. HERMANDORFER. So, this is a subject of tremendous scholarship.

Senator KENNEDY. I'd be careful there. I'd be real careful.

Senator HAWLEY. All right, Senator. All right, all right. I promised you one. That was four, I think. See what you started, Adam.

Ms. Hermandorfer, thank you for your testimony. You are excused. And with that, I'll invite the four district court nominees to come forward to the witness table. And we'll take just a moment here, and we'll administer the oath and begin the second panel.

[Pause.]

Senator HAWLEY. All right. It's the custom of this Committee to administer the oath to all nominees who come before the Committee. And you're all standing and ready to do it. So, I'll stand with you. If you'd raise your right hand and repeat after me.

[Witnesses are sworn in.]

Senator HAWLEY. You may be seated. Well, we welcome all of you here today. It is our normal process, if you so desire, to allow you to introduce any folks who are with you, including your families, and then to give a brief opening statement. And we'll just go down

the panel. We'll start with Mr. Bluestone, and then proceed all the way down to Judge Stevens. Mr. Bluestone, the floor is yours.

**STATEMENT OF ZACHARY M. BLUESTONE, NOMINEE TO
SERVE AS UNITED STATES DISTRICT JUDGE FOR THE EAST-
ERN DISTRICT OF MISSOURI**

Mr. BLUESTONE. Thank you, Senator Hawley. I'd like to start by thanking Chairman Grassley, Ranking Member Durbin, and the Committee for holding this hearing. Also, incredibly grateful to the President for the honor of this nomination. To you, Senator Hawley, and Senator Schmitt, thank you for the kind words and your introductions. Thank you for your support throughout this process, and thank you so much for the trust that you both placed in me as a deputy solicitor all those years ago when you were both serving as Missouri Attorney General.

Over the last few months, I've thought a lot about relationships and community. This process has reminded me of just how blessed I am with the people in my life. They're absolutely the reason I'm here today. Fittingly, the opportunity to serve my community is the reason I want to become a Federal judge. I can think of no better use of my talents to make a meaningful impact on the lives of those around me.

I regret not having time to recognize everyone who's gotten me here. But I'd like to highlight just a few, starting with four key mentors; Senator Jim Talent, John Sauer, Jeff Jensen, and Judge Ray Gruender, who's here today with his wonderful wife, Kim. Judge Gruender is a rare combination of brilliance and humility, and he's a model I'll strive to emulate, if confirmed. I'm also lucky to be joined by three lifelong friends; John, Todd, and Broth, and I owe my clerk, Daniel, a huge debt of gratitude for his support.

As for family, it means the world to me that my brother Alex, and mother-in-law, Shannon, have traveled so far to be here. And there's no distance that would've kept my mother from coming. In many ways, today is the culmination of all the work she put into ensuring that I had the educational opportunities that my parents never did. I also have her to thank for my faith and commitment to family. My mom's partner, John is here as well, and I'd like to recognize him for his service to our country both as a Marine in Vietnam and through his career with the FBI.

My biggest supporters are behind me. My wife, Abby, and our little bud, Ezra, who's been instructed to cry if I get any tough questions. I'm looking in that direction, Senator Kennedy. I actually met Abby when we were clerking in the courthouse where I hope to serve, and she's been a pillar of my life ever since. She showed so much strength and devotion as a mother, and I'll never be able to repay her selflessness over the last few months, especially managing travel logistics with the baby despite having her own major oral argument in St. Louis yesterday.

Finally, I'd like to recognize my dad, Randy, who we lost to a battle with leukemia almost 20 years ago. My dad's fearlessness and grit in starting a business are something that I'll always admire, particularly after having helped run that company after his passing. My dad often had some choice words for his lawyers after

getting legal bills, but I know he's looking down today with a lot of pride.

Thank you for giving me a few minutes to recognize those who got me here, and I look forward to your questions.

Senator HAWLEY. Thank you very much, Mr. Bluestone. Mr. Divine.

STATEMENT OF JOSHUA M. DIVINE, NOMINEE TO SERVE AS UNITED STATES DISTRICT JUDGE FOR THE EASTERN AND WESTERN DISTRICTS OF MISSOURI

Mr. DIVINE. Thank you, Senator Hawley. I want to thank Chairman Grassley, Ranking Member Durbin for holding this hearing today. I want to thank Senator Hawley and Senator Schmitt for all the support you've provided to me during this process. And of course, most of all, I want to thank President Trump for giving me the honor of this nomination.

I'm joined today in spirit and in person by too many to name, but I'll mention a few. My wonderful parents, James and Susan are here, so too is my wife of 15 years. As Senator Hawley mentioned earlier, Elizabeth is pregnant with our seventh child. We have been truly blessed. The other six children are here as well. You haven't heard from them because the younger two, the boys, have been asleep the last 2 hours.

Fifteen years as a husband, and 13 as a father has taught me much more than I ever learned in school. Alice, for example, our miracle child, had open heart surgery when she was just 2 months old. And grappling with the many challenges she has faced since then, has taught us the virtues of patience, prayer, and perspective.

On a professional level, I'm especially grateful to the Attorney General of Missouri, who's here today, Andrew Bailey. When he hired me as Missouri Solicitor General, I knew I was being asked to fill big shoes. My predecessor, after all was John Sauer, who is now the U.S. Solicitor General.

It has been a privilege to serve the people of Missouri these past years. And sitting here today, I'm reminded of what Justice Ginsburg told this Committee a few decades ago, "What has become of me could happen only in America." My grandmother born into poverty overseas, never had a day of education in her life. My dad was luckier. He did miss several years of school, but grandma eventually pinched enough pennies to bring them over here to America. And once here she learned English by watching American soap operas, she made a living cleaning people's homes, and she did her best to navigate the anti-Italian discrimination that was all too common at the time.

Today, barely a generation later, I sit here before this august body having been given extraordinary opportunities, both professional and educational. But the most extraordinary thing about my family's story is just how ordinary it is. No other country provides so much opportunity to so many, and that is one reason I've dedicated my career to life of public service.

My dedication to public service was reinforced a year ago when a life-threatening accident put me in the ICU. It left me unable to walk. For 6 months, I was confined to a wheelchair and then a

cane. I'm still recovering to this day, but those are the kinds of experiences that humble you, and they're the kinds of experiences that broaden your empathy to those whose trials and tribulations last, not just a season, but a lifetime.

Fortunately, although we come from different walks of life, the law promises equality. I had the privilege to clerk for a judge who, when he was Attorney General of Alabama, gave a speech condemning and rebuking the segregationists of that State's past. While lesser men like Governor George Wallace had promised to thwart the Constitution, Attorney General Bill Pryor, four decades later promised the opposite; "Equal under law today, equal under law tomorrow, and equal under law forever." If confirmed, that is how I will judge.

I look forward to answering the Committee's questions.

Senator HAWLEY. Thank you very much, Mr. Divine. Ms. Lanahan.

**STATEMENT OF MARIA A. LANAHAN, NOMINEE TO SERVE AS
UNITED STATES DISTRICT JUDGE FOR EASTERN DISTRICT
OF MISSOURI**

Ms. LANAHAN. Thank you, Senator Hawley, and Senator Schmitt, for your kind introductions and support. I'd like to start by humbly thanking President Trump for nominating me to this position. Thank you, to Chairman Grassley, Ranking Member Durbin, and all the Members of this Committee for the opportunity to address the Committee today.

I also have many other people to thank who are here supporting me. Thank you to my husband and best friend Michael Lanahan, who's here. Michael is responsible for introducing me to the great State of Missouri, which I have grown to love and have since devoted my career to. My oldest son is also here. He is 7 years old. And my other two children, 5-year-old and a 1-year-old are not here because I was not so sure that they would be able to abide by Senate decorum. So, they're at home with Michael's parents, and I'd like to thank Kevin and Kathy Lanahan for taking care of them.

Thank you to my parents, Kevin and Anne Hassett, who are here. I would not be who I am today without their support and guidance. Thank you also to my siblings, and especially to my brother, Kevin, who made it out here and for bringing his family with him. That includes my sister, Adriana Hassett, who is a newly minted American citizen, their children and Audrey's mother-in-law, Susanna Iya Erda.

Thank you to my friend Laurel Sagar, who is here and who is an adoptive aunt to my children in St. Louis. And I would also like to extend my thanks to the two judges who I clerked for. Judge Gruender, who is here today with his wonderful wife, Kim, and Justice Zahra, who is unable to make it today. These two judges have greatly impacted my understanding of what a judge's role should be. They are both committed to following the law as written, and fairly and impartially resolving legal disputes regardless of a party's background characteristics.

I also want to extend my thanks to Missouri Attorney General Andrew Bailey, former Missouri Attorney General, and now Sen-

ator Schmitt. First Assistant Attorney General Jay Atkins, my boss, Josh Divine, who is next to me and the many other colleagues who I have worked with at the Missouri Attorney General's office to serve the people of the State of Missouri.

And finally, thank you to everyone else who has helped me and supported me along the way, including my many family members, friends, teachers, mentors, and former colleagues at Thompson Coburn and Charter Communications. I am honored to be nominated for this position, and if confirmed by the Senate, I pledge to decide cases fairly and impartially according to the rule of law. Thank you.

Senator HAWLEY. Thank you. Judge Stevens.

**STATEMENT OF HON. CRISTIAN M. STEVENS, NOMINEE TO
SERVE AS UNITED STATES DISTRICT JUDGE FOR EASTERN
DISTRICT OF MISSOURI**

Judge STEVENS. Thank you, Senator. Thanks to Chairman Grassley. Thanks to Ranking Member Durbin for holding this hearing. Thank you, Senator, for Chairing the hearing. Also, I want to thank all the Members of the Committee who are here today for their attention and their time. Also, of course, Senator Hawley, Senator Schmitt. I thank you for your support, as well as for your kind words earlier. Frankly, I'm humbled.

I also want to thank my family who are here today. First and foremost, my wife, Lee. My wife is my rock. I want to thank her for her support over the years, for her sacrifice, for her grace throughout my career, and at this time, also my children. My, our oldest boy, Jack, is here, our son, Hank, and our daughter, Mary Rose. And all candor to the Committee, Mary Rose expressed this morning that she really didn't want to come because, "This is boring" but she is here, and so far so good.

I also, of course, want to thank my parents; Ed and Melita Stevens are here today. And I can't begin to thank them for all they've done, for myself and my siblings, as children and all the way up through till today. They've been a great example of great Americans, great citizens who've raised their children, loved them, and supported them through thick and thin.

I'd also like to thank my law clerks Clayton Watts and Tyler Dodd. My law clerk, Clayton, is here today. He's agreed to continue on for another year, serving with me regardless of which court I happen to be on at the time. So, I'm glad that he could make it here.

I'd also, if I could, like to remember one other person that's not here today; my maternal grandfather, Edmund W. Albright. He was a self-made lawyer in St. Louis. He put himself through law school, hung out a shingle and took whatever case came in the door.

As a young man, he taught me to love the law and our profession. I think of him all the time. Today, I'm wearing his watch, which has kept time for me throughout my career. I have his portrait in my chambers back in St. Louis, and I wish that he could be here today for this moment.

I also would like to talk a little bit about my career to this point. I have the privilege of being a judge, a State judge in Missouri on

the Missouri Court of Appeals Eastern District. I was appointed that position in 2021 pursuant to the non-partisan Missouri Court plan. Before that, I had the honor of serving as first assistant attorney general to then-Attorney General, Eric Schmitt of Missouri.

That was a great privilege. A lot has gone on Senator, since our meeting at PJ's. I will say, if I could that I'm glad we met at PJ's and not at Cracker Barrel. I understand that some attorneys general met with staffers at Cracker Barrel, which is—I love Cracker Barrel, but PJ's is the place in Kirkwood.

And before that, I was in private practice at several points in my career, early in my career and in later years. And so what that means basically, is that I've handled civil cases, I've handled criminal cases, I've appeared in Federal Court and State Court, and particularly with the regard to the United States District Court for the Eastern District of Missouri.

Senator, as you acknowledged earlier I was an assistant U.S. attorney there for 15 years. I would get up from my desk on the 20th floor of the Thomas F. Eagleton Courthouse, go down a few floors to see the Article 3 judges or the magistrate judges on at least a weekly basis. So, I can tell you that if this body deems fit, then my returning to the U.S. District Court for the Eastern District of Missouri would be like coming home.

So, I appreciate the opportunity. I thank you for this hearing, and I look forward to answering your questions.

Senator HAWLEY. Thank you, Judge. We will start now the questioning. I will lead us off. Mr. Bluestone, let me just start with you, and we'll just go down the panel. You are currently a violent crimes prosecutor in the United States Attorney's Office in the Eastern District. Tell us a little bit about the work that you do, the kinds of cases that you prosecute, and what you've learned from that experience.

Mr. BLUESTONE. Thank you, Senator Hawley. Being an AUSA in the Eastern District of Missouri has been probably the most fulfilling job that I've had. It was commended to me by Judge Gruender, and frankly, before I clerked for him, it was not something that was really on my radar. But as both of my home State Senators are aware, there has been a violent crime epidemic in the city of St. Louis, in particular, in the area surrounding it. And it has been so gratifying to be able to do something about that.

I prosecuted carjacking offenses, armed robberies and other gun crimes, drug crimes. Have been involved in white collar investigations as well. And the work is extremely rewarding. I will say I fully appreciate the importance of every single case that would come before my court, if I were so fortunate to be confirmed. Having seen probably north of 100 cases myself it's incredibly significant to the defendants who would be appearing before me, the victims, their families, law enforcement who were involved. And I take that responsibility very seriously.

And I would also note that in addition to being a violent crimes prosecutor, I also serve as our district's appellate chief. So, and I handle my own cases certainly, but also am responsible for overseeing every appeal, both civil and criminal that comes through our office.

Senator HAWLEY. Is it safe to say, Mr. Bluestone, given your experience as a Federal prosecutor, the volume of cases that you've seen and handled that you know your way around a courtroom?

Mr. BLUESTONE. I would like to think so, Senator.

Senator HAWLEY. We would like to think so, too.

Mr. BLUESTONE. I've supervised more than 1,000 cases, and as I mentioned, handled more than 100 of my own.

Senator HAWLEY. Fantastic. Mr. Divine, let's talk a little bit about your experience. You are the solicitor general of the State of Missouri. If you had to ballpark it, this may be tough, but if you had to ballpark it, how many cases would you say that you have litigated just in your role as a solicitor general? You were deputy solicitor general for several years, but let's just leave that to one side. Just as SG, how many cases?

Mr. DIVINE. I mean, it would be impossible to know. It's in the hundreds of cases that I have supervised or personally litigated myself as solicitor general. I oversee the appeals for 200 attorneys in the office. We're getting a lot of appeals that are coming through, that we're supervising on a daily basis.

I also have a second job, not just solicitor general, but also the director of Special Litigation. And so I'm in charge of the unit, the trial unit that is tasked with taking some of the most complicated matters that the State of Missouri is dealing with and taking those matters to court, to trial court especially.

Senator HAWLEY. So, in these dual roles, you have represented the State of Missouri in trial courts?

Mr. DIVINE. That's right.

Senator HAWLEY. And in appellate courts?

Mr. DIVINE. That's right.

Senator HAWLEY. And in the State supreme court?

Mr. DIVINE. That's right.

Senator HAWLEY. And in the United States Supreme Court?

Mr. DIVINE. That's right.

Senator HAWLEY. You handled some of the office's most complex matters. Most complex litigation. Give us one example of a piece of complex litigation that you have handled and what you learned from it.

Mr. DIVINE. Yes, I think the student loans cases that the office argued, we've now had three of those cases over the—during the previous administration. Those were very, very quick cases. The administration at the time was trying to cancel hundreds of billions of dollars in student loans. We felt that that was unlawful. There wasn't any statutory basis for that. The courts ultimately agreed with us in all those cases, but it was a very, very quick-moving thing, and we needed to move quickly to ensure that there wasn't permanent irreparable harm.

So, one thing we did in one of those cases, we actually sued before the rule had been published, which is a pretty novel thing to do. And we were able to come up with an interesting argument that ultimately prevailed in court for why we were able to do that. We showed that there is irreparable harm, \$200 billion was about to go out the door, and we ultimately prevailed in that litigation.

Senator HAWLEY. And your success record is hard to argue with. I mentioned it in my opening statement, what you have won in

judgments for the State of Missouri through the litigation. You've handled totals in the hundreds of billions if you add it all up. I mean, is that correct?

Mr. DIVINE. That's right. I think about \$700 billion,

Senator HAWLEY. \$700 billion. That's pretty good. General Bailey, that's pretty good.

Ms. Lanahan, in my expiring moments here, let me just ask you to say a word about your extensive and varied legal career. You're the principal deputy solicitor general now for the State of Missouri. If you had to ballpark, how many cases would you guess that you have handled in trial courts, appellate courts, you know, put them all together. I mean, what would it be?

Ms. LANAHAN. Certainly, upwards of 50. And I have also been in charge of many of the appeals in our office. I oversee directly at least one-fourth of the appeals, and I review them before they are sent in. And I've been doing that for the last 4 years or so. And we have numerous, numerous appeals out of many, many groups. So, that's employment law. And to remember that when you're doing an appeal, you're not only dealing with the trial court issues and whether the trial court got it right, but also the appellate issues, which is a whole another layer of separate issues on top.

Senator HAWLEY. Very good. Well, Judge Stevens, I wanted to ask you a whole bunch of extremely difficult questions that that would've really been impossible to answer, but I'll leave that to Senator Schmitt. But first, Senator Durbin.

Senator DURBIN. Thank you very much, Senator Hawley. I feel like a kid from East St. Louis in the presence of a lot of St. Wilson's. I hope that I can stand up from my side of the river at least to some extent. Let me ask a few questions.

Mr. Divine, you have referred to yourself as a zealot for the anti-choice movement. You previously wrote and I quote, "Because we know a genetically unique human comes into existence at fertilization, abortion should not be ethically permitted." Let me ask you a couple questions. Do you believe an IVF embryo is a person?

Mr. DIVINE. Thank you, Senator. My answer to that question in any policy question or political question that might be asked of me, is going to be the same exact answer that I know this Committee has heard from hundreds of nominees before me, that Justice Kagan gave, that Justice Barrett gave. I cannot talk about political disputes. That is obviously a hotly litigated issue and hotly disputed issue right now. So, I just cannot, under the canons of judicial ethics, talk about those kinds of political disputes.

Senator DURBIN. That's what I expected to hear. Do you believe in vitro fertilization should not be "ethically permitted"?

Mr. DIVINE. Can you tell me where the quote is coming from?

Senator DURBIN. I'll try to find that from the staff while you're thinking about the answer.

Mr. DIVINE. So, I don't know the context of that, of what you're quoting to me right now.

Senator DURBIN. We're looking for the exact source on that. So, let's go to another question along that all the other members of this panel might address. I'm not going to get into the point made by Senator Blackburn about one of our witnesses yesterday saying she had some equivocation on following court orders, but as dem-

onstrated by Senator Hawley, this panel has extensive court experience. So, the question I'd like to ask of each of you do you believe that the executive branch of our Government should be allowed to defy a court order? Mr. Bluestone?

Mr. BLUESTONE. Thank you, Senator. I would have to take some caution in answering that question because this is a hotly litigated issue right now. But I would echo what we heard earlier in the hearing today, that generally speaking, that is of course, the rule.

Senator DURBIN. Mr. Devine?

Mr. DIVINE. Thank you, Senator. My understanding of the doctrine is it is almost always required that you've to obey a court order. The only exceptions are for if there's a lack of jurisdiction, if there's impossibility. There is a well-recognized doctrine of exceptions to that. And so, you would have to check to see whether something fell within one of those very rare exceptions.

Senator DURBIN. But that would lead to an appeal, would it not?

Mr. DIVINE. Certainly, you can appeal, and you would typically do that sort of thing in a jurisdictional setting. There have been cases before where a court has ordered somebody to do something that was literally impossible for them to comply with. And then in response to sanctions motion or whatever they've defended themselves on——

Senator DURBIN. That's the only exception you can think of?

Mr. DIVINE. There's a doctrine of well-recognized exceptions. There are some other situations, for example, in privilege issues. If a court has ordered somebody to disclose something and they're claiming privilege, sometimes in certain States especially, sometimes they actually have to defy that order to appeal it. That's the only way to appeal it. And that's a recognized exception in those circumstances.

Senator DURBIN. But there is a legal process that you follow if you're going to assert that sort of defense, correct?

Mr. DIVINE. That is correct.

Senator DURBIN. And if you don't assert that, if you accept this as a final order, are you bound to follow that order?

Mr. DIVINE. I stand by my previous answer. There's a doctrine of exceptions, but in almost all circumstances, the answer is yes.

Senator DURBIN. Ms. Lanahan?

Ms. LANAHAN. Thank you. I would agree basically that the typical rule is that parties before a court are bound by that court order. I think there have been a couple of exceptions that the panel has discussed. But I think as a general matter, that that is correct. I wouldn't want to go into specifics because this is a hotly litigated issue as Ms. Hermandorfer had talked about earlier.

Senator DURBIN. Mr. Stevens?

Judge STEVENS. Yes, Senator Durbin. As a judge, I do expect parties to follow my orders. Obviously, there's been references to other narrow exceptions to that rule. Frankly, with almost 4 years on the bench, I haven't encountered any of those exceptions. So, yes, I expect parties to.

Senator DURBIN. And each one, I want to make this clear. If you have a court order applying to you, you have to follow it or appeal it. That's my conclusion. Is that yours?

Judge STEVENS. Well, I expect that parties will follow my orders, yes.

Senator DURBIN. Well, I'm asking you whether or not you not only expect it, whether that is part of the rule of law in America, and I think it is, isn't it?

Judge STEVENS. Well, I think yes. There's a process, obviously before our court. If a litigant doesn't like a decision that they've gotten in our court, then they can ask for transfer from the Missouri Supreme Court.

Senator DURBIN. Mr. Divine, the quote comes from The Mirror, October 6, 2010. In The Mirror, you called yourself a zealot for the pro-life movement. So, I'll ask the question again. Do you believe in vitro fertilization should not be ethically permitted?

Mr. DIVINE. Senator, I don't share the characterization of the article, which was written when I was a teenager. When I use the term zealot, I was referring to—I was using the same term you used in the March 26 hearing earlier this year, which is, if you're an advocate for a cause, you have a duty to advocate that cause energetically. I think Americans of all stripes, if they believe in an issue, they should advocate those issues energetically.

Senator DURBIN. So, where are you on in in vitro fertilization?

Mr. DIVINE. Senator, I don't think any of my articles in college, and I've disclosed over 200, has ever taken a position on that.

Senator DURBIN. Well, talk—forget your college. I'm sure it was an exciting experience. Let's talk about now. You want a lifetime appointment to the Federal bench, and I'd like to know your position on in vitro fertilization.

Mr. DIVINE. Senator, you said you weren't surprised by my previous answer, which has been given by hundreds of nominees before me. I can't talk about those politically contentious issues.

Senator DURBIN. After Alabama made that fateful ruling about saying that an IVF embryo was a person, there was an effort by most mainstream people in politics in both parties to clarify their position on in vitro fertilization, including current President of the United States. The fact that this panel is, at least, Mr. Divine is, struggling with that is unfortunately a tell as to what we can expect from you if your nomination is approved. I yield.

Senator HAWLEY. It's going to be Senator Schmitt's time, but can I just ask, Mr. Divine, are you running for office?

Mr. DIVINE. No, Senator. I've never been a political candidate.

Senator HAWLEY. Are you seeking the nomination of a party or the approval of voters?

Mr. DIVINE. No, Senator.

Senator HAWLEY. You've been nominated to be a judge, is that correct?

Mr. DIVINE. That's correct.

Senator HAWLEY. Will you be able to faithfully follow the law as you understand it?

Mr. DIVINE. Absolutely. And in fact, in my day to day when I'm advocating the interest of the State of Missouri, I set aside my own personal beliefs every single time I'm advocating the interest of my client.

Senator HAWLEY. And what's the controlling Supreme Court case on the life issue now, as you understand it?

Mr. DIVINE. The *Dobbs* decision.

Senator HAWLEY. Will you follow it faithfully?

Mr. DIVINE. Absolutely.

Senator HAWLEY. Senator Schmitt.

Senator SCHMITT. Thank you. I mentioned this in the introduction, but I'm not sure we—somebody who can probably figure this out. I'm not sure it's ever happened in the history of our republic, that within the last seven or 8 years, you have two former attorneys general from the State of Missouri in the U.S. Senate in a confirmation hearing with four nominees for district court position that also served in that office in the last seven or 8 years.

So, it's a pretty unique moment. And also, would be in a courthouse named after Tom Eagleton, who was an attorney general in Missouri and served in the U.S. Senate. So, it's a pretty it's a great day for all of you and your families. We're so glad that you could make it and share this really special experience. So, maybe the most important question for all of you, just to ask each, you know, to answer separately, how great was it to work for Eric Schmitt?

[Laughter.]

Senator SCHMITT. I'm joking. By the way, you can add that to augment that to any question that's asked if you choose, but I'm not going to make you do that under oath, maybe.

But I guess just to open it up for each one of you to answer, which may be a little bit of a different question that's often asked, each one of you have practiced before judges, you've clerked for judges in sort of different capacities. What is one thing that you would take from that experience, whether it's before a judge, or working from a judge that you saw a judge do that you would like to emulate now as you hopefully become a Federal judge?

Mr. BLUESTONE. I'll take on with some risk. That first question before I dive into this one. And I will quote from now-Solicitor General John Sauer, that I love you both equally, and it was great working for you both.

Senator SCHMITT. He had a different answer once Senator Hawley left before the record.

Mr. BLUESTONE. I have another mentor in the room, as I mentioned, Judge Gruender. And I will say, just thinking back to seeing him presiding over appeals, he was tremendously gracious with the parties that appeared before him. He gave everyone an opportunity to address what he would see as the weaknesses and their arguments, and was honest with them about that. And I think certainly the way that he approached the parties would be something I would hope to emulate.

Mr. DIVINE. Senator Schmitt, you were my favorite Attorney General who I worked for in 2019.

[Laughter.]

Mr. DIVINE. You know, one, one of the things I really appreciated working for both Chief Judge William Pryor, and also Justice Thomas, is just the humility that both of them brought to the bench. I mean, you know, it wasn't unusual for a judge or some other judges in the building to kind of have an initial inclination of what the correct answer is going to be and then change their minds as they're going through the process. And I think being able

to—being open to that sort of thing, being open to having your mind changed is a very valuable asset for a judge.

Ms. LANAHAN. Thank you, Senator Schmitt. And one of the things I loved the most while I was working for your office was the opportunity to be a part of the way that democracy works in this country. So, in the State of Missouri, the people of the State of Missouri elect their representatives. Then the General Assembly makes laws, and then our job as almost all those laws are challenged at one point or another, and it's our job in the Missouri Attorney General's office to give those laws defense.

And so it is important as a role as, for instance, a public defender's role in the democratic process to protect and to defend those laws that are passed by the State, the people of the State of Missouri.

As for things I learned from my judges, I think both of my judges, and I just want to talk about Judge Gruender, one thing that's coming to mind is that the way he went through very methodically, the opinions that he would write and make sure that he wasn't skipping any steps, was something that I thought was extremely valuable.

Because I think the most often when you see judges go off track, it's because they've skipped a step. And it's very easy to when you skip a step in your analysis, it's easy to insert your own opinion here. And I think that that was one of the things I took from that clerkship, is to never skip steps and to always show your work to make sure that you're not going to be inserting your own opinion here.

Judge STEVENS. Thank you, Senator. I will say given the team that you put together at the Attorney General's Office, it was one of the seminal points in my career. Not just because of the great team working for you and the great working with the great team that we had, but also managing just some of the tremendous young lawyers that came up through that office. That's, of course, as I'm sure you and Senator Hawley both know the office where Justice Clarence Thomas began his career under then Attorney General John Danforth. It's an amazing place. It's an amazing training ground for great lawyers.

I'm proud to say that one of my current clerks, Tyler Dodd, will be leaving me in the next few months to join the Attorney General's Office. And I expect that my other clerk Clayton Watts, who's here today, will be joining that office after we're finished next year. So, it's just a, a tremendous place to learn to practice law and to practice law long-term as well.

As far as what I've learned, I had the privilege, the great privilege of clerking for Judge Pasco M. Bowman II. The first thing I can say that he exemplified was collegiality. That was a time on the Eighth Circuit where there were a lot of Reagan appointees, including Judge Bowman. But you also had senior members of that court from as long as long ago as the Lyndon Baines Johnson Administration, believe it or not. Senator Myron Bright was a giant of that court for many years, had been appointed by LBJ, and was one of Judge Bowman's greatest friends on the court. And they agreed on virtually nothing legally, but they exemplified what

someone said earlier about being able to disagree without being disagreeable. And that left an impression.

And I've had opportunities over the years to give presentations to young lawyers about how to approach trials or how to approach appeals. And that's one of the things I always mention is that you can't, in the rough and tumble particularly of trial, you can't expect to always get along with opposing counsel. You have to zealously represent your client. But if you can, you should at least try and—before the Eighth Circuit and the Courts of Appeals, they expect their bars to be collegial, and they respect that, and it's advantageous to your client to be that way as well.

And the other thing was instinctual to him was a love for the rule of law and a respect for the rule of law. That was apparent to me from the beginning. I've had that experience in other capacities in my career as well. I talked about it, my investiture ceremony almost 4 years ago now, some of the mentors I had during my career, one of those was Judge Raymond Gruender, who changed my life when he hired me as an assistant U.S. attorney when he was the United States attorney in St. Louis. He also had the good judgment to hire my wife as his first law clerk, not coincidentally. And Judge Gruender also represents that, the rule of law. He as the U.S. attorney, and now for a judge for about 22 years, he's exemplified that.

Another example would be Tom Meyer, who as Judge Schmitt—I'm sorry, Senator Schmitt knows, is an institution in St. Louis. He was the United States Attorney appointed under President Reagan, and joined our team at the Attorney General's Office, worked for Attorney General Schmitt with the Cold Case Unit. And there's no one I know more that exemplifies the rule of law than Tom Meyer, even when it was—particularly when it was not politically advantageous for him as U.S. Attorney. He took some—made some risky decisions to ensure that the law was upheld. And those are the things that I've learned.

Senator SCHMITT. Thank you, and thank you-all. And you're all going to be great judges, so congratulations. Thanks.

Judge STEVENS. Thank you.

Senator HAWLEY. Now, I gave Senator Kennedy an extra couple questions in the last round on condition that'd he'd be nice to all of these folks. So, with that, Senator Kennedy.

Senator KENNEDY. I'm always nice. How many of you worked for Senator Schmitt? All four of you. Is it true that he was suspended 23 times in junior high school—

[Laughter.]

Senator KENNEDY [continuing]. In February alone?

Senator SCHMITT. They're under oath, John, be nice.

Senator KENNEDY. Look, I'm not trying to trick you. I just want to—I'm not going to ask you how you want to rule on cases, and I'm not going to ask you about your political beliefs. I just want to know how you think. Let's start with the counselor on the end. Suppose I'm a cop and I'm on duty, and it's 3 o'clock in the morning and I see somebody driving down the road. Not many other people around, it's on a Saturday night. Can I stop you?

Mr. BLUESTONE. Just because you see him driving around?

Senator KENNEDY. Yes.

Mr. BLUESTONE. There would need to be more of a basis than that.

Senator KENNEDY. So, the answer's no?

Mr. BLUESTONE. Correct.

Senator KENNEDY. Okay. Let's suppose that I recognize him and on three previous occasions he's been caught for charged with DWI, but he's not driving erratically. I'm the cop, again. Can I stop him, constitutionally?

Mr. BLUESTONE. Same answer. No.

Senator KENNEDY. No?

Mr. BLUESTONE. You would need more than that to be able to conduct an investigation.

Senator KENNEDY. Why don't I have—why doesn't that give me reasonable suspicion?

Mr. BLUESTONE. I think merely the fact that he was driving at 3 a.m. and had been pulled over previously for driving under the influence wouldn't be enough. Now, it certainly if he were swerving or driving improperly in some other way, if he committed a traffic violation or something along those lines certainly the officer would be well within his rights.

Senator KENNEDY. Okay. So, we can agree our privacy is precious to us, even if we're in a car, right?

Mr. BLUESTONE. I would agree that the Fourth Amendment, very thankfully, protects us all from unreasonable searches and seizures.

Senator KENNEDY. So, how come the cops can set up a roadblock to and stop everybody when they don't have either reasonable suspicion or probable cause just to check and see if they have insurance?

Mr. BLUESTONE. So, there are limitations on scenarios like that, roadblock cases.

Senator KENNEDY. Can I do it first, Counsel, I mean?

Mr. BLUESTONE. Officers can set up roadblocks if they're applying it based on a neutral and articulable standard, and if that standard relates to something that is specific to automobiles. So, they could not stop every car to search you.

Senator KENNEDY. You're right about the law, but why? Why's not that they don't have reasonable suspicion, they're stopping everybody. They certainly don't have probable cause. It's intrusive. I mean, I can be—I can spend 10 minutes in line from to check my insurance. What's the basis for that being constitutional?

Mr. BLUESTONE. I think the way I would frame it is that the courts have decided that scenarios like that—in scenarios like that officers would not be acting unreasonably, so they would not be violating somebody's Fourth Amendment rights.

Senator KENNEDY. Because the Fourth Amendment—

Mr. BLUESTONE. Guarantees against—

Senator KENNEDY. Unreasonable searches and seizures.

Mr. BLUESTONE. Correct.

Senator KENNEDY. And how do you determine whether something's unreasonable or not?

Mr. BLUESTONE. Well, I think that would very much depend on the situation, the specific facts, and the context.

Senator KENNEDY. Don't you balance the costs and benefits?

Mr. BLUESTONE. In a scenario like that, yes.

Senator KENNEDY. Okay, cool. Judge, what's the rule now that the Supreme Court follows on reapportionment cases, congressional redistricting?

Judge STEVENS. Congressional redistricting? My understanding, Senator, is that the Supreme Court has decided that that's a political issue. And under the political issue doctrine, that essentially the courts really don't have much of anything to say about political redistricting.

Senator KENNEDY. If Missouri's legislature gets together and it redraws districts, and they're going to say a majority of Democrats in the legislature. So, they say we're going to redraw these districts to benefit Democrats and we're not going to be reluctant to say so. They say in front of God and country. Is that okay?

Judge STEVENS. Well, it's pursuant to the Supreme Court precedent. It's legal——

Senator KENNEDY. Yes. Okay. All right. I'm not going to get to all of you Counselor. This counselor, yes, ma'am. Do you think the meaning of the Constitution is immutable?

Ms. LANAHAH. So, I think that the Missouri—sorry, the U.S. Supreme Court has said that the——

Senator KENNEDY. I want to know what you think.

Ms. LANAHAH. So, yes, my view in terms of like, what it is that—you know, my way of looking at the Constitution is to say what does the text say and what did it mean at the time that it was passed? And this is something that the U.S. Supreme Court also says. If that's not clear, I think there are other things you can look to, like history and tradition to decide what the——

Senator KENNEDY. You look to the—what it meant at the time it was passed?

Ms. LANAHAH. Correct.

Senator KENNEDY. What it meant to whom?

Ms. LANAHAH. To the people who were passing it?

Senator KENNEDY. To the people who wrote it?

Ms. LANAHAH. So, I think there are various different ways of looking at this, and I think the U.S. Supreme Court has said that you look at the meaning that the words would have to the public at the time that the Constitution was ratified.

Senator KENNEDY. That's right. I'm done. Thank you. Congratulations.

Senator HAWLEY. Senator Padilla.

Senator PADILLA. Thank you, Mr. Chair, and appreciate your patience and allowing me to come back to ask questions. This is the first of these for the calendar year and very important. So, I don't want to miss the opportunity to raise some questions, particularly for Mr. Divine. I'll start there.

Mr. Divine, in 2011, you wrote a piece for your college newspaper arguing against marriage equality. While you acknowledged that, "the gay community cannot be blamed," for the "weakening" of marriage, you were worried that marriage equality would, "further this trend of traumatic digressions," against marriage. Now, it's hard to see how this could be interpreted as anything other than you suggesting that LGBT people enjoying the same rights as

straight people is somehow harming your conception of the institution of marriage.

But like I said, you don't just blame marriage equality. You also blame "easy divorce, cohabitation, increased single parenting rates, and recreational sex." These are your words. So, Mr. Divine, noting for the record that June is Pride Month and that we are sitting here in Washington, DC, which is hosting World Pride this year, I have to ask, do you believe in marriage equality?

Mr. DIVINE. Senator, thank you for that question. As you mentioned, this was a college writing 2011. At the time I expressed the same view that President Obama expressed, that Joe Biden expressed, that Hillary Clinton expressed under Canon 5 of the Judicial Ethics. As I'm sure you are aware, and as hundreds of nominees before me have expressed, I cannot tell you what my personal views are today or my political views are today.

What I can tell you is that I'm no longer in college. That was, you know, almost 15 years ago. I can tell you that as a general matter, I've grown up, I've had a lot more experiences. A lot of my policy and political and even some of my religious views have changed in that time. But I can't tell you specifically any specific policy or political issue.

Senator PADILLA. So, then let's jump to today, and can you answer this question? Can you tell me the legal status of marriage equality according to the Supreme Court?

Mr. DIVINE. Yes. Ten years ago, this month, the *Obergefell* decision was decided. I understand also maybe 3 years ago this Congress passed some legislation. And obviously, *Obergefell* is a binding decision of the Supreme Court. As a lower court judge, I would be bound by that decision, just like every other decision of the Supreme Court and also the Eighth Circuit.

Senator PADILLA. So, if you're fortunate enough to be confirmed, you would uphold that Supreme Court precedent?

Mr. DIVINE. That's correct.

Senator PADILLA. Thank you for that. Now, being selected to serve as one of our Nation's Federal judges is one of the greatest honors that we can bestow on any person. It's also one of the greatest responsibilities. So, Mr. Divine, I'd like to ask, how many years of litigation experience do you have?

Mr. DIVINE. Did you say how many years of litigation?

Senator PADILLA. Correct.

Mr. DIVINE. About a decade.

Senator PADILLA. About a decade? Can you be a little bit more precise. I know you know your resume pretty good.

Mr. DIVINE. So, it depends. If you consider—you know, I was chief counsel in the Senate, I was deputy counsel in the Senate. We also did some amicus briefs during that time, which would be considered litigation. I obviously wasn't doing litigation all the time during that period. But if you include that period of time, I think it's about 9 years.

Senator PADILLA. That include clerkship time?

Mr. DIVINE. Yes.

Senator PADILLA. Okay. So, without clerkship time, it would be less?

Mr. DIVINE. That's correct. It would be 7 years.

Senator PADILLA. Right. And I think it's important for this Committee to consider that because while President Trump has decided to throw out the American Bar Association's nonpartisan rating system I know that the American Bar Association does have a threshold for litigation experience for any nominee to receive a qualified rating. And you seem to fall short of that. So, again, something for this Committee to consider, I would hope.

Last, we're about 5 months into President Trump's second term, and we've already seen numerous attempts by the President and even some of my colleagues in Congress to attack and undermine the judicial branch, all for the crime of issuing rulings, pausing, or striking down the President's illegal and unconstitutional actions.

I was concerned to hear earlier in the first panel of this hearing, Ms. Hermandorfer's willingness to—unwillingness, I should say, to tell Senator Kennedy that the executive branch must follow court orders.

So, again, Mr. Divine, I ask you, if you're lucky enough to be confirmed, and you author an opinion for the Sixth Circuit in which the executive branch or one of its officers is a party and you decide against the executive branch or one of its officers, would you believe they are bound by that decision?

Mr. DIVINE. So, Senator, a point of clarification. I haven't been nominated to the Sixth Circuit, so. But taking your question with respect to the district courts in Missouri, I mentioned to Ranking Member Durbin earlier, that there is a well-established doctrine on this. The answer is almost always yes, with some exceptions for if there's lack of jurisdiction, if there's impossibility, things of that nature.

Senator PADILLA. So, my apology for the confusion, Ms. Hermandorfer is the one that was nominated for the Sixth Circuit, not you. But just expand for a moment, I know my time is up, on what those exceptions would be. I understand there's some exceptions, but some people in this day and age, the political climate that we're living in seem to be really broadening the categories of what qualifies for an exception. Very different than what we've seen historically.

Mr. DIVINE. Yes, Senator. One of those exceptions, the first of the three that I just mentioned to you is if a court lacks jurisdiction. The Supreme Court has been very clear that an order issued without jurisdiction is void ab initio. It's as if it never happened. And so, for there to be a circumstance where, you know, a judge or a litigant was accusing somebody of violating an order and the district court was later determined to lack jurisdiction at the outset, then there would've been no order to violate in the first place.

Senator PADILLA. Thank you, Mr. Chairman. I will be—

Senator HAWLEY. Thank you, Senator.

Senator PADILLA [continuing]. Submitting additional questions for the record.

Senator HAWLEY. Absolutely. And on that note, questions for the record may be submitted until June the 11 at 5 p.m.

Senator HAWLEY. Thank you to the nominees. And with that, the hearing is adjourned.

[Whereupon, at 1:13 p.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Zachary Maxwell Bluestone

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

United States District Judge for the Eastern District of Missouri

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

United States Attorney's Office for the Eastern District of Missouri
Thomas F. Eagleton United States Courthouse
111 South 10th Street, Room 20.333
Saint Louis, Missouri 63102

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

1986; Chesterfield, Missouri

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.

2013 – 2016, Harvard Law School; J.D., 2016

2009 – 2010, University of Oxford; MBA, 2011

2005 – 2009, Georgetown University; B.S., 2009

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.

2020 – present

United States Attorney's Office for the Eastern District of Missouri

Thomas F. Eagleton United States Courthouse
111 South 10th Street, Room 20.333
Saint Louis, Missouri 63102
Appellate Chief (2021 – present)
Assistant United States Attorney, Violent Crimes Unit (2020 – present)

2018 – 2020
Missouri Attorney General's Office
815 Olive Street, Suite 200
Saint Louis, Missouri 63101
Special Assistant Attorney General (2020) (reappointed to argue Eighth Circuit case)
Deputy Solicitor General (2018 – 2020)

2016 – 2018
Honorable Raymond W. Gruender
United States Court of Appeals for the Eighth Circuit
Thomas F. Eagleton United States Courthouse
111 South 10th Street, Room 23.365
Saint Louis, Missouri 63102
Law Clerk

January – August 2016, Summer 2015
United States Senator Orrin G. Hatch
Office of the President Pro Tempore
United States Capitol Building, S-125
Washington, District of Columbia 20515
Legal Fellow (internship converted to paid position in May 2016)

Summer 2015
White & Case LLP
701 Thirteenth Street Northwest
Washington, District of Columbia 20005
Summer Associate

2014 – 2015
President and Fellows of Harvard College
1033 Massachusetts Avenue, 2nd Floor
Cambridge, Massachusetts 02138
Research Assistant

Summer 2014
United States Department of Defense
Office of the Chief Prosecutor of Military Commissions
1610 Defense Pentagon
Washington, District of Columbia 20301
Legal Intern

Summer 2013
Bluestone Strategies, LLC
Chesterfield, Missouri 63005
President

January – July 2013
The Heritage Foundation
214 Massachusetts Avenue Northeast
Washington, District of Columbia 20002
Special Assistant to Senator Jim Talent

2012
Romney for President, Inc.
c/o Red Curve Solutions, LLC
138 Conant Street, 2nd Floor
Beverly, Massachusetts 01915
Iowa Field Representative (June – December 2012)
Missouri Regional Political Director (January – June 2012) (approximate)

1990 – 2022 (approximate)
Country Club Car Wash
2999 Highway K
O'Fallon, Missouri 63368
Part Owner (2002 – 2022)
Vice President (2009 – 2012)
Assistant Supervisor (2002 – 2005)
Carwasher, Cashier (1990 – 2002)

Other Affiliations (Uncompensated):

2023 – present
The Association of the Bar of the United States Court of Appeals for the Eighth Circuit
c/o Michael L. Jente
600 Washington Avenue, Suite 2500
Saint Louis, Missouri 63101
Treasurer (2024 – present)
Board Member (2023)

2022 – present
Forest Park Forever
5595 Grand Drive
Saint Louis, Missouri 63112
Young Friends Board Chair, Ex Officio Member of Board of Directors (2023 – present)
Young Friends Board Member (2022)

2017 – present
Buckingham Condo Association
4928 Buckingham Court
Saint Louis, Missouri 63108
President

2011 – present (intermittent)
Georgetown University
3700 O Street Northwest
Washington, District of Columbia 20057
Alumni Admissions Program Interviewer

2015 – 2016
Lawfare National Security Blog
1775 Massachusetts Avenue Northwest
Washington, District of Columbia 20036
Masthead Contributor, Column Editor

March – December 2010
Lod Community Foundation
115 Henrietta Szold, Apartment 35
Lod, Israel
Volunteer Consultant

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

I did not serve in the military. I registered for the selective service upon turning 18.

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

David J. Dixon Appellate Advocacy Award, Missouri Bar Foundation (2020)

Heyman Federal Public Service Fellowship, Harvard Law School (2019)

Georgetown Originalism Summer Seminar, Center for the Constitution, Georgetown Law (2018)

James Wilson Fellowship, James Wilson Institute (2017)

Harvard Law School
Graduation Recognition for 1,000+ Hours of Pro Bono Service (2016)
Dean's Scholar Prize for National Security Law (2015)
Dean's Scholar Prize for Corporations (2014)

Harvard Journal of Law & Public Policy
 Managing Editor, National Symposium Editor (2015 – 2016)
 Deputy Managing Editor (2014 – 2015)
 Editor (2014)
 Harvard Law Republicans
 President (2015 – 2016)
 Vice President (2014 – 2015)
 Harvard National Security & Law Association
 Executive Vice President (Fall 2015)
 Vice President for Academics (2014 – 2015)

John Hay Fellow, John Hay Initiative (2013 – 2014)

University of Oxford
 Skoll Centre Associate, Saïd Business School (2010)

Georgetown University
 Graduated *Summa Cum Laude* (2009)
 Phi Beta Kappa (2009)
 Carroll Fellows Initiative (2006 – 2009)

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.

Federal Practice Committee, United States District Court for the Eastern District of Missouri (2023 – present)

Eighth Circuit Bar Association (2021 – present)
 Treasurer (2024 – present)
 Board Member (2023)

Federal Bar Association (2023 – present)

Missouri Bar (2016 – present)

Bar Association of Metropolitan Saint Louis (2017 – 2024, intermittent)

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.

Missouri, 2016

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

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

United States Supreme Court, 2019
 United States Court of Appeals for the Eighth Circuit, 2019
 United States District Court for the Eastern District of Missouri, 2018
 United States District Court for the Western District of Missouri, 2019
 Supreme Court of Missouri, 2016

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.

Forest Park Forever (2018 – present)
 Ex Officio Member, Board of Directors (2023 – present)
 Young Friends Board Chair (2023 – present)
 Young Friends Board Member (2022)

Hockey North America (2017 – present)

Federalist Society (2013 – present)

Georgetown University Alumni Admissions Program (2011 – present, intermittent)

USA Hockey (2019 – 2020)

Saint Louis Vision Volleyball Club (2016 – 2018)

Sigma Phi Epsilon Fraternity (2006 – 2009, inactive since graduation)
 Chapter President (2008)

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

Sigma Phi Epsilon is an all-male social fraternity that is part of an unofficial co-ed Greek system at Georgetown University that includes all-female sororities.

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

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

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

Press Release, *St. Louis County Man Sentenced to 15 Years in Prison for Drug Robbery, Carjacking*, United States Attorney's Office, Eastern District of Missouri, May 6, 2025, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-sentenced-15-years-prison-drug-robbery-carjacking>.

Press release, *St. Louis County Man Convicted of Charges Related to Five Armed Robberies*, United States Attorney's Office, Eastern District of Missouri, Apr. 3, 2025, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-convicted-charges-related-five-armed-robberies>.

Press release, *St. Louis County Felon Admits Gun, Fentanyl Possession Charges*, United States Attorney's Office, Eastern District of Missouri, Mar. 11, 2025, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-felon-admits-gun-fentanyl-possession-charges>.

Press release, *St. Louis County Man Admits Drug Robbery, Carjacking*, United States Attorney's Office, Eastern District of Missouri, Feb. 4, 2025, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-admits-drug-robbery-carjacking>.

Press release, *St. Louis Man Admits Carjacking and Shooting Incidents*, United States Attorney's Office, Eastern District of Missouri, Jan. 21, 2025, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-admits-carjacking-and-shooting-incidents>.

Press release, *St. Louis Carjacker Sentenced to 19 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, Dec. 10, 2024, available at <https://www.justice.gov/usao-edmo/pr/st-louis-carjacker-sentenced-19-years-prison>.

Press release, *Man who Supplied Drugs that Killed Jail Inmate Sentenced to 16 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, Dec. 4, 2024,

available at <https://www.justice.gov/usao-edmo/pr/st-louis-carjacker-sentenced-19-years-prison>.

Press release, *Double Carjacker Sentenced to 13 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, Nov. 7, 2024, available at <https://www.justice.gov/usao-edmo/pr/double-carjacker-sentenced-13-years-prison>.

Press release, *Man who Smuggled Fatal Drugs into Jail Sentenced to 22 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, Nov. 5, 2024, available at <https://www.justice.gov/usao-edmo/pr/man-who-smuggled-fatal-drugs-jail-sentenced-22-years-prison>.

Press release, *Four Plead Guilty in Two St. Louis Area Carjackings*, United States Attorney's Office, Eastern District of Missouri, Sept. 5, 2024, available at <https://www.justice.gov/usao-edmo/pr/four-plead-guilty-two-st-louis-area-carjackings>.

Press release, *Pair Faces Attempted Kidnapping, Gun Charges*, United States Attorney's Office, Eastern District of Missouri, Aug. 30, 2024, available at <https://www.justice.gov/usao-edmo/pr/pair-faces-attempted-kidnapping-gun-charges>.

Press release, *Man Admits St. Louis Carjacking*, United States Attorney's Office, Eastern District of Missouri, Aug. 5, 2024, available at <https://www.justice.gov/usao-edmo/pr/man-admits-st-louis-carjacking>.

Press release, *Felon Who Robbed St. Louis Pizza Delivery Driver Sentenced to 9 1/2 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, July 31, 2024, available at <https://www.justice.gov/usao-edmo/pr/felon-who-robbed-st-louis-pizza-delivery-driver-sentenced-9-12-years-prison>.

Press release, *Teen Admits Two St. Louis Area Carjackings*, United States Attorney's Office, Eastern District of Missouri, July 29, 2024, available at <https://www.justice.gov/usao-edmo/pr/teen-admits-two-st-louis-area-carjackings>.

Press release, *Former St. Louis School Principal Sentenced to Two Consecutive Life Terms in Prison for Teacher's Murder*, United States Attorney's Office, Eastern District of Missouri, June 25, 2024, available at <https://www.justice.gov/usao-edmo/pr/former-st-louis-school-principal-sentenced-two-consecutive-life-terms-prison-teachers>.

Press release, *St. Louis Teacher's Killer Sentenced to Two Consecutive Life Terms in Prison*, United States Attorney's Office, Eastern District of Missouri, June 18, 2024, available at <https://www.justice.gov/usao-edmo/pr/st-louis-teachers-killer-sentenced-two-consecutive-life-terms-prison>.

Press release, *St. Louis County Man Accused of Drug Robbery with a Machine Gun*, United States Attorney's Office, Eastern District of Missouri, June 13, 2024, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-accused-drug-robbery>.

machine-gun.

Press release, *Two Men Admit Smuggling Drugs into Jail, Causing Inmate's Death*, United States Attorney's Office, Eastern District of Missouri, May 28, 2024, available at <https://www.justice.gov/usao-edmo/pr/two-men-admit-smuggling-drugs-jail-causing-inmates-death>.

Press release, *Oklahoma Man Convicted of Murder-For-Hire of St. Louis Schoolteacher*, United States Attorney's Office, Eastern District of Missouri, Mar. 20, 2024, available at <https://www.justice.gov/usao-edmo/pr/oklahoma-man-convicted-murder-hire-st-louis-schoolteacher-0>.

Press release, *St. Louis County Man Sentenced for Gun Crime*, United States Attorney's Office, Eastern District of Missouri, Mar. 13, 2024, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-sentenced-federal-gun-crime>.

Press release, *St. Louis County Man Who Absconded from Federal Supervision Sentenced to 51 Months in Prison*, United States Attorney's Office, Eastern District of Missouri, Jan. 18, 2024, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-who-absconded-federal-supervision-sentenced-51-months-prison>.

Press release, *Felon Admits Robbing St. Louis Pizza Delivery Driver*, United States Attorney's Office, Eastern District of Missouri, Jan. 11, 2024, available at <https://www.justice.gov/usao-edmo/pr/felon-admits-robbing-st-louis-pizza-delivery-driver>.

Press release, *Man Indicted on Charges Connected to Five St. Louis Area Robberies*, United States Attorney's Office, Eastern District of Missouri, Dec. 21, 2023, available at <https://www.justice.gov/usao-edmo/pr/man-indicted-charges-connected-five-st-louis-area-robberies>.

Press release, *St. Louis County Man Admits Federal Gun Crime*, United States Attorney's Office, Eastern District of Missouri, Dec. 7, 2023, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-admits-federal-gun-crime>.

Press release, *Man Charged with Downtown St. Louis Carjacking*, United States Attorney's Office, Eastern District of Missouri, Sept. 6, 2023, available at <https://www.justice.gov/usao-edmo/pr/man-charged-downtown-st-louis-carjacking>.

Press release, *Three Charged in Fentanyl Overdose in St. Francois County Jail*, United States Attorney's Office, Eastern District of Missouri, Aug. 23, 2023, available at <https://www.justice.gov/usao-edmo/pr/three-charged-fentanyl-overdose-st-francois-county-jail>.

Press release, *Felon Accused of Robbing Pizza Delivery Driver in St. Louis*, United States Attorney's Office, Eastern District of Missouri, July 24, 2023, available at

<https://www.justice.gov/usao-edmo/pr/felon-accused-robbing-pizza-delivery-driver-st-louis>.

Press release, *Man Admits Fleeing from St. Louis Police with Gun, Drugs*, United States Attorney's Office, Eastern District of Missouri, July 11, 2023, available at <https://www.justice.gov/usao-edmo/pr/man-admits-fleeing-st-louis-police-gun-drugs>.

Press release, *Man Accused of Fatal Hit and Run in St. Louis Charged with Federal Gun Crime*, United States Attorney's Office, Eastern District of Missouri, July 11, 2023, available at <https://www.justice.gov/usao-edmo/pr/man-accused-fatal-hit-and-run-st-louis-charged-federal-gun-crime>.

Press release, *Farmington Man Admits Methamphetamine Distribution*, United States Attorney's Office, Eastern District of Missouri, June 28, 2023, available at <https://www.justice.gov/usao-edmo/pr/farmington-man-admits-methamphetamine-distribution>.

Press release, *St. Louis Man Caught with Two Guns After Dangerous High-Speed Chase Sentenced to 8 Years in Prison*, United States Attorney's Office, Eastern District of Missouri, Apr. 10, 2023, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-caught-two-guns-after-dangerous-high-speed-chase-sentenced-8-years-prison>.

Press release, *St. Louis Man Sentenced to 10 Years in Prison for Possessing Gun in Connection with a Kidnapping*, United States Attorney's Office, Eastern District of Missouri, Mar. 27, 2023, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-sentenced-10-years-prison-possessing-gun-connection-kidnapping>.

Press release, *St. Louis Felon Admits Possession of Stolen SUV, AR-15*, United States Attorney's Office, Eastern District of Missouri, Dec. 6, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-felon-admits-possession-stolen-suv-ar-15>.

Press release, *St. Louis County Felon Admits to Gun, Methamphetamine Charges*, United States Attorney's Office, Eastern District of Missouri, Nov. 18, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-felon-admits-gun-methamphetamine-charges>.

Press release, *St. Louis Man Sentenced to 6 Years in Prison on Gun Charge*, United States Attorney's Office, Eastern District of Missouri, Oct. 26, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-sentenced-6-years-prison-gun-charge>.

Press release, *St. Louis Man Sentenced to Five Years in Prison for Gun Crime after Domestic Violence Incident*, United States Attorney's Office, Eastern District of Missouri, Aug. 2, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-sentenced-five-years-prison-gun-crime-after-domestic-violence-incident>.

Press release, *St. Louis Man Sentenced to Six Years in Prison for Drug and Gun Crimes*, United States Attorney's Office, Eastern District of Missouri, June 30, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-sentenced-six-years-prison-drug-and-gun-crimes>.

Press release, *St. Louis County Man Sentenced to Nearly Five Years in Prison for Fentanyl Possession*, United States Attorney's Office, Eastern District of Missouri, May 23, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-sentenced-nearly-five-years-prison-fentanyl-possession-0>.

Press release, *St. Louis Man Facing Murder Charge in Toddler's Death Gets 46 months on Federal Gun Charge*, United States Attorney's Office, Eastern District of Missouri, May 19, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-facing-murder-charge-toddler-s-death-gets-46-months-federal-gun-charge>.

Press release, *St. Louis Man Sentenced for Unlawful Possession of a Firearm after Domestic Dispute*, United States Attorney's Office, Eastern District of Missouri, May 2, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-sentenced-unlawful-possession-firearm-after-domestic-dispute>.

Press release, *Judge Sentences Jefferson County Woman on Drug and Gun Charges*, United States Attorney's Office, Eastern District of Missouri, Mar. 21, 2022, available at <https://www.justice.gov/usao-edmo/pr/judge-sentences-jefferson-county-woman-drug-and-gun-charges>.

Press release, *St. Louis Man Pleads Guilty for Three Separate Incidents Involving Drug and Gun Crimes*, United States Attorney's Office, Eastern District of Missouri, Mar. 4, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-pleads-guilty-three-separate-incidents-involving-drug-and-gun-crimes>.

Press release, *St. Louis Man Enters Guilty Plea for Being a Felon in Possession of a Firearm*, United States Attorney's Office, Eastern District of Missouri, Feb. 15, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-enters-guilty-plea-being-felon-possession-firearm>.

Press release, *St. Louis County Man Pleads Guilty to Possession with the Intent to Distribute Fentanyl*, United States Attorney's Office, Eastern District of Missouri, Feb. 7, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-county-man-pleads-guilty-possession-intent-distribute-fentanyl>.

Press release, *St. Louis Man Pleads Guilty to Unlawful Possession of a Firearm after Domestic Dispute*, United States Attorney's Office, Eastern District of Missouri, Jan. 28, 2022, available at <https://www.justice.gov/usao-edmo/pr/st-louis-man-pleads-guilty-unlawful-possession-firearm-after-domestic-dispute>.

Press release, *Judge Sentences St. Louis Man for Drugs and Weapons Charges*, United

States Attorney's Office, Eastern District of Missouri, Mar. 22, 2021, available at <https://www.justice.gov/usao-edmo/pr/judge-sentences-st-louis-man-drugs-and-weapons-charges>.

The Unscripted Evolution of Presidential Nominations: From Founding-Era Idealism to the Dominance of Party Primaries, 39 Harv. J.L. & Pub. Pol'y 963 (2016). Copy supplied.

Water Wars: In the South China Sea, Beijing Faces Twin Threats of New U.S. Military Presence and Pushback from an Old Friend, Lawfare, Mar. 25, 2016. Copy supplied.

Water Wars: After Recent Diplomatic Clashes, Sino-Japanese Relations Hang in the Balance, Lawfare, Mar. 18, 2016. Copy supplied.

Water Wars: Flexing Muscles, U.S. Deploys Great Green Fleet to South China Sea, Lawfare, Mar. 11, 2016. Copy supplied.

Water Wars: With Tensions Simmering, ASEAN Foreign Ministers Weigh in on South China Sea, Lawfare, Mar. 4, 2016. Copy supplied.

Water Wars: Missile-Deployment Controversy Splashes on, as PRC Foreign Minister Visits Washington, Lawfare, Feb. 26, 2016. Copy supplied.

Water Wars: China Makes Waves with Missile Deployment After Uneventful U.S.-ASEAN Summit, Lawfare, Feb. 19, 2016. Copy supplied.

Water Wars: Calm Before Potential ASEAN-Summit Storm, Lawfare, Feb. 12, 2016. Copy supplied.

Water Wars: U.S. Navy Back for FON in the South China Sea, Lawfare, Feb. 5, 2016. Copy supplied.

Water Wars: American Angling Ahead of ASEAN Summit, Lawfare, Jan. 29, 2016. Copy supplied.

Water Wars: Taiwanese Election Serves as Rebuke to PRC, Lawfare, Jan. 22, 2016. Copy supplied.

Water Wars: Beijing Faces Further Pushback over Moves in the Asian Pacific, Lawfare, Jan. 15, 2016. Copy supplied.

Water Wars: A Month of Simmering Tensions to Ring in the New Year, Lawfare, Jan. 8, 2016. Copy supplied.

Water Wars: Maritime Disputes Feature Prominently During Int'l Summit Circuit, Lawfare, Nov. 20, 2015. Copy supplied.

Water Wars: Calling for Calm amid South China Sea Storm, Xi Unleashes Diplomatic Offensive, Lawfare, Nov. 13, 2015. Copy supplied.

Water Wars: A Week of FON Fallout, Lawfare, Nov. 6, 2015. Copy supplied.

Water Wars: The PRC's Double Trouble in the South China Sea, Lawfare, Oct. 31, 2015. Copy supplied.

10/25 Session: A Rare Sunday Hearing, Part I, Lawfare, Oct. 28, 2015. Copy supplied.

10/25 Session: A Rare Sunday Hearing, Part II, Lawfare, Oct. 28, 2015. Copy supplied.

Water Wars: Big News of the Week Is No Big News, Lawfare, Oct. 23, 2015. Copy supplied.

Yesterday at Guantanamo, 10/21 Session: Hearing Canceled as Translators "Can't Do Two Things at One Time", Lawfare, Oct. 22, 2015. Copy supplied.

Water Wars: U.S.-China War of Words Continues but Still No Action, Lawfare, Oct. 16, 2015. Copy supplied.

Water Wars: What the TPP Means for the PRC, Lawfare, Oct. 9, 2015. Copy supplied.

Water Wars: Presidents Xi and Obama at the UN, Lawfare, Oct. 2, 2015. Copy supplied.

Water Wars: Update on Joint Press Conference, Lawfare, Sept. 25, 2015. Copy supplied.

Water Wars: Mr. Xi Comes to America, Lawfare, Sept. 25, 2015. Copy supplied.

Harvard Journal of Law & Public Policy, Managing Editor (Volume 39, Issues 2 – 3, 2015 – 2016); National Symposium Editor (Volume 39, Issue 1, 2015); Deputy Managing Editor (Volume 38, Issues 1 – 3, 2015 – 2016); Editor (Volume 37, Issue 3, 2014). All pieces published by the Harvard Journal of Law & Public Policy during the time I was an editor are available at <https://journals.law.harvard.edu/jlpp/vols-35-39/>.

With Matthew Smallcomb, *SFS-Qatar: Cultural Dialogue a Call Away*, The Hoya, Mar. 17, 2008. Copy supplied.

Around the Big East: Women—No. 3 Notre Dame, The Hoya, Nov. 15, 2005. Copy supplied.

Around the Big East: Men—No. 8 Notre Dame, The Hoya, Nov. 15, 2005. Copy supplied.

b. Supply 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.

Provost's Ad Hoc Working Group on the Curriculum, Georgetown University, A Call to Action: Curriculum and Learning at Georgetown (2009). Copy supplied.

c. Supply 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.

Letter to Hon. Chuck Grassley, Chairman, and Hon. Richard Durbin, Ranking Member, Committee on the Judiciary, United States Senate, from Current and Former Senior Personnel and Appellate Lawyers of the Missouri Attorney General's Office in Support of the Nomination of D. John Sauer to Serve as Solicitor General of the United States (Feb. 24, 2025). Copy supplied.

Letter to Hon. Chuck Grassley, Chairman, and Hon. Dianne Feinstein, Ranking Member, Committee on the Judiciary, United States Senate, from Former Harvard Law School Students of Judge Kavanaugh (July 19, 2018). Copy supplied.

d. Supply 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.

March 4, 2025: Speaker, "Criminal Procedure: Adjudications," Washington University School of Law, Saint Louis, Missouri. I spoke about my role as a prosecutor. I have no notes, recording, or transcript. The address of Washington University School of Law is One Brookings Drive, Saint Louis, Missouri 63130.

September 8, 2024: Speaker, "Young Friends Social," Forest Park Forever, Saint Louis, Missouri. I discussed the work of Forest Park Forever, a nonprofit organization, and specifically its Young Friends Board. I have no notes, recording, or transcript. The address of Forest Park Forever is 5595 Grand Drive, Saint Louis, Missouri 63112.

September 14, 2022: Speaker, "Appellate Courts," Saint Louis University School of Law, Saint Louis, Missouri. I spoke about appellate practice from an advocate's perspective and answered questions from students. I have no notes, recording, or transcript. The address of Saint Louis University School of Law is 100 North Tucker Boulevard, Saint Louis, Missouri 63101.

November 3, 2021: Panelist, "The Fourth Amendment in the 21st Century: Evolving Concept of 'Expectation of Privacy,'" Federal Bar Association—St. Louis Chapter, Saint Louis, Missouri. I discussed the impact of new technologies on the conception of privacy under the Fourth Amendment. I have no notes, recording, or transcript. The address of the Federal Bar Association is 4250 North Fairfax Drive, Suite 301, Arlington, Virginia 22203.

March 3, 2021: Panelist, "Being Happy as a Lawyer," Collegium Institute for Catholic Thought & Culture. I discussed my career and answered career-related questions. I have no notes, recording, or transcript. The address of the Collegium Institute is P.O. Box 30730, Philadelphia, Pennsylvania 19104.

February 27, 2020: Panelist, "U.S. Supreme Court Roundup: New Decisions and Cases on the Horizon," Federal Bar Association—St. Louis Chapter and The Federalist Society—St. Louis Lawyers Chapter, Saint Louis, Missouri. Notes supplied.

October 30, 2011: Speaker, "Social Entrepreneurship and Peace: Leveraging Economics as an Alternative Approach," Practical Models for Peace Conference, Common Bond Institute, Neve Shalom, Israel. PowerPoint supplied.

On frequent occasions during my time with Romney for President in 2012, I gave introductory remarks and other public speeches. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings.

While participating in student organizations in college and law school, I gave remarks on various occasions in connection with introducing speakers and otherwise facilitating or participating in student events. I do not have a record of or recall the specific occasions and contents of any of these remarks. However, the following student newspaper articles captured limited quotes from statements I made during debates as a member of the Georgetown University Student Associate Senate:

Molly Redden, *GUSA and SAC Clash over Club Fund*, The Georgetown Voice, Apr. 24, 2008. Copy supplied.

Juliana Brint, *GUSA Passes Funding Budget*, The Georgetown Voice, Apr. 17, 2008. Copy supplied.

Julia Cai, *Club Budgets Tackle Excess Reserves*, The Georgetown Voice, Apr. 11, 2008. Copy supplied.

Juliana Brint, *Funding Boards Hash out Next Year's budget*, The Georgetown Voice, Apr. 10, 2008. Copy supplied.

Juliana Brint, *GUSA Election Part II*, The Georgetown Voice, Feb. 28, 2008. Copy supplied.

Juliana Brint, *GUSA, Corp Support Hoya Independence*, The Georgetown Voice, Jan. 31, 2008. Copy supplied.

Lynn Kirshbaum, *Salaries and Bullet-Proof Vests: No Laughing Matter*, The Georgetown Voice, Mar. 22, 2007. Copy supplied.

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

I was briefly interviewed by First Alert 4/KMOV on December 11, 2024 as part of the station's telethon for Forest Park ("A Day 4 Forest Park"), and while other segments are accessible online, my interview does not appear to be available.

Former St. Louis Principal Sentenced to 2 Life Terms in Prison for Murder-for-Hire of Teacher, Unborn Child, First Alert 4/KMOV, June 25, 2024. Copy of article supplied and video available at <https://www.firstalert4.com/2024/06/25/former-st-louis-principal-sentenced-life-prison-after-pleading-guilty-murder-for-hire-charges-death-teacher-unborn-child/>.

George Hageman, *Summer Internship Spotlight – Department of Defense*, The OPIA Student Blog, Feb. 19, 2015. Copy supplied.

Emily McGinnis, *Streaming Dialogues, Uniting Cultures in the Classroom*, The Hoya, Jan. 13, 2009. Copy supplied.

Bailey Heaps, *For Georgetown, a Fraternity of Firsts*, The Hoya, May 16, 2008. Copy supplied.

Julia Cai, *\$800,000 in Club Funds Unspent*, The Hoya, April 4, 2008. Copy supplied.

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

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these cases, approximately what percent were:

jury trials: _____ %
bench trials: _____ %

ii. Of these cases, approximately what percent were:

civil proceedings: _____ %
 criminal proceedings: _____ %

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

I have not held public office or had any unsuccessful bids for elective or appointed office.

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

Election-Week Volunteer, Tom Cotton for Senate (2014)
 State Convention Volunteer, Pete Snyder for Lieutenant Governor (2013)
 Field Representative, Regional Political Director, Romney for President (2012)
 Volunteer, Talent for Senate '06 (2006)
 Volunteer, Bush-Cheney '04 (2004)

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

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

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

From 2016 to 2018, I served as a law clerk to the Honorable Raymond W. Gruender, Circuit Judge of the United States Court of Appeals for the Eighth Circuit.

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

I have not practiced law 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;

2016
United States Senator Orrin G. Hatch
Office of the President Pro Tempore
United States Capitol Building, S-125
Washington, District of Columbia 20515
Legal Fellow

2018 – 2020
Missouri Attorney General's Office
815 Olive Street, Suite 200
Saint Louis, Missouri 63101
Special Assistant Attorney General (2020) (temporary reappointment)
Deputy Solicitor General (2018 – 2020)

2020 – present
United States Attorney's Office for the Eastern District of Missouri
Thomas F. Eagleton United States Courthouse
111 South 10th Street, Room 20.333
Saint Louis, Missouri 63102
Appellate Chief (2021 – present)
Assistant United States Attorney, Violent Crimes Unit (2020 – present)

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

I have not served as an arbitrator or mediator.

b. Describe:

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

Overall, my practice has struck several balances. I have significant trial and appellate experience in both federal and state court, and my focus has split almost evenly between civil and criminal law. I have worked for the State of Missouri and in all three branches of the federal government. And while the bulk of my legal experience has been in public service, I was a summer associate at a Big

Law firm and remain grounded from the practical realities of helping run a family business after my father's death. Additionally, I have supervised a large volume of cases—reviewing roughly 750 substantive filings and conducting more than 150 moot courts—all while maintaining an extensive caseload of my own.

In May 2016, just after law school graduation, Senator Orrin Hatch invited me to join his staff upon the completion of my legal internship with his office. I stayed in the Office of the President Pro Tempore, where I focused on parliamentary procedure, continuity-of-governance issues, and various projects related to the Senator's national security portfolio.

For the next two years, I served as a law clerk to Judge Raymond W. Gruender on the Eighth Circuit. In that capacity, I wrote nearly 75 bench memoranda, helped prepare for oral arguments, and drafted dozens of opinions. Additionally, as a two-year clerk, I trained new clerks and reviewed work product before it went to Judge Gruender.

I next joined the Missouri Attorney General's Office, where I served as a Deputy Solicitor General from 2018 to 2020. In that role, I helped manage the State's appellate caseload, which included reviewing briefs, conducting moot courts, first-chairing significant appeals, drafting cert petitions and transfer applications, coordinating amicus support, and advising the Attorney General. I also litigated several high-profile cases in trial courts, handling everything from depositions and motions practice to preliminary-injunction hearings and trials.

Since 2020, I have served as an Assistant United States Attorney in the Eastern District of Missouri. I started out as a prosecutor in the Violent Crimes Unit, where I focused on carjackings, robberies, and serious gun and drug offenses, as well as postconviction matters and appeals. In 2021, the United States Attorney appointed me as the District's Appellate Chief. In that role, I oversee both civil and criminal appeals—determining office legal positions, approving all appellate briefs before filing, coordinating moot courts and oral arguments, and advocating for or against further review in the event of adverse decisions. Additionally, I oversee postconviction and related matters, craft office-wide responses to repeat legal issues (e.g., retroactive Guidelines amendments, COVID compassionate release), and weigh in on significant legal issues during pretrial proceedings or trials. On top of these responsibilities, I maintain my own caseload of violent-crimes prosecutions.

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

As a Deputy Solicitor General, my clients were the State of Missouri, its agencies, and the Attorney General. I specialized in appellate practice and litigation involving constitutional claims.

At the United States Attorney's Office, my clients are the United States of America and its agencies. I specialize in appellate and postconviction practice, violent-crimes prosecutions, and complex legal issues in both criminal and civil cases.

- 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.

Nearly my entire practice has been in trial-court or appellate litigation, with the frequency of court appearances varying with each job. During my clerkship, I was in the Eighth Circuit on about a monthly basis and observed more than one hundred oral arguments. While at the Attorney General's Office, I appeared in the Missouri Supreme Court, Missouri Court of Appeals, and Eighth Circuit relatively frequently—with about four oral arguments per year—and had less frequent but significant exposure to state and federal trial courts. And in the United States Attorney's Office, I appear in the Eastern District of Missouri very frequently, including warrant applications, initial appearances, detention hearings, suppression hearings, plea colloquies, sentencing hearings, and jury trials. I also appear in the Eighth Circuit relatively frequently, both to supervise appeals and for my own oral arguments.

- i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 80% |
| 2. | state courts of record: | 20% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | | |
|----|-----------------------|-----|
| 1. | civil proceedings: | 40% |
| 2. | criminal proceedings: | 60% |

- 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 verdict, judgment, or final decision. I was chief counsel in two complex cases—one criminal and one civil. In another, I managed the case but had to miss the beginning of trial to argue a multi-million-dollar appeal the same day. And for the final two cases, I was associate counsel.

- i. What percentage of these trials were:

- | | | |
|----|-----------|-----|
| 1. | jury: | 40% |
| 2. | non-jury: | 60% |

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

My practice before the United States Supreme Court was primarily during my tenure as a Deputy Solicitor. In that role, I helped coordinate Missouri's amicus participation in several cases and edited various filings prepared by other attorneys. In terms of specific cases, I participated in the moot-court process for the Solicitor General's argument in *Buckley v. Precythe*, which resulted in a 5-4 win for Missouri. 587 U.S. 119 (2019). I contributed to a petition for writ of certiorari and reply in *Missouri Ethics Comm'n v. Free & Fair Election Fund*, No. 18-896, and appeared on both filings (copies supplied). And I was counsel of record in two cases in which I recommended waiving response to cert petitions that were ultimately denied: *Schwartz v. Jennings*, No. 19-6495 (Jan. 13, 2020) and *Van Orden v. Stringer*, No. 19-6892 (Feb. 24, 2020).

While my Supreme Court practice has been more limited in my current role, I have served as a point of contact for the Solicitor General's Office in several cases with cert petitions arising out of cases from the Eastern District of Missouri, providing copies of the record and limited input where necessary.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Perkins*, No. 4:23-CR-728-SEP (E.D. Mo. Apr. 3, 2025) (Pitlyk, J.)

I served as the sole prosecutor during the investigation, charging, and pretrial-motions stages of this case, which involved five armed robberies of local businesses. The defendant invoked sovereign-citizen ideology and created a complex Sixth Amendment issue by firing his court-appointed attorneys while refusing to represent himself. After briefing and multiple hearings, the Court proceeded to trial with defense counsel in place, and another prosecutor entered as second chair. Over the course of a four-day trial, the Government presented 16 witnesses (including two experts), as well as a host of physical and digital evidence. The jury ultimately returned a guilty verdict on all nine counts after less than 30 minutes of deliberation, and the defendant now faces at least 31 years in prison at his sentencing hearing in July 2025.

Co-Counsel

Tiffany G. Becker
 United States Attorney's Office for the Eastern District of Missouri
 Thomas F. Eagleton United States Courthouse
 111 South 10th Street, Room 20.333
 Saint Louis, Missouri 63102
 314.539.2200

Opposing Counsel

Teneil L. Kellerman
 Rachel M. Mosqueda
 Growe Eisen Karlen
 120 South Central Avenue, Suite 150
 Saint Louis, Missouri 63105
 314.725.1912

2. *United States v. Noll, et al.*, 4:23-CR-416-SEP (E.D. Mo. 2025) (Pitlyk, J.)

This prosecution targeted a conspiracy to smuggle controlled substances into a local county jail. The conspiracy involved several discrete distributions, which ultimately led to the overdose death of an inmate after the conspirators successfully smuggled fentanyl, heroin, and methamphetamine into the facility concealed in a Bible. I handled every aspect of the case, from investigation and charging to pretrial motions, plea negotiations, and sentencing. In the end, the most culpable defendants received sentences of 22 years and 16 years.

Co-Counsel

I prosecuted this case without co-counsel.

Opposing Counsel – Defendant Timothy L. Noll

Julie Clark
 Federal Public Defender's Office
 1010 Market Street, Suite 200
 Saint Louis, Missouri 63101
 314.241.1255

Opposing Counsel – Defendant Garry W. Triplett

Bradley S. Dede
 7710 Carondelet, Suite 105
 Clayton, Missouri 63105
 314.725.9700

Opposing Counsel – Defendant Alissa R. Hahn

David R. Rosener
21804 Highway 32
P.O. Box 71
Sainte Genevieve, Missouri 63670
573.883.8900

3. *United States v. Green, et al.*, No. 4:22-CR-136-RLW (E.D. Mo. 2024) (White, J.); *United States v. Cutler*, No. 24-2324 (8th Cir.) (appeal pending)

This prosecution involved the brutal murder-for-hire of an elementary school teacher after she refused to terminate a pregnancy. Defendant Cornelius Green devised a plan to hire his childhood friend and co-defendant, Phillip Cutler, to murder his girlfriend for just a few thousand dollars while he traveled out of town to establish an alibi. The defendants originally had been charged in state court, but those prosecutions had stalled for nearly six years. After the conspiracy was charged federally, Green pleaded guilty, and I served as second chair during the seven-day jury trial of Cutler, which resulted in a guilty verdict. The district court sentenced both defendants to consecutive life sentences, and Cutler’s appeal challenging the exclusion of hearsay statements from a deceased witness is currently pending.

Co-Counsel

Tiffany G. Becker
United States Attorney’s Office for the Eastern District of Missouri
Thomas F. Eagleton United States Courthouse
111 South 10th Street, Room 20.333
Saint Louis, Missouri 63102
314.539.2200

Opposing Counsel – Defendant Cornelius M. Green

Nicholas R. Williams
William Thomas Marsh
Kessler-Williams LLC
1401 South Brentwood Boulevard, Suite 950
Saint Louis, Missouri 63144
314.720.5476

Opposing Counsel – Defendant Phillip J. Cutler

Craig J. Concannon
7911 Forsyth, Suite 300
Saint Louis, Missouri 63105
314.421.3329

Mick Henderson
Henderson Law Group, P.C.
6 Cardinal Way, Suite 900
Saint Louis, Missouri 63102
314.645.4400

Tory D. Bernsen
Dowd Bernsen, LLC
PO Box 220126
Saint Louis, Missouri 63122
314.737.2899

4. *United States v. Jackson, et al.*, No. 4:22-CR-120-RWS (E.D. Mo. 2024) (Sippel, J.)

I served as the lead prosecutor of a ring of teenage carjackers who robbed two vehicles at gunpoint and also stole other cars and firearms. I initially pursued charges against the only assailant who was over 18 at the time of the first carjacking, with state authorities taking responsibility for the juvenile suspect. After the State declined charges, the juvenile committed a second carjacking with other accomplices, and a federal grand jury indicted them. Given the gravity of the offenses and the repeat misconduct, I successfully moved for the transfer of the juvenile to adult status under 18 U.S.C. § 5032. All of the assailants ultimately pleaded guilty and received significant sentences, ranging from 6 to 13 years.

Co-Counsel

Cassandra Jane Wiemken
United States Attorney's Office for the District of Colorado
1801 California Street, Suite 1600
Denver, Colorado 80202
303.454.0100

Opposing Counsel – Defendant Montrell M. Jackson

Lucille G. Liggett [Retired]
Abraham Copi
Federal Public Defender's Office
1010 Market Street, Suite 200
Saint Louis, Missouri 63101
314.241.1255

Opposing Counsel – Defendant Ramon D. Davis

Raphael O. Morris II
6101 Delmar Boulevard
Suite A-2nd Floor
Saint Louis, Missouri 63112
314.241.5900

Opposing Counsel – Defendant Tristan T. Davis

James Looby Miller
Miller and Hine LLC
8764 Manchester Road, Suite 204
St. Louis, Missouri 63144
314.413.2053

Opposing Counsel – Defendant Jaymond Johnson

Nicholas R. Williams
Kessler-Williams LLC
1401 South Brentwood Boulevard, Suite 950
Saint Louis, Missouri 63144
314.720.5476

Shanna K. Surratt
Federal Public Defender's Office
325 Broadway Street, 2nd Floor
Cape Girardeau, MO 63701
573.339.0242

5. *United States v. Williams*, 36 F.4th 792 (8th Cir. 2022) (Smith, C.J., Wollman, Erickson, JJ.); No. 4:19-CR-437-CDP (E.D. Mo. Mar. 24, 2023) (Perry, J.)

This case involved a suppression claim and an interlocutory appeal. Prior to my entry, the district court granted the defendant's motion to suppress drug evidence based on its conclusion that no reasonable officer could believe the defendant's girlfriend could consent to the search of a "man bag" located in her bedroom. After securing authorization from the Solicitor General to pursue an affirmative appeal, I briefed and argued the case before the Eighth Circuit, which reversed the suppression order. I continued to handle the case on remand, with the defendant pleading guilty on the verge of trial and accepting a 10-year sentence in light of the previously excluded evidence and the armed kidnapping of the girlfriend's stepfather.

Co-Counsel

I took over the appeal upon entry and kept the case on remand, so I did not have co-counsel.

Opposing Counsel

William S. Margulis
Margulis Gelfand, LLC
7700 Bonhomme Avenue, Suite 750
Clayton, Missouri 63105
314.390.0234

6. *Sarasota Wine Mkt., LLC v. Schmitt*, 987 F.3d 1171 (8th Cir. 2021) (Loken, Shepherd, Erickson, JJ.)

In this case, I represented state officials on appeal from the dismissal of a civil-rights action challenging Missouri’s three-tier system for alcohol distribution. A Florida wine retailer, its owner, and two Missouri consumers brought suit under 28 U.S.C. § 1983, claiming that the regulatory scheme violates both the “dormant” Commerce Clause and the Privileges and Immunities Clause by barring unlicensed out-of-state retailers from shipping wine to local consumers. Prior to my involvement, the district court granted a motion to dismiss under Rule 12(b)(6) for failure to state a claim. On appeal, I handled the briefing and coordination with amici curiae. After leaving the Attorney General’s Office, I was reappointed as a Special Assistant Attorney General to argue the case before the Eighth Circuit, which affirmed the dismissal in light of Supreme Court precedent and the authority granted to states under the Twenty-First Amendment.

Co-Counsel

United States Solicitor General D. John Sauer
[Then at the Missouri Attorney General’s Office]
Office of the Solicitor General
950 Pennsylvania Avenue Northwest
Washington, District of Columbia 20530
202.514.2203

Katherine S. Walsh
[Then at the Missouri Attorney General’s Office]
Department of Commerce and Insurance
301 West High Street, Room 530
P.O. Box 690
Jefferson City, Missouri 65102
573.751.4126

Counsel for Amicus Curiae – Wine & Spirits Wholesalers of America

Scott Allen Keller
Jeremy Evan Maltz
[Then at Baker Botts LLP]
Lehotsky Keller Cohn LLP
200 Massachusetts Avenue Northwest
Washington, District of Columbia 20001
512.693.8350

Counsel for Amici Curiae – National and Missouri Beer Wholesalers Associations

Michael Dean Madigan
Brandt F. Erwin

Madigan, Dahl & Harlan, P.A.
33 South 6th Street, Suite 3675
Minneapolis, Minnesota 55402
612.604.2000

Opposing Counsel

Robert D. Epstein
Kristina Marie Swanson
James Alexander Tanford
Epstein & Seif
50 South Meridian Street, Suite 505
Indianapolis, Indiana 46204
317.639.1326

7. *Am. Fed'n of State, Cnty. & Mun. Emps. v. State*, No. 18AC-CC00407 (Mo. 19th Cir. Ct. Sept. 3, 2021) (Beetern, J.); 653 S.W.3d 111 (Mo. banc 2022)

In this case, I represented the State of Missouri and various agencies after public-sector unions brought an action for declaratory and injunctive relief seeking to halt legislative changes to Missouri's "merit" system of state employment. Working with agency clients, I handled the preliminary-injunction briefing and argument, hired expert witnesses, conducted extensive written discovery, and either took or defended ten depositions. I then managed a trial team of two other attorneys during a four-day bench trial, which included delivering an opening statement, directing and cross-examining key witnesses, and making a closing argument. The trial court granted the plaintiffs injunctive relief, interpreting the bill's mandate that state employees "shall be employed at-will" as merely a default rule from which the union could negotiate and concluding that, otherwise, the law violated the right to collective bargaining under the Missouri Constitution. The Missouri Supreme Court ultimately reversed, holding that the statute required at-will employment and that it did not violate the unions' constitutional rights.

Co-Counsel

United States Solicitor General D. John Sauer
[Then at the Missouri Attorney General's Office]
Office of the Solicitor General
950 Pennsylvania Avenue Northwest
Washington, District of Columbia 20530
202.514.2203

Saint Louis County Associate Judge Jason K. Lewis
[Then at the Missouri Attorney General's Office]
Saint Louis County Courthouse
105 South Central Avenue
Floor 2N, Room 281
Clayton, Missouri 63105

314.615.1535

Cass County Associate Judge Alyssa Mayer Berko
[Then at the Missouri Attorney General's Office]
Cass County Courthouse
2501 West Mechanic Street
Harrisonville, Missouri 64701
816.380.8227

Opposing Counsel

Christopher N. Grant
Loretta K. Haggard
Schuchat, Cook & Werner
555 Washington Avenue, Suite 520
Saint Louis, Missouri 63101
314.732.1127

8. *Laughlin v. Perry*, 604 S.W.3d 621 (Mo. banc 2020) (Draper, C.J., Breckenridge, Fischer, Powell, Russell, Stith, Wilson, J.J.)

The issue in this case was whether Missouri public defenders are entitled to official immunity for actions taken in the scope of representing indigent clients. After successfully challenging his burglary conviction based on an obscure jurisdictional defect, Dwight Laughlin sued his former public defenders for legal malpractice, and a jury awarded him \$600,000. The Missouri Court of Appeals affirmed, finding it inappropriate to extend official immunity given the liability coverage under the State's Legal Expense Fund. *Laughlin v. Perry*, 2019 WL 2909058, at *3–4 (Mo. Ct. App. 2019). At that point, I entered the case and successfully applied for transfer to the Missouri Supreme Court (similar to a cert petition). I then oversaw the drafting of the opening brief, wrote a reply brief, and argued the case. The Missouri Supreme Court reversed, rejecting the notion that the availability of legal-expense coverage precluded a finding of “immunity from suit” and extending official immunity to Missouri public defenders as a matter of first impression.

Co-Counsel

United States Solicitor General D. John Sauer
[Then at the Missouri Attorney General's Office]
Office of the Solicitor General
950 Pennsylvania Avenue Northwest
Washington, District of Columbia 20530
202.514.2203

Christopher Robert Wray
[Then at the Missouri Attorney General's Office]
Shook, Hardy & Bacon LLP

2555 Grand Boulevard
Kansas City, Missouri 64108
816.474.6550

Opposing Counsel

William J. Fleischaker
Fleischaker & Williams
320 W 4th Street, Suite 5
Joplin, Missouri 64801
417.238.2748

9. *State ex rel. Schmitt v. Choi*, Nos. 16BA-CV02758, 16BA-CV03144, 2020 WL 5093608 (Mo. 13th Cir. Ct. June 8, 2020) (Harris, J.); 627 S.W.3d 1 (Mo. Ct. App. 2021)

In this case, the State of Missouri intervened in an action for declaratory and injunctive relief on behalf of faculty and staff and challenged a University of Missouri rule that categorically prohibited all firearms at any UM campus on both statutory and constitutional grounds. The trial court granted the University judgment on the pleadings as to the statutory claim before my involvement in the case. Upon my entry, I oversaw all aspects of the case on the as-applied constitutional challenges, including discovery, depositions, and hiring and challenging expert witnesses. The case proceeded to a two-day bench trial, which I managed, and I also drafted the State's proposed findings of fact and conclusions of law. The trial court ruled in favor of the University but was later reversed in part on appeal after my representation ended.

Co-Counsel

United States Solicitor General D. John Sauer
[Then at the Missouri Attorney General's Office]
Office of the Solicitor General
950 Pennsylvania Avenue Northwest
Washington, District of Columbia 20530
202.514.2203

Christopher Robert Wray
[Then at the Missouri Attorney General's Office]
Shook, Hardy & Bacon LLP
2555 Grand Boulevard
Kansas City, Missouri 64108
816.474.6550

Ryan Lee Bangert
[Then at the Missouri Attorney General's Office]
Alliance Defending Freedom
15100 North 90th Street
Scottsdale, Arizona 85260
480.444.0020

Opposing Counsel

Robert M. Thompson
 Thomas C. Walsh
 Logan Rutherford
 Bryan Cave LLP
 1200 Main Street, Suite 3500
 Kansas City, Missouri 64105
 816.374.3200

10. *Holmes v. Nelson*; No. ED106799, 2019 WL 2094061 (Mo. Ct. App. May 14, 2019) (Clayton, Quigless, Richter, J.J.); *Holmes v. Steelman*, 624 S.W.3d 144 (Mo. banc 2021) (Breckenridge, Fischer, Powell, Russell, Stith, Wilson, J.J.; Draper, C.J., dissenting)

This case involved a dispute between the City of Saint Louis and the State of Missouri as to liability coverage for a police department after it shifted from state to local control. While \$2.5 million was directly at stake, this case also dictated the outcome for more than \$15 million of contested liability in parallel litigation. I originally was tasked with reviewing a reply brief for the intermediate court of appeals, but after discovering that critical precedent had been omitted, I redrafted the brief and filed it before the deadline that same day. Another attorney argued the case, and the Court of Appeals sided with the City. I then successfully applied for transfer to the Missouri Supreme Court, drafted substitute briefs, and argued the case. The Missouri Supreme Court vacated the judgment in light of the originally omitted precedent.

Co-Counsel

United States Solicitor General D. John Sauer
 [Then at the Missouri Attorney General's Office]
 Office of the Solicitor General
 950 Pennsylvania Avenue Northwest
 Washington, District of Columbia 20530
 202.514.2203

Katherine S. Walsh
 [Then at the Missouri Attorney General's Office]
 Department of Commerce and Insurance
 301 West High Street, Room 530
 P.O. Box 690
 Jefferson City, Missouri 65102
 573.751.4126

Opposing Counsel

Hon. Robert H. Dierker, Jr.
 [Then at the Saint Louis City Counselor's Office]
 711 North 11th Street

Saint Louis, Missouri 63101
800.280.3376

Nancy Rebecca Kistler
[Deceased]

Mark Edward Lawson
[Then at the Saint Louis City Counselor's Office]
The Police Retirement System of St. Louis
2020 Market Street
Saint Louis, Missouri 63103
314.241.0800

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

Since 2018, I have had supervisory duties that do not directly involve litigation. As both Appellate Chief and a Deputy Solicitor, my main responsibilities have included reviewing briefs and coordinating moot courts. In total, I have supervised approximately 1,000 matters, including more than 750 substantive filings and 150 moots. I also routinely provide detailed feedback to attorneys and conduct trainings to improve writing and advocacy skills.

At the United States Attorney's Office, in addition to overseeing appeals and postconviction matters, I have worked on a number of significant legal issues. For example, during the COVID-19 pandemic, I spearheaded the office's response to compassionate release requests, motions for release from pretrial detention, and speedy-trial issues, and I supported efforts to recover stimulus funds from inmates owing restitution. Similarly, I have worked with stakeholders like the Court, United States Marshals Service, and the Federal Public Defender's Office on various matters, such as developing a procedure for retroactive Guidelines amendments, addressing writ issues, and negotiating standard features of plea agreements. To keep the office apprised of current legal issues and to facilitate training, I read all Eighth Circuit opinions and circulate monthly summaries with specific guidance for both civil and criminal AUSAs. Finally, in my role as a prosecutor, I have conducted a number of investigations involving grand jury subpoenas, warrants, and other tools that have both led to charges and exonerated targets.

As a Deputy Solicitor, I worked with agency clients not only in the course of litigation, but also in non-litigation contexts. There were a number of policy and non-litigation projects I completed for the Attorney General and other senior leadership in the office. And lastly, I participated in depositions and mediations in a high-profile federal case that resulted in a consent judgment for discovery violations committed during a prior administration.

I have never acted or registered as a lobbyist.

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

I have never taught my own course.

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

None.

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

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation.

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

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and supply a copy to this Committee.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I anticipate potential conflicts of interest arising in two main contexts. First, as a

supervisor in the United States Attorney's Office with a significant caseload, I would recuse myself from any matter open or pending during my tenure. Moving forward, I would ensure that I had no personal role in any case that comes before me. Second, my wife is a non-equity partner at a law firm, so I would recuse in any case where she represents a party and consider whether additional limitations are warranted. Moreover, I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case-by-case basis and determine the appropriate action, including recusal where necessary.

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

I will carefully review and address any real or potential conflicts by referring to 28 U.S.C. § 455; Canon 3 of the Code of Conduct for United States Judges; and any other laws, rules, and practices governing such circumstances.

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

My commitment to pro bono work and public service started in law school. At graduation, I was recognized for completing more than 1,000 hours of pro bono work, which included my time at the Department of Defense and the Senate, as well as various projects with White & Case's pro bono clients (e.g., a women's college, a rabbi, and an education nonprofit working in Africa). Since then, I have dedicated my career to public service with the State of Missouri and in all three branches of the Federal Government. While these roles have restrictions on serving private clients, I have mentored legal interns, volunteered as a guest judge for moot-court competitions, spoken to law school classes, and served on the board of a bar association and on a court committee. Outside the legal profession, I have been a longtime member of Forest Park Forever, a nonprofit that maintains one of the largest urban parks in the country, and I currently serve on its board. I have promoted local students attending Georgetown University through its Alumni Admissions Program. And finally, my wife and I have been active supporters of Almost Home, a nonprofit founded by two Franciscan Sisters of Mary that helps young, impoverished moms keep and care for their children.

26. **Selection Process:**

a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do

not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

Senator Schmitt's office originally contacted me on November 21, 2024. I met with his General Counsel in Saint Louis five days later, and we discussed the judicial vacancies in the Eastern District of Missouri. On December 10, Senator Schmitt's office invited me to submit a set of application materials, which I sent on December 20. I also submitted a similar set of materials to Senator Hawley's office on December 23 after a brief email exchange. I then received an email from Senator Hawley's office on January 23, 2025 and met with several members of his staff in Saint Louis on February 3. My understanding from press reports is that Senator Hawley created an advisory committee to advise him on judicial nominations, but I am not aware of their recommendations.

Starting on February 7, I have been in contact with officials from the White House Counsel's Office. I interviewed with several attorneys from that office in Washington, D.C., on February 12 and was informed of my tentative selection on March 26. Since then, I have been in regular contact with the Office of Legal Policy at the Department of Justice in preparation for a potential nomination. On May 6, the President called to tell me I would be nominated to the Eastern District of Missouri.

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

No.

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		92	680	Notes payable to banks-secured (auto)		18	895
U.S. Government securities		11	332	Notes payable to banks-unsecured			
Listed securities – see schedule		672	298	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		156	029
Real estate owned – see schedule		329	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		70	030				
Cash value-life insurance							
Other assets itemize:							
– Thrift Savings Plan		174	132				
				Total Liabilities		174	924
				Net Worth	1	174	548
Total Assets	1	349	472	Total Liabilities and Net Worth	1	349	472
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

American Funds Capital World Growth and Income Fund (F3)	\$12,284
Boeing Stock	2,195
Citibank Stock	681
Franklin Small Cap Value Fund (R6)	3,905
Goldman Sachs FS Government A Fund	63,697
JPMorgan Core Duration Bond Fund (R6)	10,827
JPMorgan Equity Income Fund (R6)	16,023
JPMorgan Large Cap Growth Fund (R6)	8,407
JPMorgan Short Duration Bond Fund (R6)	12,536
Lord Abbett Bond Debenture Fund (F3)	3,976
PGIM Total Return Bond Fund (F6)	12,507
Schwab Prime Advantage Money Fund	329,476
T. Rowe Price U.S. Treasury Money Fund	1,561
Vanguard Target Retirement 2055 Trust II	194,223
Total Listed Securities	<u>\$672,298</u>

Real Estate Owned

Personal Residence	<u>\$329,000</u>
Total Real Estate Owned	<u>\$329,000</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>\$156,029</u>
Total Real Estate Mortgages Payable	<u>\$156,029</u>

AFFIDAVIT

I, ZACHARY M. BLUESTONE, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

May 5, 2025
(DATE)

Zachary M. Bluestone
(NAME)



Alexis Reichert
(NOTARY)

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Zachary Bluestone
Nominee to be U.S. District Judge for the Eastern District of Missouri
June 11, 2025

1. You graduated from law school only nine years ago and have been litigating for just seven years.

What qualifies you to handle the demands of the bench, given that you have only been a litigator for seven years?

Response: The quantity, quality, and relevance of my legal experience make me uniquely qualified for this important role.

In terms of quality, as a public servant, I have been entrusted with significant responsibility throughout my legal career. During my first week as a Deputy Solicitor General, I led a major deposition; within my first month, I served on a trial team in a high-profile case; and within three months, I briefed and argued an appeal. And I have been blessed with a steady flow of high-level opportunities ever since. Moreover, I have supervised other attorneys for nearly my entire legal career, having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney's Office.

As for quantity, I have worked Big Law hours in government jobs, which has resulted in the extensive court experience you referred to during the confirmation hearing. Most significantly, I have supervised more than 1,000 civil and criminal cases, which has involved reviewing at least 750 substantive filings, overseeing 150 moot courts, and spending a considerable time supervising attorneys in the courtroom. And while not expected, I have maintained a significant caseload on the side—including dozens of appeals, ten oral arguments, dispositive motions, five trials, a litany of postconviction challenges, and the prosecution of more 50 defendants.

In terms of relevance, for more than 7 years, I have worked in the same courthouse where I would sit if confirmed (in addition to meeting my wife there while clerking for the Eighth Circuit). I have had hundreds of appearances at every manner of proceeding, from arraignments to hearings on dispositive motions, guilty pleas to *Frye* hearings and trials, and sentencings to postconviction and other civil proceedings. I have also represented the U.S. Attorney's Office both at meetings on ad hoc court policies and on the Federal Practice Committee that consults on local rules—with both experiences allowing me to build relationships with various civil and criminal stakeholders in my legal community.

Lastly, prior to law school, I spent a few years earning my MBA and helping run my family's company after losing my father to leukemia. While obviously not a legal role, this experience provided me insight as a client of legal services, and it taught me many practical lessons that make me a far better lawyer than I otherwise would have been.

2. In March 2007, you were quoted in a *Georgetown Voice* article regarding a contract dispute between Georgetown University and its Department of Public Safety (DPS). DPS called for higher salaries and bulletproof vests, and some students held a rally on campus in support to the DPS. While some students expressed sympathy for the officers' cause, you called the request for bulletproof vests "humorous," and said that you believed DPS's demands were unreasonable.

a. Why did you consider police officers requesting bulletproof requests humorous and unreasonable?

Response: The one-word quote attributed to me was taken out of context. As noted in the same *Georgetown Voice* article, bulletproof vests were already available to DPS staff, but there was "very limited use of them." Based on my understanding from information I received at the time, the DPS negotiators' demands for bulletproof vests and other concessions were conceived as bargaining chips for a pay increase, which was the real priority. Thus, my only point was that the negotiators should focus on the issue that mattered to them rather than requesting equipment that was already available to them but not used.

b. Do you regret your statement disregarding police officers' legitimate safety concerns?

Response: Please see my response to Question 2(a). Additionally, during my time as a federal prosecutor, I am proud to have worked closely with dozens of federal agents, TFOs, and state and local police officers. As they would tell you, officer safety during our investigations consistently has been my top priority.

3. Did President Trump lose the 2020 election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

4. Where were you on January 6, 2021?

Response: I was at work at the U.S. Attorney's Office in St. Louis. That day, I attended a training on evidentiary issues for criminal litigators and oversaw a moot court for an Eighth Circuit oral argument.

5. Do you denounce the January 6 insurrection?

Response: I have served as a federal prosecutor both before and since January 6, 2021. Given that the United States is my client and that it was responsible for prosecuting individuals for their actions that day, it would be inappropriate for me to comment on the specific events that took place. However, I can say that violence directed toward law

enforcement officers is never acceptable, and having worked for the Seante, I have a profound appreciation for the national treasure that is the United States Capitol building.

6. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: Article II of the Constitution commits the pardon power to the sole discretion of the President. *See United States v. Klein*, 80 U.S. 128, 147 (1871). As a current federal prosecutor and a judicial nominee, it would not be appropriate for me to comment on the judgment of any President in exercising the pardon power.

7. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Ordinarily, parties who are dissatisfied with a federal court order have the option to appeal the order to higher courts, including the option to seek a stay pending appeal or, in extraordinary circumstances, mandamus relief.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: As discussed in response to questions from you at the confirmation hearing, court orders are nearly always binding as to the parties to a case. However, the Supreme Court has explained that, under limited circumstances, “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.” *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 Geo. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: While the Supreme Court has found a limited number of issues to be nonjusticiable political questions, appellate courts in the Judicial Branch are generally responsible for determining whether a lower court order is lawful.

8. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”

a. Are non-party injunctions constitutional?

Response: The scope of any Article III limitations on non-party or “universal” injunctions is the subject of litigation before multiple federal courts, including the Supreme Court. *See Trump v. Casa, Inc.*, No. 24A884 (argued May 15, 2025). As a judicial nominee, it would not be appropriate for me to opine on matters “pending or impending in any court.” *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my response to Question 8(a).

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Please see my response to Question 8(a).

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

9. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

10. Does the U.S. Constitution permit a president to serve three terms?

Response: The text of the Twenty-Second Amendment speaks for itself.

11. When, if ever, may a lower court depart from Supreme Court precedent?

Response: A district court is always bound by Supreme Court precedent and the precedent of the relevant circuit court. A district court may not depart from Supreme Court precedent and may depart from circuit precedent only where it has been overridden by a subsequent decision of the Supreme Court.

12. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: The Eighth Circuit has recognized the principle of horizontal stare decisis by adopting “a cardinal rule . . . that one panel is bound by the decision of a prior panel” with

only limited exceptions for intervening Supreme Court precedent or repudiation from the en banc court. *See, e.g., United States v. Donath*, 107 F.4th 830, 836 (8th Cir. 2024) (quoting *Mader v. United States*, 654 F.3d 794, 800 (8th Cir. 2011) (en banc)). A district court has no ability to overturn circuit precedent.

13. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: As the Supreme Court has recognized, “*Stare decisis* is the preferred course because it promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process.” *Janus v. Am. Fed’n of State, Cnty. & Mun. Emps.*, 585 U.S. 878, 916 (2018) (citation omitted). But this principle “is not an inexorable command.” *Id.* at 917. In evaluating whether to overrule precedent, the Supreme Court considers several factors, including quality of reasoning, workability, consistency with related decisions, erosion over time, and reliance interests. *Id.* A district court has no ability to overrule Supreme Court precedent.

14. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me have recognized an exception for *Brown* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Brown* Court was right to reject the vile separate-but-equal doctrine.

b. *Plyler v. Doe*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Plyler* and all Supreme Court precedent.

c. *Loving v. Virginia*

Response: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me have recognized an exception for *Loving* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Loving* Court was right to invalidate restrictions on interracial marriage.

d. Griswold v. Connecticut

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Griswold* and all Supreme Court precedent.

e. Trump v. United States

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Trump v. United States* and all Supreme Court precedent.

f. Dobbs v. Jackson Women's Health Organization

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Dobbs* and all Supreme Court precedent.

g. New York State Rifle & Pistol Association, Inc. v. Bruen

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Bruen* and all Supreme Court precedent.

h. Obergefell v. Hodges

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Obergefell* and all Supreme Court precedent.

i. Bostock v. Clayton County

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Bostock* and all Supreme Court precedent.

j. Masterpiece Cakeshop v. Colorado

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Masterpiece Cake* and all Supreme Court precedent.

k. *303 Creative LLC v. Elenis*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *303 Creative* and all Supreme Court precedent.

l. *United States v. Rahimi*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Rahimi* and all Supreme Court precedent.

m. *Loper Bright Enterprises v. Raimondo*

Response: As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, if confirmed as a district judge, I commit to follow *Loper Bright* and all Supreme Court precedent.

15. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

Response: The Supreme Court has instructed that, in interpreting the Constitution, the analysis begins with the text and the original meaning of the provision at issue. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022).

16. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: While not limited to such circumstances, the *Bruen* Court emphasized the importance of a historical understanding where the constitutional text “meant to codify a *pre-existing* right.” *Id.* at 25. If confirmed, I would begin addressing any question of constitutional interpretation by applying applicable precedent of the Supreme Court or the Eighth Circuit construing that provision. If such precedent does not resolve the issue, it then would be appropriate to consider the original public meaning of the provision.

17. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: The Supreme Court recognized that the right to marriage is guaranteed to same-sex couples in *Obergefell v. Hodges*, 576 U.S. 644 (2015). If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

18. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: The Supreme Court recognized that the right to interracial marriage in *Loving v. Virginia*, 388 U.S. 1 (1967). If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

19. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The Equal Protection Clause guarantees equal protection under the law absent a sufficiently compelling rationale, with the level of judicial scrutiny depending on the nature of the classification. For example, racial discrimination is inherently “suspect” and thus triggers strict scrutiny, see *Students for Fair Admissions v. Harvard*, 600 U.S. 181, 206, 210 (2023); gender-based distinctions require “an exceedingly persuasive justification,” see *United States v. Virginia*, 518 U.S. 515, 531 (1996); and most other classifications are subject to only rational-basis review, *City of Dallas v. Stanglin*, 490 U.S. 19, 25–27 (1989). As for the Due Process Clause, the Supreme Court has explained it “provides substantive, as well as procedural, protection for ‘liberty,’” with the former including certain enumerated rights and other fundamental rights that are “deeply rooted in [our] history and tradition . . . and essential to our Nation’s scheme of ordered liberty.” *Dobbs v. Jackson Women’s Health Org.*, 597 U.S. 215, 237 (2022) (citations and internal quotations omitted).

20. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has held that equal protection applies to gender classifications, requiring an “exceedingly persuasive justification” to uphold them. See *United States v. Virginia*, 518 U.S. 515, 531 (1996). And as noted in my response to Question 17, in *Obergefell*, the Supreme Court held that the Fourteenth Amendment guarantees same-sex couples the right to marry “on the same terms accorded to couples of the opposite sex.” 576 U.S. at 680. If confirmed as a district judge, I would be bound by and would faithfully follow this and other Supreme Court precedent.

21. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: The Supreme Court has instructed that the original public meaning of a constitutional provision is highly relevant in applying it today. See, e.g., *Dobbs*, 597 U.S. at 238–40 (collecting cases); *Timbs v. Indiana*, 586 U.S. 146, 150–54 (2019). As the Court recently observed, while a constitutional provision’s “meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated.” *Bruen*, 597 U.S. at 28.

22. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Based on recent press reports concerning the Foreign Emoluments Clause and litigation during President Trump’s first term addressing this issue, I do not believe it would be appropriate for me to opine on a matter likely impending in federal court. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

23. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: First Amendment protections apply broadly, with the text prohibiting Congress from making laws that restrict these rights. The precise contours of the protections would depend on the specific right at issue. For example, as discussed in my response to Question 25, true threats are not protected speech. If confirmed as a district judge, I would carefully evaluate claims concerning any First Amendment right in light of applicable precedent.

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

Response: The Supreme Court has held that the principal inquiry in determining whether a law is “content based” or “content neutral” is “whether the government has adopted a regulation of speech because of agreement or disagreement with the message it conveys.” *Turner Broad. Sys. v. F.C.C.*, 512 U.S. 622, 642 (1994) (citation omitted). “As a general rule, laws that by their terms distinguish favored speech from disfavored speech on the basis of the ideas or views expressed are content based.” *Id.* (citations omitted). “By contrast, laws that confer benefits or impose burdens on speech without reference to the ideas or views expressed are in most instances content neutral.” *Id.* (citations omitted).

25. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: As the Supreme Court has summarized, “‘True threats’ encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.” *Virginia v. Black*, 538 U.S. 343, 359 (2003) (citations omitted). More recently, the Supreme Court cautioned that “[t]he ‘true’ in that term distinguishes” serious expressions of intent to harm “from jests, ‘hyperbole,’ or other statements that when taken in context do not convey a real possibility that violence will follow” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). In other words, this analysis is highly dependent on the facts of a given case.

26. Is every individual within the United States entitled to due process?

Response: The Fifth Amendment states that “[n]o person shall . . . be deprived of life, liberty, or property, without due process of law,” and the Fourteenth Amendment provides a similar protection as to state conduct.

27. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: This issue is the subject of litigation before federal courts. As a judicial nominee, it would not be appropriate for me to opine on matters “pending or impending in any court.” See CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

28. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: The meaning of the Citizenship Clause of the Fourteenth Amendment is the subject of litigation before federal courts. As a judicial nominee, it would not be appropriate for me to opine on matters “pending or impending in any court.” See CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: Please see my response to Question 28(a).

29. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes. While I believe merit is the most important consideration, all Americans should have an equal opportunity to serve on the bench regardless of their immutable characteristics, and I agree it is beneficial to have judges from various backgrounds and walks of life.

30. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: During my time at the U.S. Attorney's Office, I have had extensive experience with the First Step Act, particularly its compassionate-release provisions. If confirmed, I would be bound to apply the statute like any other duly-enacted law, with the bulk of my focus likely to remain on compassionate release.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: Yes. As a federal prosecutor, I fully appreciate that sentencing decisions require an individualized assessment of both the aggravating and mitigating factors in a particular case. *See Gall v. United States*, 552 U.S. 38, 50 (2007). If confirmed as a district judge, I would begin all sentencing hearings by calculating the advisory range under the United States Sentencing Guidelines, give the parties the opportunity to make sentencing arguments, consider the section 3553(a) factors, and then fashion a sentence accordingly.

31. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?

Response: While I am a member of the Federalist Society, I played no role in drafting the quoted phrase and thus am in no position to opinion as to what was intended by those who did.

b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.¹

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

Response: I have no knowledge of what advice, if any, the Federalist Society provided to President Trump during his first term.

¹ Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

Response: While I am a member of the Federalist Society, I do not personally know Leonard Leo and cannot comment on the President's statements.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: Yes, subject to any restrictions under 28 U.S.C. § 455, the Code of Conduct for United States Judges, or other applicable laws or rules.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: While I am a member of the Federalist Society, I do not know Leonard Leo or Steven Calabresi, and I have not communicated about my judicial nomination with anyone in an official capacity with the organization.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: I have not provided services to the Federalist Society but was invited to speak at a joint Federal Bar Association and Federalist Society CLE on recent Supreme Court decisions (as detailed in my Senate Judiciary Questionnaire).

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No.

32. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I am not a member of the Teneo Network and do not know Leonard Leo. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

- b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

33. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: In 2013, I worked at the Heritage Foundation as a special assistant to Senator Jim Talent (as detailed in my Senate Judiciary Questionnaire). During the selection process, I contacted a former colleague and an HR representative for employment-verification purposes concerning my background investigation. Beyond that, I do not know Kevin D. Roberts and have not had any communications about my judicial nomination with anyone in an official capacity with either organization.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: No, aside from the prior employment noted in response to Question 33(a).

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No.

34. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: I am not a member of the AFPI and have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

- b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

35. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: I am not a member of AFLI and do not know Stephen Miller, Gene Hamilton, or Daniel Epstein. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

- b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

36. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will**

Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: I am not a member of the Article III Project and do not know Mike Davis, Will Chamberlain, or Josh Hammer. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

37. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: I am not a member of ADF and have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

38. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: I am not a member of the Concord Fund (or the Judicial Crisis Network) and do not know Leonard Leo or Carrie Severino. I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I have no knowledge of any such donations. To the extent that this question is addressed to whether I think such donations to be problematic as a policy matter, I do not believe that it would be appropriate for me to address as a judicial nominee.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. To the extent that this question is addressed to whether I think such donations should be made public as a policy matter, I do not believe that it would be appropriate for me to address this matter as a judicial nominee.

- f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: Please see my responses to Question 38(d) and (e).

Senator Mike Lee
Questions for the Record
Zachary M. Bluestone, to be United States District Judge for the Eastern
District of Missouri

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

Response: In *New York State Rifle and Pistol Association v. Bruen*, the Supreme Court explained that constitutional interpretation begins with looking at the text and the original meaning of the provision at issue. 597 U.S. 1, 17–18 (2022); *see also Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238–40 (2022) (collecting cases).

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

Response: To determine whether a particular group qualifies as a “suspect class,” the Supreme Court has assessed whether the relevant individuals “exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group,” *Bowen v. Gilliard*, 483 U.S. 587, 602 (1987), as well as whether the group is “politically powerless” or has experienced a history of discriminatory treatment, *Lyng v. Castillo*, 477 U.S. 635, 638 (1986); *see also City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440–41 (1985) (listing five protected classes).

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

Response: These twin principles are of central importance to the Constitution’s structure and are perhaps the key features that have allowed for the longevity and stability of our Republic. From their experience under British rule, the Framers were keenly aware that “[t]he accumulation of all powers legislative, executive and judiciary in the same hands . . . may justly be pronounced the very definition of tyranny.” *FEDERALIST NO. 47*. To guard against this concentration of power, they adopted various structural devices aimed at ensuring that “[a]mbition [would] counteract ambition” by “giving those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others.” *FEDERALIST NO. 51*. As Justice Scalia observed during his 2011 remarks before this Committee, the real genius of our Constitution lies in this balanced structure, which ensures that our rights are more than mere “parchment guarantees.”

4. How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: Generally, I would begin by looking to any applicable precedent of the Supreme Court or the Eighth Circuit construing the relevant provision or addressing similar scenarios of claimed authority. If such precedent does not resolve the question, then it would be appropriate to consider the original public meaning of the constitutional text as well as any structural inferences that might arise from the Constitution’s separation and express

enumeration of federal powers. The Supreme Court has also instructed that “the longstanding practice of the government” can inform judicial determination “of what the law is in a separation-of-powers case.” *NLRB v. Noel Canning*, 573 U.S. 513, 514 (2014) (citations omitted).

5. How would you explain the difference between judicial review and judicial supremacy?

Response: In the context of federal adjudication, I understand judicial review to refer to courts’ Article III power to interpret the meaning of a constitutional or statutory provision in the course of issuing judgments in particular cases and controversies. By contrast, I understand judicial supremacy to refer to the view that courts’ decisions addressing the meaning of the Constitution reflect the only permissible constitutional reading and, unless and until subsequently reversed, should control other officials’ constitutional interpretations even outside of the context of particular cases and controversies or issued judgments.

**Nomination of Zachary Maxwell Bluestone
Nominee to the U.S. District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR WHITEHOUSE

1. You said in your questionnaire that President Trump called you to tell you that you would be nominated.

a. What else did he discuss on the phone call?

Response: The phone call lasted only a few minutes. The President discussed my academic and professional credentials, congratulated me and my family on the nomination, and wished me luck in life.

b. Did he ask you to make any commitments?

Response: No.

2. You said in your questionnaire that you have been a member of the Federalist Society since 2013. Recently, President Trump said he was “so disappointed” with the Federalist Society’s “bad advice” on nominees, calling Leonard Leo a “sleazebag” and a “bad person who, in his own way, probably hates America.”

a. Do you agree with President Trump that Leonard Leo is a “sleazebag”? Why or why not?

Response: While I am a member of the Federalist Society, I do not personally know Leonard Leo. I am not familiar with the topic this asks about, and it would be inappropriate for a judicial nominee to wade into political disputes.

b. Do you agree with President Trump that Leonard Leo is a “bad person who, in his own way, probably hates America”? Why or why not?

Response: Please see my response to Question 2(a).

3. **Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.**

Response: No.

4. **Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?**

Response: Article I of the Constitution grants Congress the impeachment power, with the House of Representatives entrusted with “the sole Power of Impeachment” and the Senate entrusted

with “the sole Power to try all impeachments.” In light of these “textually demonstrable commitment[s],” the Supreme Court has clarified that impeachments are political questions not subject to judicial involvement. *See Nixon v. United States*, 506 U.S. 224, 228, 233–38 (1993).

5. Please explain your understanding of existing case law regarding:

a. The executive branch’s obligation to comply with federal court orders.

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.” *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 Geo. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

b. Remedies available to a federal court to ensure executive branch compliance with a court order.

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

c. Federal government lawyers’ duty of candor to federal courts before which those lawyers appear.

Response: Any lawyer representing any party has a duty of candor to the courts.

d. The president’s legal obligations under the Constitution’s Take Care Clause.

Response: The Constitution provides that the President “shall take Care that the Laws be faithfully executed.” The Supreme Court has often discussed this clause in the context of the appointment and removal power.

e. The limits of the executive branch’s power under the anti-commandeering doctrine.

Response: The Supreme Court has held that Congress cannot compel the States or their officials to participate in federal regulatory programs, partly based on separation-of-powers concerns for impact on the Executive Branch. *Printz v. United States*, 521 U.S. 898, 922–23, 935 (1997).

f. The president's ability or inability to impound congressionally appropriated funds.

Response: Congress passed the Impoundment Control Act in 1974. I have not had occasion to form an opinion on how this statute might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for me to comment on a matter that is pending or impending in any court. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

g. The federal government's ability to enact laws or regulations that burden Second Amendment rights.

Response: When a law or regulation affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (citation omitted). The court then must decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing chiefly on "why and how" the regulation burdens the Second Amendment right. *Id.* at 698.

h. The federal government's ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.

Response: In *Employment Division v. Smith*, the Supreme Court concluded that as a constitutional matter, the government may enact neutral, generally applicable laws even if they burden religious practice. That decision proved controversial, and Congress passed the Religious Freedom Restoration Act in response, subjecting those laws to strict scrutiny. Under the *Lukumi* and *Tandon* decisions, a government regulation is not neutral or generally applicable if, though facially nondiscriminatory, it is gerrymandered to target a religion, as in *Lukumi*, or if it "treat[s] any comparable secular activity more favorably than religious exercise," as in *Tandon*.

6. As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.

Response: No.

a. Have you ever publicly voiced support or opposition regarding a federal court's issuance of a nationwide injunction or similar relief? If yes, please describe.

Response: No.

b. Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'etat?

Response: The scope of any Article III limitations on non-party or “nationwide” injunctions is the subject of litigation before multiple federal courts, including the Supreme Court. *See Trump v. Casa, Inc.*, No. 24A884 (argued May 15, 2025). As a judicial nominee, it would not be appropriate for me to opine on matters “pending or impending in any court.” *See* Code of Conduct of U.S. Judges, Canon 3A(6).

c. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?

Response: Please see my response to Question 6(b).

d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?

Response: Please see my response to Question 6(b).

7. Please describe your understanding of natural law.

Generally speaking, natural law is a legal theory that recognizes certain principles as morally inherent and universal, in contrast to positive laws that are created by society or government. For example, from a natural-law perspective, murder would be wrong even if not expressly proscribed by statute, while it would be permissible from a positive-law view.

a. What authority does natural law carry in federal case law?

Response: Natural-law principles are central to our Nation’s foundational documents, including the Declaration of Independence’s recognition “that all men are created equal [and] are endowed by their Creator with certain unalienable Rights” and the Due Process Clauses’ protections for “life, liberty, or property” (inspired by Lockean political philosophy). As a result, the Supreme Court has relied on this perspective in interpreting the Constitution. *See, e.g., 303 Creative LLC v. Elenis*, 600 U.S. 570, 584 (2023) (observing that “the freedom to think and speak is among our inalienable human rights”); *District of Columbia v. Heller*, 554 U.S. 570, 128 (2008) (explaining that some constitutional provisions were understood to have “codified a *pre-existing* right”).

b. When do you think it is appropriate for a federal judge to rely on natural law?

Response: As noted in my response to Question 7(b), the Supreme Court has relied on natural-law reasoning in interpreting several constitutional rights.

c. If confirmed, do you plan to incorporate natural law into your decisions?

Response: If confirmed, I would follow Supreme Court and Eighth Circuit precedent regarding the incorporation of natural law into judicial decisions.

8. Please describe your understanding of originalism.

Response: Originalism is a method of constitutional interpretation that requires a judge to apply their best understanding of the original public meaning of a constitutional provision.

a. Do you consider yourself an originalist?

Response: In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. The Court has routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding.

b. Do you believe that people who do not support or adhere to originalism do not like America?

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a judicial nominee, to comment on jurists, statements by political figures, or the broader political debate regarding the permissible criticism of judges.

c. Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?

Response: The opinion in *Citizens United v. FEC* discusses the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Citizens United* is consistent with originalism, and in any event, I would follow that and other binding precedents of the Supreme Court.

d. Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?

Response: The opinion in *Trump v. United States* discusses the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Trump* is consistent with originalism, and in any event, I would follow that and other binding precedents of the Supreme Court.

9. Please describe your understanding of textualism.

Response: Textualism calls for a judge to interpret the text as it was written, assigning the meaning it had at the time of its enactment. Context surrounding a law's passage can be probative to a textualist to the extent that context sheds light on the original public meaning of the statutory text.

a. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court and Eighth Circuit. The Supreme Court has instructed that the best meaning of statutory text, as assessed by the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other relevant instructions.

b. How should a court analyzing a federal statute account for the “Findings” or “Purposes” sections of such statutes?

Response: The Supreme Court has instructed that such sections, as well as other indicia of meaning like section titles or captions, can permissibly factor as inputs when interpreting the best meaning of a statutory provision. *See, e.g., Yates v. United States*, 574 U.S. 528, 539 (2015); A. SCALIA & B. GARNER, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 217 (discussing “prefatory-materials canon”). It would be inappropriate for me, as a pending judicial nominee, to comment further on particular hypotheticals about how a “Findings” or “Purposes” section might or might not affect a statutory analysis.

10. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: My general understanding is that district courts, as the trial courts, maintain primary responsibility for resolving questions of fact and credibility. In contrast to legal questions, which are reviewed *de novo*, district courts’ resolution of disputed questions of fact or credibility are generally reviewed by appellate courts under more lenient standards such as “clear error” or “abuse of discretion.” Under those standards, appellate courts generally “may not set those findings aside unless, after examining the entire record,” the court is “left with the definite and firm conviction that a mistake has been committed.” *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 18 (2024) (citation omitted).

a. What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?

Response: Depending upon the constitutional status of the right at issue, courts engage in varying levels of review of legislative facts. Laws that do not implicate fundamental rights or any suspect characteristic, for instance, are subject to rational-basis review. Under that standard, courts are to afford legislation a “strong presumption of validity,” and may uphold rational legislation even in “the absence of ‘legislative facts.’” *FCC v. Beach Communications, Inc.*, 508 U.S. 307, 314 (1993). By contrast, courts engage in a more stringent assessment of lawmakers’ rationales and evidentiary bases under heightened standards of constitutional review like intermediate and strict scrutiny.

b. Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?

Response: Whether the Supreme Court's treatment of given facts would bind lower courts in other cases would turn on a case-specific analysis on which it would be inappropriate for me, as a judicial nominee, to opine in the abstract.

c. What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?

Response: I would consult the parties' briefs regarding the binding import of any cited precedent, as well as any governing caselaw from the Supreme Court and the Eighth Circuit or decisions discussing the role of precedents in analogous contexts with asserted factual differences. My general understanding of the standard of this area is that, "[f]or one decision to be precedent for another, the facts in the two cases need not be identical" but "must be substantially similar, without material difference." B. GARNER ET AL., *THE LAW OF JUDICIAL PRECEDENT* 93 (2016).

11. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: Under *Bruen*, when a law affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17 (2022). Since that decision, the Supreme Court has explained that the relevant historical analysis requires courts to decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing chiefly on "why and how" the regulation burdens the Second Amendment right. *United States v. Rahimi*, 602 U.S. 680, 698 (2024) (citation omitted).

a. As part of these historical analyses, will you solicit input from amici curiae?

Response: As a federal prosecutor, I have had significant experience litigating *Bruen* challenges to various statutes. Generally speaking, at least at the district court level, this litigation has not necessitated input from amici curiae. As the Supreme Court explained, "discerning and developing the law [by way of historical analogy] is a commonplace task for any lawyer or judge." *Id.* at 692; *see also Bruen*, 597 U.S. at 26 n.6 (emphasizing that, in our adversarial system, courts are generally "entitled to decide a case based on the historical record compiled by the parties"). This observation is particularly true for a district court judge, as the Eighth Circuit issued binding precedent on many of the most common restrictions on possessing a firearm. *See, e.g., United States v. Jackson*, 110 F.4th 1120, 1125 (8th Cir. 2024) (rejecting both facial and as-applied challenges to the felon-dispossession provision in 18 U.S.C. § 922(g)(1)).

b. How will you assess the veracity of historical claims made by parties?

Response: Please see my response to Question 11(a).

c. How will you assess the veracity of historical claims made by amici curiae?

Response: Please see my response to Question 11(a).

12. The U.S. Sentencing Commission recently prioritized the “[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry.” Courts can tailor these programs to meet specific needs of defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: As a federal prosecutor, I have had some experience with the Eastern District of Missouri’s court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry. If confirmed, I would be open to participating in these programs in appropriate cases.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

Response: Please see my response to Question 12(a).

13. **If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?**

Response: Yes, to the extent my schedule permits me to do so.

14. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

a. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: Since at least high school, I have made it a priority to engage with ideas and viewpoints that are different from my own. The desire to learn from different perspectives is why I attended Georgetown for college; my curiosity about the world led me to live in several different countries; I have friends across the political spectrum; I seek out news from sources that have different worldviews; and I certainly have been exposed to divergent judicial philosophies during my legal career. Probably the most concrete step I plan to take in this regard moving forward is to continue attending CLEs hosted by various groups, including both the Federal Bar Association and the Federalist Society—both of which invite speakers who have divergent views.

- b. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?**

Response: Please see my response to Question 14(b).

- c. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?**

Response: If confirmed, I plan to consider all clerkship applications I receive and hire the most qualified applicants who are also a good personality fit for chambers.

- 15. If confirmed, do you plan to “boycott” the hiring of law clerks from any specific schools? If so, which schools and why?**

Response: No. At least initially, I plan to consider applications from any accredited law school, as I believe it is important to cast a wide net with respect to clerkship opportunities.

- a. Do you believe such boycotts are appropriate?**

Response: I am not familiar with such boycotts and thus cannot comment on them.

- 16. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.**

- a. What professional experience do you have overseeing and managing others?**

Response: I have supervised other attorneys for nearly my entire legal career, helping manage the State of Missouri’s appellate caseload as a Deputy Solicitor General and having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney’s Office. Between the two, I have supervised more than 1,000 civil and criminal cases. Additionally, prior to law school, I spent a few years earning my MBA and helping run my family’s company after losing my father to leukemia.

- b. How do you plan to recruit and hire law clerks?**

Response: Given that my nomination is still pending before the Judiciary Committee, I have made no concrete plans with respect to clerkship hiring. However, my goal would be to find the most competent and qualified clerks, casting a wide net in terms of law schools, professional background, and life experience.

17. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?

Response: I do not currently have plans to incorporate artificial intelligence into my work, although I recognize this technology is emerging as an important tool and that it may well be useful to me down the road, subject to any relevant ethical considerations.

18. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.

Response: No, not to the best of my recollection, although I either deleted or deactivated nearly all of my social media accounts during my prior work experience in national security positions.

19. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.

Response: No, not to the best of my recollection. However, as reflected in my Senate Judiciary Questionnaire, I did write several blogposts for *Lawfare* under a staff account to avoid any attribution of my views to my employer at the time.

20. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.

Response: No.

a. Sexual harassment?

Response: No.

b. Sex-based discrimination?

Response: No.

c. Race-based discrimination?

Response: No.

d. Discrimination on the basis of national origin?

Response: No.

e. Discrimination on the basis of religion?

Response: No.

f. Workplace misconduct of any kind?

Response: No.

21. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: No.

c. Mike Davis

Response: No.

d. The Article III Project

Response: No.

22. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has held that the Fourteenth Amendment's Due Process Clause "provides substantive, as well as procedural, protection for 'liberty,'" with the former including certain enumerated rights and other fundamental rights that are "deeply rooted in [our] history and tradition . . . and essential to our Nation's scheme of ordered liberty." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237 (2022) (citations and internal quotations omitted).

23. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: The Supreme Court has held that the liberty component of the Due Process Clause of the Fourteenth Amendment protects various rights not further enumerated in the constitutional text. *See, e.g., Meyer v. Nebraska*, 262 U.S. 390 (1923); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925). Such rights include a constitutional right to privacy that protects a woman's right to use contraceptives, *see Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Eisenstadt v. Baird*, 405 U.S. 438 (1972); a constitutional right to privacy that protects intimate relations between consenting adults, *see Lawrence v. Texas*, 539 U.S. 558 (2003), and the right to enter into a same-sex marriage, *see Obergefell v. Hodges*, 576 U.S. 644 (2015).

24. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: The President has authority to take care that the laws be executed. That power has generally been understood to ensure that those who work for the President carry out the President's directions. The President, like any other client, generally can fire lawyers who do not to advocate the interests of the client.

25. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

26. What protections does the Constitution offer to safeguard the freedom of the press?

Response: The First Amendment prohibits laws that impermissibly "abridge[e] the freedom of speech, or of the press," among other things. U.S. CONST., amend. I. The Supreme Court has interpreted the First Amendment as imposing distinct limits on the government's ability to restrict or compel speech of the press and has required heightened judicial scrutiny in the case of content- or viewpoint-based regulations of speech. *See, e.g., Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974),

27. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: The Supreme Court has addressed the First Amendment rights of public employees in cases including *Pickering v. Board of Ed. of Township High School Dist. 205*, 391 U.S. 563 (1968); *Garceiti v. Ceballos*, 547 U.S. 410 (2006); and *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022). If confirmed, I would follow those and any other relevant precedents of the Supreme Court and the Eighth Circuit. Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on abstract legal issues or hypotheticals.

28. Do you agree that campaign finance donor disclosure requirements "impose no ceiling on campaign-related activities" and "do not prevent anyone from speaking," as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: If confirmed as a district judge, all Supreme Court pronouncements would be binding on me including any portions of the majority opinion in *Citizens United*. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee and a sitting federal judge, to comment on the merits or demerits of the Supreme Court's binding precedents

29. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court has stated that “*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution.” *Trump v. Hawaii*, 585 U.S. 667, 710 (2018).

- a. Do you agree with Chief Justice Roberts that “[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful”?**

Response: I would follow *Trump v. Hawaii* like I would follow every other binding precedent of the Supreme Court, including the Supreme Court’s determination that *Korematsu* “was gravely wrong.”

30. The Seventh Amendment ensures the right to a jury “in suits at common law.”

- a. What role does the civil jury play in our constitutional system?**

Response: Juries play an integral role in safeguarding our rights, which is why a broad right to civil juries is enshrined in the Seventh Amendment.

- b. Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?**

Response: Questions related to the enforcement of arbitration clauses frequently arise in litigation. As a judicial nominee, it would not be appropriate for me to opine on matters likely to arise in pending or future cases. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

- c. Should an individual’s Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?**

Response: Please see my response to Question 30(b).

31. Did Joe Biden win the 2020 presidential election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

32. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: I have served as a federal prosecutor both before and since January 6, 2021. Given that the United States is my client and that it was responsible for prosecuting individuals for their actions that day, it would be inappropriate for me to comment on the specific events that took place. However, I can say that violence directed toward law enforcement officers is never

acceptable, and having worked for the Seante, I have a profound appreciation for the national treasure that is the United States Capitol building.

a. Where were you on January 6, 2021?

Response: I was at work at the U.S. Attorney's Office in St. Louis. That day, I attended a training on evidentiary issues for criminal litigators and oversaw a moot court for an Eighth Circuit oral argument.

33. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: The text of the Twenty-Second Amendment speaks for itself.

Senate Judiciary Committee
Nomination Hearing
June 4, 2025
Questions for the Record
Senator Amy Klobuchar

For Zachary Maxwell Bluestone, nominee to be U.S. District Judge for the Eastern District of Missouri

1. When you were working in the Attorney General's Office you argued a case seeking to invalidate the University of Missouri's gun-free school zone. I led the *STOP School Violence Act* with Senator Hatch in 2018, and have worked on a bipartisan basis to secure over \$400 million in federal funding to stop gun violence in our schools.

- **What is your current understanding of the state of the law regarding the ability of Congress to enact legislation to protect campuses from gun violence?**

Response: Respectfully, I disagree with the above description of the referenced litigation. The State's role in that case was initiated by then-Attorney General Chris Koster, who intervened in an action brought by a University of Missouri law professor seeking a limited exception for university employees to store firearms in a locked vehicle while on campus. The Missouri Court of Appeals later held that the University violated state law by prohibiting vehicle storage for staff, as its regulation was expressly preempted by state law. *State ex rel. Schmitt v. Choi*, 627 S.W.3d 1 (Mo. Ct. App. 2021). As such, this litigation in no way affects the authority of Congress to enact firearms legislation regarding campuses or otherwise.

When a firearm regulation affects conduct protected by the Second Amendment, the Government bears the burden of showing that the restriction "is consistent with the Nation's historical tradition of firearm regulation." *United States v. Rahimi*, 602 U.S. 680, 692 (2024) (citation omitted). The court then must decide whether the challenged provision is "relevantly similar" to Founding Era regimes, focusing on "why and how" the regulation burdens the Second Amendment right. *Id.* at 698. At the same time, the Supreme has recognized certain "presumptively lawful regulatory measures," including "laws forbidding the carrying of firearms in sensitive places such as schools." *District of Columbia v. Heller*, 554 U.S. 570, 626–27 & n.26 (2008).

2. Chief Justice John Roberts wrote in his most recent end-of-year report that disregarding federal court rulings is "dangerous" and "must be soundly rejected."

- **Do you agree with Chief Justice Roberts that any suggestion of disregarding a court's ruling "must be soundly rejected"?**

Response: I have not reviewed Chief Justice Roberts' most recent end-of-year report on the federal judiciary. Generally speaking, if confirmed, I would expect parties appearing before me to comply with court orders.

3. Our criminal justice system must ensure the fair administration of justice and keep our communities safe. Many on this Committee have been working for years to reform our sentencing laws, including giving trial court judges additional discretion.

- **How will you approach sentencing decisions?**

Response: As a federal prosecutor, I fully appreciate that sentencing decisions require an individualized assessment of both the aggravating and mitigating factors in a particular case. *See Gall v. United States*, 552 U.S. 38, 50 (2007). If confirmed as a district judge, I would begin all sentencing hearings by calculating the advisory range under the United States Sentencing Guidelines, give the parties the opportunity to make sentencing arguments, consider the section 3553(a) factors, and then fashion a sentence accordingly.

- **Will you commit to sentencing in a fair manner that is consistent across all similarly situated defendants?**

Response: Yes, consistent with section 3553(a)(6), I would strive to avoid unwarranted sentencing disparities across similarly situated defendants.

**Nomination of Zachary Bluestone to the
United States District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR COONS

1. **At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

Response: No.

- a. **At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

Response: No.

2. In your Senate Judiciary Questionnaire, you note that, on May 6, 2025, President Trump called you to tell you that you would be nominated to the federal bench.

- a. **How long did that call last?**

Response: The call lasted only a few minutes.

- b. **Who else, if anyone, participated in the call other than you and President Trump?**

Response: To my knowledge, no one else participated in the call.

- c. **What was discussed on the call?**

Response: The President indicated he intended to nominate me as a district judge, discussed my academic and professional credentials, congratulated me and my family on the nomination, and wished me luck in life.

- d. **What questions, if any, were you asked by President Trump during the call and how did you answer them?**

Response: The President did not ask me any substantive questions or anything specific that I can recall.

3. **How would you describe your judicial philosophy?**

Response: Broadly speaking, I believe judges should strive to follow the law as written, applying it fairly and impartially to parties before the court.

4. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes. The Supreme Court has consistently considered this as a factor in determining whether a right is fundamental. *See Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 237–40 (2022) (collecting cases).

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: Yes. The Supreme Court recently reinforced the importance of considering whether a right is “deeply rooted in our history and tradition and whether it is essential to our Nation’s scheme of ordered liberty,” both for enumerated and unenumerated rights. *Id.*

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: If confirmed as a district judge, I would faithfully apply any applicable precedent of the Supreme Court and the Eighth Circuit. In the absence of such precedent, I would consider relevant decisions from other circuits as persuasive authority.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider and follow all of the relevant factors set forth by the Supreme Court and Eighth Circuit in this area and would consider the decisions of other circuits as potentially persuasive.

5. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: A district court is always bound by Supreme Court precedent and the precedent of the relevant circuit court. A district court may not depart from Supreme Court precedent and may depart from circuit precedent only where it has been overridden by a subsequent decision of the Supreme Court.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, “[h]igher education at the time was considered dangerous for women,” a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, “As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser.” This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: If confirmed as an inferior court judge, I would follow all Supreme Court precedent and Eighth Circuit precedent. If those precedents require courts to consider evidence about changing understanding of society, I would faithfully do so.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: If confirmed, I would faithfully apply relevant precedent of the Supreme Court and the Eighth Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702 and the applicable precedent construing that rule.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts’ existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes. Similar to terms of imprisonment, the United States Sentencing Guidelines provide advisory ranges for terms of supervised release, which I would consider in addition to the statutory sentencing factors for every defendant.

b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Yes. Based on my conversations with the United States Probation Office as a federal prosecutor, the possibility of early termination in appropriate cases can be a valuable incentive for compliance with supervision and rehabilitation.

c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

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

Response: I am unfamiliar with any case that has squarely held that the President has violated the Take Care Clause. The Department of Justice has argued in the past that claims under that clause are not justiciable. In *United States v. Texas*, the argument was raised, but the Supreme Court never issued an opinion addressing that question because the case was affirmed by an evenly divided 4-4 vote without opinion. 579 U.S. 547 (2016). I am unaware of any court that has ruled on what the remedy would be in such a case.

9. Is President Trump eligible to be elected President for a third term?

Response: The text of the Twenty-Second Amendment speaks for itself.

10. Who won the 2020 U.S. Presidential Election?

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States.

11. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: This hypothetical provides insufficient information to assess the question. The question does not provide the content of the “viewpoint,” describe what the purported punishment is, or how it is carried out. As a judicial nominee, I believe that drawing a legal conclusion regarding whether it would be constitutional for the President to punish a private person for a viewpoint that person expresses in a newspaper op-ed would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

12. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: This question asks about a current political dispute that may be the subject of litigation in federal court. As a judicial nominee, I do not believe it would be appropriate for me to opine on this matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

13. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: This question asks about a current political dispute that may be the subject of litigation in federal court. As a judicial nominee, I do not believe it would be appropriate for me to opine on this matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

14. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: In *Griswold v. Connecticut*, the Supreme Court held that there is a right to marital privacy that includes the use of contraceptives. 381 U.S. 479, 485–86 (1965). If confirmed, I would faithfully follow that decision and other Supreme Court precedent.

15. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The only case I am aware of that addresses that question is *Morrissey v. United States*, which decided the question in the negative. 871 F.3d 1260 (11th Cir. 2017). I am not aware of a court addressing that question in the Eighth Circuit. To the extent the question asks about current political disputes, as a judicial nominee, I do not believe it would be appropriate for me to opine on the matter. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

16. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: Judges are to adjudicate all claims fairly, regardless of the identity of the party. *See* 28 U.S.C. § 453. As for due process, the Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall “be deprived of life, liberty or property, without due process of law” and that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. CONST., amends. V, XIV. The Supreme Court has stated that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Eighth Circuit in addressing due process claims. To the extent this question asks about

hypothetical cases or matters that are the subject of ongoing litigation, as a judicial nominee, it would be improper for me to comment further. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

17. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: The proper role of a judge in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the relevant constitutional provision, statute, or regulation. Judges should not decide cases based on their personal views regarding morality or policy preferences. Judges are not policymakers; they have limited judicial authority. Abiding that role is essential to maintaining public confidence in the rule of law.

18. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: In certain contexts, such as in assessing the propriety and scope of injunctive relief, a court's application of the relevant legal standards requires consideration of the practical consequences of a particular order on the parties and the public. *See, e.g., Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Outside of those contexts, though, a court must apply the relevant legal standards faithfully and impartially, even if he or she might think that the practical consequences of following the law are undesirable as a policy matter.

19. What role, if any, should empathy play in a judge's decision-making process?

Response: A judge should never lose sight of the fact that litigation is not an academic exercise; it has immediate and often profound consequences in the lives of real people. For district judges in particular, a sense of empathy can help ensure that all parties feel that they are being treated with respect and decency. At the same time, a judge takes an oath to "administer justice without respect to persons," 28 U.S.C. § 453, and a judge must apply the law to the facts of a given case without favor or prejudice.

20. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: Please see my response to Question 19.

21. In your Senate Judiciary Questionnaire, you disclosed that you are a member of the Federalist Society, a group whose members often advocate an "originalist" interpretation of the Constitution. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the "circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light" on the amendment's original meaning, "it is not enough to resolve the problem with which we are faced. At best, they are inconclusive We must consider

public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.” 347 U.S. at 489, 490-93. **Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?**

Response: I am generally aware that there has been robust scholarly discussion on this issue with prominent scholars such as Alexander Bickel and Michael McConnell reaching opposite conclusions. From my perspective, it is an academic point because *Brown* and other Supreme Court decisions are binding, and I would follow them faithfully if confirmed as a district judge.

a. Should the public’s understanding of a constitutional provision’s meaning at the time of its adoption ever be dispositive when interpreting that constitutional provision today?

Response: The Supreme Court has instructed that the original public meaning of a constitutional provision is highly relevant in interpreting it today. *See, e.g., Dobbs*, 597 U.S. at 238–40 (collecting cases); *Timbs v. Indiana*, 586 U.S. 146, 150–54 (2019). As the Court recently observed, while a constitutional provision’s “meaning is fixed according to the understandings of those who ratified it, the Constitution can, and must, apply to circumstances beyond those the Founders specifically anticipated.” *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 28 (2022).

b. Does the public’s original understanding of the scope of a constitutional provision constrain its application decades later?

Response: Please see my response to Question 21(a).

c. What sources would you employ to discern the contours of a constitutional provision?

Response: If confirmed as a district judge, first and foremost, I would look to applicable Supreme Court and Eighth Circuit precedent interpreting the Constitution. If that does not resolve the question, I would examine the text, structure, and original public meaning of the relevant provision, as instructed by the Supreme Court.

22. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: If confirmed, I cannot imagine a scenario in which I would inform a party that they do not need to comply with a court order, which I would expect them to follow.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my response to Question 22.

b. What would you do if a party refuses to comply with one of your orders?

Response: A district court has inherent power to enforce compliance with its lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g., Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

23. Discuss your proposed hiring process for law clerks.

Response: Given that my nomination is still pending before the Judiciary Committee, I have made no concrete plans with respect to clerkship hiring. However, my goal would be to find the most competent and qualified clerks, casting a wide net in terms of law schools, professional background, and life experience.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: According to the Administrative Office of the United States Courts, Employment Dispute Resolution (EDR) plans often provide similar protections to Title VII of the Civil Rights Act. For example, the Eastern District of Missouri’s EDR Plan defines “wrongful conduct” to include violations of Title VII. *See* E.D. Mo. Employment Dispute Resolution Plan (revised Feb. 14, 2025), *available at* <https://www.moed.uscourts.gov/sites/moed/files/documents/EDR-Plan.pdf>. As to policy changes like the last year’s proposed Judiciary Accountability Act, I defer to the political branches as to the propriety of such legislation.

24. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: If confirmed, I would consider adding language to my standing order that encourages firms to allow junior lawyers to appear for oral argument. Alternatively, I would consider encouraging more experienced lawyers to involve junior associates in both briefing and arguments for the court.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: Up to this point in my legal career, I have provided mentorship to law students and junior attorneys when possible, and I would certainly be open to giving

advice and feedback to younger lawyers appearing before me. Additionally, pro bono work and court appointments can be a great opportunity for attorneys to gain valuable, first-chair experience.

Questions for the Record for Mr. Zachary M. Bluestone
Submitted by Senator Richard Blumenthal
June 11, 2025

1. The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges' ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: In *Ex parte Robinson*, the Supreme Court found the contempt power to be "inherent in all courts," emphasizing that "its existence is essential to the preservation of order in judicial proceedings . . . and consequently to the due administration of justice." 86 U.S. 505, 511 (1873). As a judicial nominee, it would be inappropriate for me to opine on the correctness of a Supreme Court decision.

b. Do you believe that federal judges should be limited in their ability to hold government officials in contempt?

Response: The *Robinson* Court also recognized that the contempt power can be "limited and defined by [an] act of Congress," at least with respect to circuit and district court judges. *Id.* at 510. More recently, in reaffirming *Robinson*, the Supreme Court recognized other limitations on a court's ability to impose contempt sanctions, including procedural protections for indirect contempts, particularly for "widespread, ongoing, out-of-court violations of a complex injunction." *United Mine Workers v. Bagwell*, 512 U.S. 821, 831, 837–39 (1994). While I commit to following this and other applicable precedent related to contempt sanctions, I defer to the political branches as to the propriety of the above-referenced legislative proposal that is currently pending before Congress.

2. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: Yes.

ii. What powers would you have to enforce those orders?

Response: A district court has inherent power to enforce compliance with its lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g., Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.” *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see my response to Question 2(b).

d. What would make a court order unlawful?

Response: Please see my response to Question 2(b).

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Please see my response to Question 2(b). Ordinarily, parties who are dissatisfied with a federal court order have the option to appeal the order to higher courts, including the option to seek a stay pending appeal or, in extraordinary circumstances, mandamus relief.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my response to Question 2(b).

3. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

**Senator Mazie K. Hirono
Questions for the Record
Zachary M. Bluestone**

Nominee to the U.S. District Court for the Eastern District of Missouri

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

- a. **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?**

Response: No.

- b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

Response: No.

2. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

- a. **As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.**

Response: If confirmed, I would expect parties appearing before me to comply with court orders. That said, a district court has inherent power to enforce compliance with lawful orders that can be either expanded or limited by statute and rule, varying significantly based on the context. *See, e.g., Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1340–41 (8th Cir. 1975) (collecting cases with a focus on authority for subpoena compliance); *United States v. Yielding*, 657 F.3d 722, 726–29 (8th Cir. 2011) (affirming the issuance of a TRO in a criminal case to enforce a restitution order while reversing other orders); *see also Chambers v. NASCO, Inc.*, 501 U.S. 32, 42–47 (discussing interplay between inherent and express authority).

- i. **When should each of these tools be used?**

Response: As noted in my response to Question 2(a), the application of a court’s enforcement powers varies significantly based on the circumstances of a case and the specific nature of a violation.

- b. **Is it ever permissible for a party in a case to disregard a court order?**

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to the parties to a

case. However, the Supreme Court has explained that, under limited circumstances, “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.” *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. See Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

i. How should a federal judge respond if a party disregards an order issued by the judge?

Response: Please see my responses to Questions 2(a), 2(a)(i), and 2(b).

ii. Is the President of the United States allowed to disregard a court order?

Response: Please see my response to Question 2(b).

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: Please see my responses to Questions 2(a), 2(a)(i), and 2(b).

c. What does it mean for a judge to hold a party in contempt of court?

Response: While the distinction is not always readily apparent, there are two types of contempt: civil and criminal. *United Mine Workers v. Bagwell*, 512 U.S. 821, 827 (1994); see generally Kocher, *supra*, at 1024–31. “Criminal contempt is a crime in the ordinary sense,” necessitating “the protections that the Constitution requires of such criminal proceedings.” *Bagwell*, 512 U.S. at 826 (citations omitted). “In contrast, civil contempt sanctions, or those penalties designed to compel future compliance with a court order, are considered to be coercive and avoidable through obedience, and thus may be imposed in an ordinary civil proceeding upon notice and an opportunity to be heard.” *Id.* at 827.

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: Please see my responses to Questions 2(a) through (c) and their subparts. To the extent these responses do not answer the question, this issue is the subject of litigation before federal courts, and as a judicial nominee, it would not be appropriate for me to opine on matters “pending or impending in any court.” See CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6).

1. If so, where does that authority come from?

Response: Please see my response to Question 2(c)(i).

2. If not, why not?

Response: Please see my response to Question 2(c)(i).

ii. What tools does a judge possess to punish contumacious conduct?

Response: Please see my response to Question 2(c).

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: Please see my response to Question 2(c)(i).

2. If not, why not?

Response: Please see my response to Question 2(c)(i).

Nomination of Zachary M. Bluestone
Nominee to be U.S. District Judge for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. If you are confirmed to the federal bench, you would be one of the least experienced federal district judges in the nation. Having graduated from law school in 2016, you have about nine years of legal experience; of those nine years, you have only seven years of legal practice experience, excluding judicial clerkships.

a. If you are confirmed, what concrete and affirmative steps do you plan to take to try to overcome the relative experience gap with your colleagues?

Response: Respectfully, I disagree with the premise of the question. The quantity, quality, and relevance of my legal experience exceeds that of many judges who have been confirmed in recent years and makes me uniquely qualified for this important role.

In terms of quality, as a public servant, I have been entrusted with significant responsibility throughout my legal career. During my first week as a Deputy Solicitor General, I led a major deposition; within my first month, I served on a trial team in a high-profile case; and within three months, I briefed and argued an appeal. And I have been blessed with a steady flow of high-level opportunities ever since. Moreover, I have supervised other attorneys for nearly my entire legal career, having been promoted to Appellate Chief just 9 months after joining the U.S. Attorney's Office.

As for quantity, I have worked Big Law hours in government jobs, which has resulted in the extensive court experience Ranking Member Durbin acknowledged during the confirmation hearing. Most significantly, I have supervised more than 1,000 civil and criminal cases, which has involved reviewing at least 750 substantive filings, overseeing 150 moot courts, and spending time supervising attorneys in the courtroom. And while not expected, I have maintained a significant caseload on the side—including dozens of appeals, ten oral arguments, dispositive motions, five trials, a litany of postconviction challenges, and the prosecution of more 50 defendants.

In terms of relevance, for more than 7 years, I have worked in the same courthouse where I would sit if confirmed (in addition to meeting my wife there while clerking for the Eighth Circuit). I have had hundreds of appearances at every manner of proceeding, from arraignments to hearings on dispositive motions, guilty pleas to *Frye* hearings and trials, and sentencings to postconviction and other civil proceedings. I have also represented the U.S. Attorney's Office both at meetings on ad hoc court policies and on the Federal Practice Committee that consults on local rules—with both experiences allowing me to build relationships with various civil and criminal stakeholders in my legal community.

Lastly, prior to law school, I spent a few years earning my MBA and helping run my family's company after losing my father to leukemia. While obviously not a legal role, this experience provided me insight as a client of legal services, and it taught me many practical lessons that make me a far better lawyer than I otherwise would have been.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

- a. **Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?**

Response: As a judicial nominee, I do not believe it would be appropriate for me to comment on this political issue under Canon 5 of the Code of Conduct for United States Judge, particularly given that the ABA may be in the process of evaluating my nomination.

- b. **How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?**

Response: I cannot speak to the years of legal experience the ABA currently recommends.

3. **How would you characterize your judicial philosophy?**

Response: Broadly speaking, I believe judges should strive to follow the law as written, applying it fairly and impartially to parties before the court.

4. **Do you consider yourself an originalist? If so, what do you understand originalism to mean?**

Response: The term "originalism" has different meanings to different people. The most common usage refers to interpreting a text based on its original public meaning. In this respect, originalism is akin to textualism. The Supreme Court has instructed that, in interpreting the Constitution, the analysis begins with the text and the original meaning of the provision at issue. *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 17, 25, 28 (2022); *see*

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

also *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238–40 (2022) (collecting cases). Lower court judges must follow the precedents of the Supreme Court without regard to whether they were decided with an originalist approach or not. That is what I would do if confirmed as a district judge.

5. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Response: As noted above, textualism is similar to originalism. The main difference is that people tend to use the term “textualism” when talking about statutes and “originalism” when talking about the Constitution. I agree with Justice Kagan that “we’re all textualists now.”

6. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress’s intent. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: Reliance on legislative history is unnecessary when a statute’s language is unambiguous. *Whitfield v. United States*, 543 U.S. 209, 215 (2005) (where the text “is plain and unambiguous, we need not accept [a party’s] invitation to consider the legislative history”). To the extent that legislative history may be properly considered, it “is meant to clear up ambiguity, not create it.” *Milner v. Dep’t of Navy*, 562 U.S. 562, 574 (2011). If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Eighth Circuit concerning the use of legislative history, and I would consider any arguments raised by the parties concerning legislative history in accordance with such precedent.

7. According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.² Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.³ This disparity still persists. Even though rates of illicit drug use do not substantially differ by race and ethnicity,⁴ a 2023 study reports that one in four people

² Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>.

³ *Id.*

⁴ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.⁵

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.⁶ In my home state of New Jersey, "the rate of imprisonment among Black people is more than nine times" that of white people.⁷

a. To what do you attribute the statistics above?

Response: I am not familiar with these studies and thus cannot offer an informed view on this question. However, from a quick look, it appears that the studies cited above are merely descriptive and do not attempt to test for any causal relationships.

8. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁸ What do you attribute this to?

Response: Please see my response to Question 7.

9. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.⁹ What do you attribute this to?

Response: Please see my response to Question 7.

10. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

Response: In all cases, it is the duty of a judge to treat all litigants with dignity, fairness, respect, and equal justice. Judges must continually strive to strictly comply with that duty.

⁵ Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), <https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/>.

⁶ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

⁷ *Id.* at 9.

⁸ Sonja B. Starr & M. Marit Rehaavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁹ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

11. Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.

Response: Yes. While I believe merit is the most important consideration, all Americans should have an equal opportunity to serve on the bench regardless of their immutable characteristics, and I agree it is beneficial to have judges from various backgrounds and walks of life.

12. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?

Response: If confirmed, I would be committed to showing respect, civility, and empathy to all parties appearing before me.

13. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, "orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt." *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ if confirmed to the federal bench to determine whether that official should be held in contempt?

Response: While the distinction is not always readily apparent, there are two types of contempt: civil and criminal. *United Mine Workers v. Bagwell*, 512 U.S. 821, 827 (1994); *see generally* Kocher, *supra*, at 1024–31. "Criminal contempt is a crime in the ordinary sense," necessitating "the protections that the Constitution requires of such criminal proceedings." *Bagwell*, 512 U.S. at 826 (citations omitted). "In contrast, civil contempt sanctions, or those penalties designed to compel future compliance with a court order, are considered to be coercive and avoidable through obedience, and thus may be imposed in an ordinary civil proceeding upon notice and an opportunity to be heard." *Id.* at 827.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges?

Response: Please see my response to Question 13.

14. Does the president have the power to ignore or nullify laws passed by Congress?

Response: Under the Presentment Clause in Article I, the President has the power to veto bills passed by Congress, subject to a veto override and other limitations.

15. Does the president have the power to withhold funds appropriated by Congress?

Response: Congress passed the Impoundment Control Act in 1974. I have not had occasion to form an opinion on how this statute might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for me to comment on a matter that is pending or impending in any court. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

16. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: If federal and state law conflict, under Article VI, federal law displaces or preempts contrary state law.

- a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. **Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?**

Response: Based on recent press reports regarding the rescinding of Executive Branch guidance related to EMTALA preemption, I do not believe it would be appropriate for me to opine on a matter that is likely impending in federal court. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

17. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Fifth Amendment provides, in relevant part, “No person shall ... be deprived of life, liberty, or property, without due process of law.” The Supreme Court has stated that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zachrydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

18. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: In *Whitman v. American Trucking*, the Supreme Court held that the text of the Constitution “permits no delegation” but that no delegation has occurred when Congress

“lay[s] down by legislative act an intelligible principle to which the person or body authorized to act is directed to conform.” 531 U.S. 457, 472 (2001) (brackets omitted).

19. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: As a judicial nominee, it generally would be inappropriate for me to opine on the correctness of a Supreme Court decision. However, a long line of nominees before me has recognized an exception for *Brown* given its unique role in American jurisprudence in righting the historic injustice of racial segregation. I believe the *Brown* Court was right to reject the vile separate-but-equal doctrine.

20. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: Yes. In *Griswold*, the Supreme Court held that there is a right to marital privacy that includes the use of contraceptives.

21. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: Yes. In *Lawrence*, the Supreme Court overruled its prior holding in *Bowers v. Hardwick* and found that state laws criminalizing sodomy between consenting adults were unconstitutional.

22. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: Yes. In *Obergefell*, the Supreme Court held that the right to marriage is guaranteed to same-sex couples.

23. Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.

Response: Under Article II and the Twelfth Amendment, Congress is responsible for counting electoral votes after a presidential election. Congress certified President Biden as the victor of the 2020 election, and he served as the 46th President of the United States. And I cannot offer a description of any particular case without more information.

24. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”¹⁰

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Yes.

¹⁰ U.S. CONST. amend. XXII.

b. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Yes.

c. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: The text of the Twenty-Second Amendment speaks for itself.

25. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: Prior to the confirmation hearing, like most nominees, I met with attorneys at the Department of Justice, who provided guidance on questions that have been asked of other nominees and on the provisions of the Code of Conduct for United States Judges. The answers that I have provided are my own.

26. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No, not to my knowledge.

27. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

Response: As a current federal employee, I have sent weekly emails to the Office of Personnel Management summarizing my accomplishments from the past week.

28. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No, not to my knowledge.

29. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No, not to my knowledge.

30. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: As a current employee at the Department of Justice, I have received widely circulated correspondence from Attorney General Bondi, but I have not communicated with her directly.

31. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: As a current employee at the Department of Justice, I have received widely circulated correspondence from Deputy Attorney General Blanche, but I have not communicated with him directly.

32. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: As a current employee at the Department of Justice, I have received widely circulated correspondence from then Acting Deputy Attorney General Bove, but I have not communicated with him directly.

33. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No, not to my knowledge.

34. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No, not to my knowledge.

35. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

- a. Enrique Tarrio
- b. Stewart Rhodes
- c. Kelly Meggs
- d. Kenneth Harrelson
- e. Thomas Caldwell
- f. Jessica Watkins
- g. Roberto Minuta
- h. Edward Vallejo
- i. David Moerschel

- j. Joseph Hackett
- k. Ethan Nordean
- l. Joseph Biggs
- m. Zachary Rehl
- n. Dominic Pezzola
- o. Jeremy Bertino
- p. Julian Khater

Response: No, not to my knowledge.

- 36. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: No, not to my knowledge.

- 37. Have you ever been demoted, terminated, or experienced any other adverse employment action?**

Response: No.

- a. If yes, please describe the events that led to the adverse employment action.
- b. **If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.**

Response: I so affirm.

- 38. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?**

Response: If confirmed, I intend to file both annual and periodic financial disclosures in conformance with the requirements of the Ethics in Government Act.

- 39. Article III Project (A3P) “defends constitutionalist judges and the rule of law.”**
According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹¹

- a. **Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on**

¹¹ See <https://www.article3project.org/about>.

your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: I have not had any communications about my judicial nomination with anyone in an official capacity with A3P.

b. Are you currently in contact with anyone associated with A3P? If so, who?

Response: I am not now nor have I have been in contact with anyone in an official capacity with A3P.

c. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: Please see my response to Question 39(b).

40. According to its Form 990 filed in 2024,¹² the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) “is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends.”

a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: I have not had any communications about my judicial nomination with anyone in an official capacity with the Concord Fund.

b. Are you currently in contact with anyone associated with The Concord Fund? If so, who?

Response: I am not now nor have I have been in contact with anyone in an official capacity with the Concord Fund.

c. Have you ever been in contact with anyone associated with The Concord Fund? If so, who?

Response: Please see my response to Question 40(b).

41. Please describe the selection process that led to your nomination to be a United States federal judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

¹² The Concord Fund, Form 990 (filed on May 13, 2024), available at <https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full>.

Response: Senator Schmitt's office originally contacted me on November 21, 2024. I met with his General Counsel in Saint Louis five days later, and we discussed the judicial vacancies in the Eastern District of Missouri. On December 10, Senator Schmitt's office invited me to submit a set of application materials, which I sent on December 20. I also submitted a similar set of materials to Senator Hawley's office on December 23 after a brief email exchange. I then received an email from Senator Hawley's office on January 23, 2025 and met with several members of his staff in Saint Louis on February 3.

Starting on February 7, I have been in contact with officials from the White House Counsel's Office. I interviewed with several attorneys from that office in Washington, D.C. on February 12 and was informed of my tentative selection on March 26. Since then, I have been in regular contact with the Office of Legal Policy at the Department of Justice in preparation for a potential nomination. On May 6, the President called to tell me I would be nominated to the Eastern District of Missouri, and my nomination was transmitted to the Senate on May 12.

42. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

a. Who?

Response: Please see my response to Question 42.

b. What advice did they give?

Response: Please see my response to Question 42.

c. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: Please see my response to Question 42.

43. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: Please see my response to Question 39(a).

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

Response: While I am a member of the Federalist Society, I have not had any communications about my judicial nomination with anyone in an official capacity with the organization.

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

Response: Please see my response to Question 41. Additionally, I communicated regularly with the Office of Legal Policy in completing my Senate Judiciary Questionnaire and other paperwork for the confirmation hearing. I have been in regular contact with the White House Counsel's Office and the Office of Legal Policy to discuss logistics and prepare for the hearing, and I have been in contact with the Office of Legal Policy to prepare my responses to these written questions.

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

Response: I received these questions from the Office of Legal Policy on June 11, 2025. I read each question, reviewed applicable Supreme Court and Eighth Circuit caselaw, and drafted responses. I provided the draft responses to lawyers at the Office of Legal Policy, who provided limited feedback, and then I finalized my responses before submitting them.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

June 4, 2025

Questions for Mr. Bluestone:

- 1. Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: As discussed in response to questions from Ranking Member Durbin at the confirmation hearing, court orders are nearly always binding as to government officials and other parties to a case. However, the Supreme Court has explained that, under limited circumstances, “orders made by a court having no jurisdiction to make them may be disregarded without liability to process for contempt.” *United States v. United Mine Workers*, 330 U.S. 258, 291 (1947). Additionally, courts have recognized several other narrow defenses to contempt proceedings depending on the particular circumstances of the case. *See* Heidi Kocher, III, *Trial Authority of the Trial Judge*, 79 GEO. L.J. 1019, 1025 & n.1869 (1991) (collecting cases).

- 2. Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: I have never advised a client to ignore or defy a court order and cannot think of a specific scenario in which I would do so given the risks of noncompliance.

- 3. Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge’s decision or order?**

Response: Like all Americans, the President’s right to free speech is protected under the First Amendment. If confirmed, I would be prepared to withstand public criticism, which is the reason the Framers insulated the Judiciary from the political process.

- 4. In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

Response: No.

Questions for the Record

Sen. Adam Schiff (CA)

Zachary M. Bluestone, Nominee to the United States District Court for the Eastern District of Missouri

1. You have been a member of the Federalist Society since 2013. Additionally, you clerked for United States Court of Appeals for the Eighth Circuit Judge Raymond W. Gruender, who is also a current or former member of the Board of Advisors for the St. Louis Lawyers Chapter of the Federalist Society. President Trump recently decried the Federalist Society for its “bad advice” on judicial nominations and called Leonard Leo, its Co-Chairman, a “real sleazebag.”

a. Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States District Court for the Eastern District of Missouri?

Response: While I do not have any direct knowledge, my understanding is that the only individuals who recommended me to the White House were Senator Josh Hawley, Senator Eric Schmitt, and Solicitor General John Sauer.

b. Do you believe the Federalist Society provided “bad advice” to President Trump on judicial nominations?

Response: I have no knowledge of what advice, if any, the Federalist Society provided to President Trump regarding judicial nominations during his first term.

2. The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: “No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued.” **In your estimation, would this provision, if enacted, impede your ability as a United States District Judge to enforce contempt orders against the government or government officials?**

Response: In *Ex parte Robinson*, the Supreme Court found the contempt power to be “inherent in all courts,” emphasizing that “its existence is essential to the preservation of order in judicial proceedings . . . and consequently to the due administration of justice.” 86 U.S. 505, 511 (1873). The *Robinson* Court also recognized that the contempt power can be “limited and defined by [an] act of Congress,” at least with respect to circuit and district court judges. *Id.* at 510. While I commit to following this and other applicable precedent related to contempt sanctions, I defer to the political branches as to the propriety of the above-referenced legislative proposal that is currently pending before Congress.

3. **Given your previous position as an Assistant U.S. Attorney for the Eastern District of Missouri and your work for the Missouri Attorney General's office, do you commit to faithfully abiding by all relevant conflict of interest and judicial disqualification policies and procedures during your potential tenure as a District Judge in the Eastern District of Missouri?**

Response: Yes, as indicated in my Senate Judiciary Questionnaire, I commit to carefully reviewing and addressing any real or potential conflicts by referring to 28 U.S.C. § 455; Canon 3 of the Code of Conduct for United States Judges; and any other laws, rules, and practices governing such circumstances.

4. The governing statute of the United States Marshals Service requires: "the United States Marshals Service *shall* execute *all lawful writs, process, and orders* issued under the authority of the United States." Additionally, the "primary . . . mission" of the Service is to "provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.] 28 U.S.C. § 566.

- a. **Based on the Service's governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any "writ[], process [or] order[]" issued by a United States District Judge?**

Response: "Ordinarily, the marshals and the federal courts which they serve have a close and harmonious relationship." *Penn. Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985) (Stevens, J., dissenting). "Open disputes between the marshals and the courts are rare, and appropriately so." *Id.* at 44. But sometimes "administrative problems" come up. *Id.* "Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches." *Id.* at 44. *Pennsylvania Bureau of Correction v. U.S. Marshals Service* was "an exceptional case" because it "involve[d] a dispute between the Marshals Service and a Federal District Court." *Id.* at 43. In resolving that dispute, the Supreme Court held that, "at least in the absence of an express finding of exceptional circumstances, that neither a magistrate nor a district court has authority to order the Marshals to transport state prisoners to the federal courthouse to testify in an action brought by a state prisoner under 42 U.S.C. § 1983 against county officials." *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985).

Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to opine on how the cited statute might apply to a hypothetical set of facts. If any such issues came before me as a judge, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

- b. If the Service were to obey an executive branch command to disregard, or otherwise not execute, one of your orders, what other mechanisms would you consider employing, as a United States District Judge, to ensure compliance?**

Response: As the Supreme Court explained, “Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches.” *Id.* at 44. As a judicial nominee, I do not think it would be appropriate for me to comment on this abstract and hypothetical scenario about non-compliance with a court order. *See* CODE OF CONDUCT OF U.S. JUDGES, Canon 3A(6). If I am confirmed and if such a scenario were to come before me, I would carefully examine the relevant authorities that may bear upon this question.

June 3, 2025

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

The Honorable Richard J. Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Durbin:

We write in enthusiastic support of the nomination of Zachary Bluestone to the United States District Court for the Eastern District of Missouri. As former senior officials in the U.S. Attorney's Office for the Eastern District of Missouri, we represent a range of political affiliations and backgrounds. We have diverse views on politics and judicial philosophy. But we are united in our view that Zachary Bluestone possesses the professional qualifications, legal acumen, and judicial temperament necessary to serve with distinction as a district judge for the United States District Court for the Eastern District of Missouri. We endorse his nomination without reservation.

Zack is a St. Louis native and joined our office in 2020. As an Assistant United States Attorney, Zack was part of our Violent Crimes Unit, where he prosecuted carjackings, robberies, firearm offenses, and drug trafficking. In that role, he exceeded expectations, quickly mastering thorny legal issues in appeals and postconviction challenges while managing the real-world challenges inherent in prosecuting violent crimes. Zack habitually excelled in every aspect of the most complex cases, both at the district court and at the Eighth Circuit. Zack's legal acumen was immediately evident, so we tasked Zack with some of the Office's most important legal issues, including crafting the Office's positions on retroactive Guideline amendments and compassionate-release priorities during the pandemic.

In recognition of his exceptional performance, Zack was promoted to serve as the Office's Appellate Chief after only nine months of service. Often, that position requires years if not a decade of experience, but Zack's legal skills fast-tracked him into that role. And there, he has thrived. As Appellate Chief, Zack oversees every aspect of the Office's appellate practice for both civil and criminal matters. He determines the Office's legal positions, approves all appellate briefing, and advocates for or against further appellate review in light of adverse lower court decisions. He has

briefed and argued numerous appeals on his own, as well as mentoring other attorneys and supervising appeals. Zack does all this on top of advising office leadership on emerging legal issues in district court, taking on special projects, and spearheading responses to substantive changes in the law.

At the same time, Zack maintains a heavy trial caseload while managing the Office's appeals. That includes carrying a criminal docket involving violent crimes in complex cases. For example, while Appellate Chief, Zack volunteered shortly before trial to co-chair a sprawling murder-for-hire trial requiring a thorough review of thousands of documents, hours of video, and expert reports. The case resulted in a conviction following a seven-day jury trial.

As you can see, Zack has been involved in legal analyses and decision-making in pivotal areas commensurate with leaders in the office with far more years of experience. Simply put, the quality and gravity of Zack's work exceeds what many lawyers will do in their entire careers. Zack works harder than anyone in the office and is always ready to help his colleagues—no matter how menial the task—to further the interests of the Office and the federal government. He combines legal brilliance with respect for the rule of law and a practical command of the nuts and bolts of trial litigation. But most importantly, Zack is not just a gifted lawyer; he is a loyal friend and a person of deep integrity and humility. We are entirely confident that all these qualities will shine through if Zack is confirmed as a district judge for the Eastern District of Missouri. We respectfully urge the Senate to promptly consider and confirm Zack.

Sincerely,

St. Louis County Circuit Judge Thomas Albus, former Senior Litigation Counsel for the Eastern District of Missouri

Carrie Costantin, former Acting U.S. Attorney and First Assistant U.S. Attorney for the Eastern District of Missouri

James E. Crowe, Jr., former Criminal Chief for the Eastern District of Missouri

Jeff Jensen, former U.S. Attorney for the Eastern District of Missouri

Michael Reilly, Former Senior Litigation Counsel and Violent Crime Supervisor for the Eastern District of Missouri



ATTORNEY GENERAL OF MISSOURI

ANDREW BAILEY

May 29, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510
Sent via mail

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510
Sent via mail

Re: Letter of support from current and former Missouri Attorney General's
Office personnel for the nominations of Judge Cristian Stevens, Joshua
Divine, Maria Lanahan, and Zachary Bluestone to the federal judiciary

Dear Chairman Grassley and Ranking Member Durbin:

We write as present and former attorneys who have served in the Missouri Attorney General's Office to express our strong support for the nominations of four exceptional colleagues to the federal judiciary: Zachary Bluestone (United States District Court for the Eastern District of Missouri), Joshua Divine (United States District Court for the Eastern and Western Districts of Missouri), Maria Lanahan (United States District Court for the Eastern District of Missouri), and Judge Cristian Stevens (United States District Court for the Eastern District of Missouri). Having collectively worked alongside these nominees in their various leadership capacities within our office, we have firsthand knowledge of their legal abilities, professional judgment, and personal character. We are confident that each would serve with distinction on the federal bench.

The Missouri Attorney General's Office has a long tradition of attracting and developing outstanding legal talent, and these four nominees exemplify the finest traditions of our calling. Each has demonstrated a profound commitment to the rule of law, exceptional legal acumen, and the judicial temperament necessary to

Supreme Court Building
207 W. High Street
P.O. Box 809
Jefferson City, MO 65102
Phone: (573) 751-3321
Fax: (573) 751-0774
www.ago.mo.gov

serve impartially and effectively as federal judges. We believe their diverse experiences within our office have uniquely prepared them for this important responsibility.

Judge Cristian Stevens served our office with distinction as Deputy Attorney General – Criminal from 2019 to 2021 and as First Assistant Attorney General from 2020 to 2021. As Deputy Attorney General – Criminal, Cris oversaw the attorneys handling criminal prosecutions, criminal appeals, and Medicaid fraud prosecutions. Cris created and led the office's Safer Streets Initiative, a crime-fighting partnership with the United States that deputized office prosecutors as Special Assistant United States Attorneys. Cris also assembled the office's first Cold Case Unit. As First Assistant, Cris oversaw all attorneys and cases in the office. In addition to his important management responsibilities, Cris first-chaired a jury trial that resulted in a murder conviction and successfully represented the judges of the Supreme Court of Missouri in a Section 1983 lawsuit filed by a lawyer whose license had been suspended. Cris is an exceptional attorney with a passion for justice.

Joshua Divine has served our office with distinction, first as Deputy Solicitor General from 2017 to 2019, and currently as Solicitor General and Director of Special Litigation since January 2023. In these roles, Josh has managed the State's appellate docket and led our Special Litigation division with remarkable success. His analytical abilities, work ethic, and commitment to principled advocacy have been evident throughout his tenure. Josh has personally briefed and argued numerous significant cases in the Missouri appellate courts, the Eighth Circuit, and other federal courts, delivering more than twenty oral arguments as Solicitor General. He has also built and managed a team of talented attorneys, providing mentorship and leadership that have strengthened our office's capabilities. Josh's exceptional intellect, combined with his unwavering integrity and dedication to public service, make him an outstanding candidate for the federal bench.

Maria Lanahan has served our office with distinction as Deputy Solicitor General since 2021 and as the Principal Deputy Solicitor General since January 2025. In these roles, Maria has personally briefed and argued complex cases in state and federal trial and appellate courts. She has presented numerous oral arguments, including before the Eighth Circuit and the Supreme Court of Missouri. In 2024, the Missouri Bar Foundation recognized Maria's exceptional appellate skills by honoring her with the David J. Dixon Appellate Advocacy Award. The people of Missouri have benefited from Maria's strong work ethic and zealous advocacy.

Zachary Bluestone served with distinction as Deputy Solicitor General from 2018 to 2020, where he played a leading role in shaping the State's appellate litigation strategy. During his tenure, Zack delivered oral argument in six separate cases and authored briefs in numerous high-stakes appeals before the U.S. Court of Appeals for the Eighth Circuit, the Missouri Supreme Court, and the Missouri Court of

Appeals. Zack also led complex civil litigation in both state and federal trial courts, including serving as counsel in three trials. In addition to his litigation work, Zack provided strategic counsel to state agencies and governmental entities on a wide range of non-litigation matters. In recognition of his exceptional appellate advocacy on behalf of the State, Zack was honored in 2020 with the David J. Dixon Appellate Advocacy Award from the Missouri Bar Foundation. Zack's career reflects a steadfast commitment to public service and the rule of law.

Each of these nominees has demonstrated, through years of public service in the Missouri Attorney General's Office, a deep commitment to justice, fairness, and the impartial application of the law. They have handled complex litigation, managed important divisions within our office, and consistently demonstrated the highest ethical standards. We have observed their work firsthand and can attest to their qualifications, integrity, and dedication to public service.

These four nominees represent the best of our legal profession and would bring valuable experience and perspective to the federal judiciary. We strongly support their nominations and respectfully urge the Committee to advance them.

Respectfully,

Andrew Bailey
Missouri Attorney General

Jay Atkins
First Assistant Attorney General

Kelly King
Deputy Attorney General

Todd Scott
Senior Counsel

Jeremiah Morgan
Deputy Attorney General, Civil

Shaun J Mackelprang
Deputy Attorney General, Criminal

Samuel Freedlund
Deputy Solicitor General

J. Michael Patton
Deputy Solicitor General

Tammy Glenn
Paralegal, AGO Solicitor's Office

Peter F. Donohue Sr.
Deputy Director of Special Litigation

Victoria Lowell
Assistant Attorney General, Special Litigation

Dominic Barceleau
Assistant Attorney General, Special Litigation

Chuck Adamson
Chief Counsel, Employment Litigation

Greg Goodwin
Chief Counsel, Public Protection

Patrick Sullivan
Chief Counsel, Litigation Section

Arvids Petersons
Chief Counsel, Medicaid Fraud Control Unit

Caleb Rutledge
Assistant Attorney General

Tom Albus
First Assistant Attorney General, 2019-2020

Ryan Bangert
Deputy Attorney General, Civil, 2017-2019

Julie Marie Blake
Deputy Solicitor General, 2017-2020

Jon Bremer
Assistant Deputy Attorney General, Civil, 2017-2018

Charles Capps
Deputy Solicitor General, 2022-2023

Ken Capps
Assistant Attorney General, 2022-2023

Jason Dunkel
Assistant Deputy Attorney General, Special Litigation, 2017-2018

Daniel Hartman
Chief of Staff, 2018-2019
Special Counsel, 2017-2018

Jason K. Lewis
General Counsel, 2023-2024
Chief Counsel, Governmental Affairs, 2021-2023
Assistant Deputy Attorney General, Special Litigation, 2019-2021
Assistant Attorney General, 2016-2019

Michael Martinich-Sauter
General Counsel, 2018-2019
Deputy Attorney General, Special Litigation, 2017-2019

Jesus Osete
Deputy Attorney General, Special Litigation, 2021-2022
Deputy Solicitor General, 2020-2022

Peter T. Reed
Deputy Solicitor General, 2018-2020

Evan Rosell
Chief of Staff, 2017-2018

D. John Sauer
Solicitor General, 2017-2023
First Assistant Attorney General, 2017-2019

James Simeri
Deputy Chief Counsel, Consumer Protection, 2022-2023
Assistant Attorney General, 2019-2022

Justin D. Smith
First Assistant Attorney General, 2021-2022
Chief of Staff, 2020-2022
Deputy Attorney General, Special Litigation, 2019-2020

Michael Talent
Deputy Solicitor General, 2021-2023

Christopher R. Wray
Chief of Staff, 2019-2020

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Joshua Michael Divine

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

United States District Judge for the Eastern District of Missouri and for the Western District of Missouri

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

Office of the Missouri Attorney General
207 West High Street
Jefferson City, Missouri 65101

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

1990; Yokota Air Base, Tokyo, Japan

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.

2013 – 2016, Yale Law School; J.D., 2016

2008 – 2012, University of Northern Colorado; B.S. in mathematics (*summa cum laude*), 2012

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.

Compensated Affiliations

2017 – 2019; 2023 – present
Office of the Missouri Attorney General

207 West High Street
 Jefferson City, Missouri 65101
 Solicitor General (2023 – present)
 Director of Special Litigation (2023 – present)
 Deputy Solicitor General (2017 – 2019)

2019 – 2022
 United States Senator Josh Hawley
 115 Russell Senate Office Building
 Washington, District of Columbia, 20510
 Chief Counsel (2021 – 2022)
 Deputy Counsel (2019 – 2020)

2020 – 2021
 Honorable Clarence Thomas
 Supreme Court of the United States
 1 First Street, Northeast
 Washington, District of Columbia 20543
 Law clerk

2016 – 2017
 Honorable William J. Pryor, Jr.
 United States Court of Appeals for the Eleventh Circuit
 1729 5th Avenue North
 Birmingham, Alabama 35203
 Law clerk

2014 – 2016
 Yale Law School
 127 Wall Street
 New Haven, Connecticut 06511
 Research assistant

Summer 2015
 Jones Day
 51 Louisiana Avenue, Northwest
 Washington, District of Columbia 20001
 Summer associate

2012 – 2013
 Hammond Law Group
 2955 Professional Place, Suite 300
 Colorado Springs, Colorado 80904
 Paralegal

Summer 2012 – Winter 2012
The Princeton Review
110 E 42nd Street, Suite 700
New York, New York 10017
LSAT preparation instructor

Summer 2012
Lawn and Garden Care
2321 Hagerman Street
Colorado Springs, Colorado 80904
Day laborer

Uncompensated Affiliations

Spring 2015
United States Attorney's Office for the District of Connecticut
157 Church Street
New Haven, Connecticut 06510
Law clerk

Summer 2014
Bancroft, PLLC
[now Kirkland and Ellis]
277 South Washington Street, Suite 310
Alexandria, Virginia 22314
Summer associate

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

I did not serve in the military. I registered for the selective service upon turning 18.

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

Aquinas Fellowship (2022 – 2023) (withdrew halfway through because of the need to relocate to Missouri to become Solicitor General)

Antonin Scalia Fellowship (2019 – 2020)

National Association of Attorneys General, Best Brief (2018)

Georgetown Originalism Summer Seminar Fellowship (2017)

John Marshall Fellowship (2016)

Knight Law & Media Scholar, Yale Law School (2015 – 2016)

Blackstone Fellowship (2014)

Yale Law Journal, Editor (2014 – 2016)

Degree from University of Northern Colorado conferred *summa cum laude* (2012)

University of Northern Colorado, Presidential Scholarship (2008 – 2012)

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 (2013 – present)

Jefferson City, Missouri, Steering Committee (January 2025 – 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.

Colorado, 2016

Missouri, 2017

There have been no lapses in membership, although I am registered as “inactive” in Colorado.

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, 2021

United States Court of Appeals for the District of Columbia Circuit, 2018

United States Court of Appeals for the First Circuit, 2024

United States Court of Appeals for the Fourth Circuit, 2023

United States Court of Appeals for the Fifth Circuit, 2023

United States Court of Appeals for the Sixth Circuit, 2024

United States Court of Appeals for the Eighth Circuit, 2017

United States Court of Appeals for the Tenth Circuit, 2018

United States Court of Appeals for the Eleventh Circuit, 2024

United States District Court for the District of Columbia, 2024

United States District Court for the District of North Dakota, 2023

United States District Court for the Eastern District of Missouri, 2017
 United States District Court for the Northern District of Texas, 2023
 United States District Court for the Southern District of Texas, 2023
 United States District Court for the Western District of Missouri, 2017
 Supreme Court of Colorado, 2016
 Supreme Court of Missouri, 2017

There have been no lapses in membership other than lapses that followed automatically because of my 2019 departure from the Missouri Attorney General's Office. Several courts to which I am admitted provide for special admission for members of attorneys general offices. When I left the Missouri Attorney General's Office in 2019, I no longer qualified to file under that special status. Upon returning to the Attorney General's Office in 2023, my status was restored.

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 (2013 – present)
 Jefferson City, Missouri, Steering Committee (January 2025 – present)

United States Chess Federation (2005 – 2017)

USA Triathlon (2011, 2013, 2016)

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

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

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

a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material

published only on the Internet. Supply copies of all published material to the Committee.

Between 2008 and 2012, I wrote articles for newspapers. Consistent with the industry practice at the time, I did not write the article headlines. Editors wrote those headlines. The only period during which I wrote headlines was during the 2009 academic year, when I served as editor.

Justice Thomas's Critics on Affirmative Action Prove His Point, National Review Online (2023-7-19). Copy supplied.

Statutory Federalism and Criminal Law, 106 VA. L. REV. 127 (2020). Copy supplied.

Booker Disparity and Data-Driven Sentencing, 69 HASTINGS L.J. 771 (2018). Copy supplied.

Keep the Supreme Court Bench Even-Numbered, THE FEDERALIST, July 7, 2016. Copy supplied.

Statutory Anachronism as a Constitutional Doctrine, 12 UNIV. ST. THOMAS L.J. 146 (2015). Copy supplied.

Yale Law Journal, Editor (Print, Volume 124, 2014 – 2015; Online, Volume 125, 2015 – 2016). All pieces published by the Yale Law Journal during the time I was an editor are available at <https://www.yalelawjournal.org/issue> (print) or <https://www.yalelawjournal.org/forum> (online forum).

Two-Pronged Outlet (fiction), Commonline Journal (2013). The short story was published in an online-only publication and appears to no longer be available.

The Revival (fiction), self-published (2012). Copy supplied.

Letters, The Gazette, Aug. 29, 2012. Copy supplied.

Surviving modernity requires an end to personal attacks, shaming, THE MIRROR, April 24, 2012. Copy supplied.

Marijuana legalization fully ripe for unneeded slippery slope, THE MIRROR, April 16, 2012. Copy supplied.

Trayvon Martin case needs to be handled with investigation, not emotions, THE MIRROR, April 9, 2012. Copy supplied.

Lack of communication skills disqualifies many Student Senate candidates, THE MIRROR, April 2, 2012. Copy supplied.

Will the real transparent presidential candidate please stand up, THE MIRROR, March 26, 2012. Copy supplied.

Voter identification laws not discriminatory, unduly burdensome, THE MIRROR, March 19, 2012. Copy supplied.

Suicide among young contagious, MPAA R rating for Bully appropriate, THE MIRROR, March 5, 2012. Copy supplied.

Inevitable approach to switching to renewable energy requires balance, THE MIRROR, Feb. 27, 2012. Copy supplied.

Health and Human Services mandate violates health insurance purpose, THE MIRROR, Feb. 20, 2012. Copy supplied.

Student Senate decision shows progress, but there's still a long way to go, THE MIRROR, Feb. 13, 2012. Copy supplied.

Character, as much as ideas, relevant in deciding candidates, THE MIRROR, Feb. 6, 2012. Copy supplied.

Continual media bias against pro-life side is failure of journalism ethics, THE MIRROR, Jan. 30, 2012. Copy supplied.

Examining the many conundrums of naturalistic evolution, THE MIRROR, Jan. 9, 2012. Copy supplied.

Liberal Arts Core class requirements suppress academic freedom, THE MIRROR, Nov. 28, 2011. Copy supplied.

Hatred of Tebow based on religion contrary to mantras of tolerance, THE MIRROR, Nov. 21, 2011. Copy supplied.

Society forgetting justice system built on innocent until proven guilty, THE MIRROR, Nov. 14, 2011. Copy supplied.

Inappropriate Facebook postings demonstrates ignorance at its finest, THE MIRROR, Nov. 7, 2011. Copy supplied.

Seven billionth baby born, reviewing population bomb hysteria, THE MIRROR, Oct. 31, 2011. Copy supplied.

Student Senate proposal to cut back hours alienates members from students, THE MIRROR, Oct. 24, 2011. Copy supplied.

Proposition 103, teachers unions, corruption and inefficient bureaucracy, THE MIRROR, Oct. 17, 2011. Copy supplied.

Life means deriving purpose from otherwise monotonous existence, THE MIRROR, Oct. 10, 2011. Copy supplied.

Understanding the pro-life position, ethics of killing humans, THE MIRROR, Oct. 3, 2011.

Copy supplied.

Graduation fee shows duality of universities' emphasis on fun culture, THE MIRROR, Sept. 26, 2011. Copy supplied.

Shocking zealotry of pregnancy prevention instills social problems, THE MIRROR, Sept. 19, 2011. Copy supplied.

NYC Mayor Bloomberg's clergy ban at 9/11 memorial a mistake, THE MIRROR, Sept. 12, 2011. Copy supplied.

Majority rule, steal from the rich and give to thankless government, THE MIRROR, Aug. 29, 2011. Copy supplied.

Hate improperly attributed to opponents of same-sex marriage, THE MIRROR, Aug. 22, 2011. Copy supplied.

Abortion agenda gets away with deliberate dishonesty in advertising, THE MIRROR, April 20, 2011. Copy supplied.

Your vote is literally worth \$800 in week's Student Senate elections, THE MIRROR, April 13, 2011. Copy supplied.

Culture of spending seeks further university invasion with measure, THE MIRROR, March 30, 2011. Copy supplied.

Economic uncertainty demands innovative education solutions, THE MIRROR, March 23, 2011. Copy supplied.

Supreme Court decision upholds religious campus organization's rights, THE MIRROR, March 9, 2011. Copy supplied.

Standardized testing necessary for any competitive educational field, THE MIRROR, March 2, 2011. Copy supplied.

Hate, ignorance are nothing more than emotional pejoratives, THE MIRROR, Feb. 23, 2011. Copy supplied.

Student Senate's The Maze decision shows double standard, THE MIRROR, Feb. 14, 2011. Copy supplied.

University is not perpetuating education with recent decisions, THE MIRROR, Feb. 9, 2011. Copy supplied.

Kate Walsh's denunciation of Bristol Palin's speech is dogmatic, THE MIRROR, Feb. 2, 2011. Copy supplied.

Jack LaLanne showed how some things are simply awesome, THE MIRROR, Jan. 26, 2011. Copy supplied.

Reese issue illustrates destructive cannon of political correctness, THE MIRROR, Jan. 19, 2011. Copy supplied.

A philosophical treatise on the nature of good and evil, THE MIRROR, Jan. 12, 2011. Copy supplied.

Memorial service overextends necessary tribute to policy officer, THE MIRROR, Dec. 1, 2010. Copy supplied.

Amazon.com boycott, literature censorship skirts issue, THE MIRROR, Nov. 17, 2010. Copy supplied.

Outdoor smoking bans overextend government, THE MIRROR, Nov. 3, 2010. Copy supplied.

The delineation of Arizona's immigration Senate Bill, THE MIRROR, Oct. 27, 2010. Copy supplied.

Literacy tests should be required for elections, THE MIRROR, Oct. 20, 2010. Copy supplied.

Supreme Court's hearing of Westboro case is disastrous, THE MIRROR, Oct. 13, 2010. Copy supplied.

The justification of zealous behavior among pro-lifers, THE MIRROR, Oct. 6, 2010. Copy supplied.

Morality of recycling, understanding misconceptions, THE MIRROR, Sept. 29, 2010. Copy supplied.

To burn a Quran, UNC CONNECTION, Sept. 13, 2010. Copy supplied.

Student Senate name change official, UNC CONNECTION, Sept. 7, 2010. Copy supplied.

Imposing your morality on others, UNC CONNECTION, Sept. 7, 2010. Copy supplied.

Universities, the institution of oppression, UNC CONNECTION, Aug. 30, 2010. Copy supplied.

Further expansions sought, UNC CONNECTION, Aug. 30, 2010. Copy supplied.

Bear Bus revamp in progress to keep Boomerang effect, UNC CONNECTION, Aug. 30, 2010. Copy supplied.

UNC brings marketing strategy to ID cards, UNC CONNECTION, Aug. 23, 2010. Copy supplied.

Fruits of another poorly-run election, UNC CONNECTION, Aug. 23, 2010. Copy supplied.

Boomerang bus service increases. New night shuttle services downtown Greeley and UNC campus, UNC CONNECTION, Aug. 23, 2010. Copy supplied.

Letter from the editor, UNC CONNECTION, May 3, 2010. Copy supplied.

Commencement to be held May 7-8, UNC CONNECTION, May 3, 2010. Copy supplied.

Letter from the editor, UNC CONNECTION, April 26, 2010. Copy supplied.

Elections finally drawing to a close, UNC CONNECTION, April 26, 2010. Copy supplied.

Twice as much plot, UNC CONNECTION, April 12, 2010. Copy supplied.

Music, promotion for a cause, UNC CONNECTION, April 12, 2010. Copy supplied.

Research, awards, and 22 years of academic excellence, UNC CONNECTION, April 5, 2010. Copy supplied.

Genital reassignment, Physician brings presentation to Greeley, UNC CONNECTION, March 29, 2010. Copy supplied.

Job festival awaits teachers, UNC CONNECTION, March 22, 2010. Copy supplied.

Tickle Me Pink, possible appearance in Greeley, UNC CONNECTION, March 8, 2010. Copy supplied.

Survey indicates students want relationship help, UNC CONNECTION, March 8, 2010. Copy supplied.

Addressing the graduating thousands, UNC CONNECTION, March 1, 2010. Copy supplied.

Not finding \$14 million cliff reserve is not an option, UNC CONNECTION, Feb. 22, 2010. Copy supplied.

Graduate school aid, UNC CONNECTION, Feb. 15, 2010. Copy supplied.

Change in leadership, UNC CONNECTION, Feb. 15, 2010. Copy supplied.

Separating powers on the local scale, UNC CONNECTION, Feb. 8, 2010. Copy supplied.

Ticket required to view Feb. 10 presentation by Three Cups of Tea author, UNC CONNECTION, Feb. 1, 2010. Copy supplied.

Encompassing all students' rights, UNC CONNECTION, Feb. 1, 2010. Copy supplied.

Directing financial aid help, UNC CONNECTION, Feb. 1, 2010. Copy supplied.

Determining UNC's inner identity, UNC CONNECTION, Jan. 25, 2010. Copy supplied.

Opening ears to students' opinions, UNC CONNECTION, Jan. 18, 2010. Copy supplied.

Greeks no more, UNC CONNECTION, Nov. 16, 2009. Copy supplied.

Sexual assault reported on campus, UNC CONNECTION, Nov. 9, 2009. Copy supplied.

Ensuring insurance for students, UNC CONNECTION, Nov. 9, 2009. Copy supplied.

Marijuana in the Garden, UNC CONNECTION, Oct. 26, 2009. Copy supplied.

Major nutritional supplement, UNC CONNECTION, Oct. 19, 2009. Copy supplied.

From ground zero to Greeley, UNC CONNECTION, Oct. 12, 2009. Copy supplied.

Arrestee resigns, UNC CONNECTION, Oct. 12, 2009. Copy supplied.

Sick of exams, UNC CONNECTION, Oct. 5, 2009. Copy supplied.

Shoot first, ask questions later, UNC CONNECTION, Oct. 5, 2009. Copy supplied.

Student Senate encouraged to diversify, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

Student Senate announcements, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

Radio operational, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

Racing for mayor, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

Norton's glass half full, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

BEARfoot protest, UNC CONNECTION, Sept. 28, 2009. Copy supplied.

Student Senate Announcements, UNC CONNECTION, Sept. 21, 2009. Copy supplied.

\$100,000 granted for teacher scholarships, UNC CONNECTION, Sept. 21, 2009. Copy supplied.

Student Senate announcements, UNC CONNECTION, Sept. 14, 2009. Copy supplied.

Event mandate proposed, UNC CONNECTION, Sept. 7, 2009. Copy supplied.

Student Senate announcements, UNC CONNECTION, Sept. 7, 2009. Copy supplied.

CATs prowl Butler-Hancock, UNC CONNECTION, Sept. 7, 2009. Copy supplied.

\$2,700 resume now free, UNC CONNECTION, Sept. 7, 2009. Copy supplied.

Cache la Poudre River has second spill in two weeks, UNC CONNECTION, Sept. 7, 2009.

Copy supplied.

Wilson Hall moves to the masculine side, UNC CONNECTION, Aug. 31, 2009. Copy supplied.

Student Senate reaches out toward the university with planned radio broadcast, UNC CONNECTION, Aug. 31, 2009. Copy supplied.

Sheriff's office pushes for universal black list, UNC CONNECTION, Aug. 31, 2009. Copy supplied.

From integration to publication, UNC CONNECTION, Aug. 31, 2009. Copy supplied.

Obama's credit card bill turns effects on students, UNC CONNECTION, Aug. 24, 2009. Copy supplied

Who's watching you, UNC CONNECTION, Aug. 24, 2009. Copy supplied.

New buildings, people and ideas, UNC CONNECTION, Aug. 24, 2009. Copy supplied.

Letter from the editor, UNC CONNECTION, Aug. 24, 2009. Copy supplied.

SRC resorts to presidential appointing for administrative assistant, UNC CONNECTION, May 4, 2009. Copy supplied.

Influx in bicycle theft not uncommon, UNC CONNECTION, May 4, 2009. Copy supplied.

Cover your cough, UNC CONNECTION, May 4, 2009. Copy supplied.

Border laws strengthened, requires extra process for citizens, UNC CONNECTION, May 4, 2009. Copy supplied.

Weld County DA setting sights higher, UNC CONNECTION, April 27, 2009. Copy supplied.

SRC approves legislative name change, UNC CONNECTION, April 27, 2009. Copy supplied

Kinko's run officially finished, UNC CONNECTION, April 27, 2009. Copy supplied.

Process for checking out of the residence halls, UNC CONNECTION, April 27, 2009. Copy supplied.

Out of the shadows, UNC CONNECTION, April 27, 2009. Copy supplied.

Board of Trustees proposes tuition increase, UNC CONNECTION, April 27, 2009. Copy supplied.

Two sexual assaults reported last week, UNC CONNECTION, April 20, 2009. Copy

supplied.

Interview with new SRC President Justin Puckett, UNC CONNECTION, April 20, 2009. Copy supplied.

Sparking enlightenment, UNC CONNECTION, April 20, 2009. Copy supplied.

Feminism brings concerns to SRC, UNC CONNECTION, April 20, 2009. Copy supplied.

New Frontier changes student payroll, UNC CONNECTION, April 20, 2009. Copy supplied.

SRC voting process, UNC CONNECTION, April 13, 2009. Copy supplied.

SRC finalizes SFAP budget, UNC CONNECTION, April 13, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, April 13, 2009. Copy supplied.

Candidates take to the podium, UNC CONNECTION, April 13, 2009. Copy supplied.

Program directors criticize student trustee, UNC CONNECTION, April 6, 2009. Copy supplied.

SRC continues student fee allocation process, UNC CONNECTION, April 6, 2009. Copy supplied.

Einstein Bros. working for their debut, UNC CONNECTION, April 6, 2009. Copy supplied.

Monfort goes green, UNC CONNECTION, April 6, 2009. Copy supplied.

Dining Services going green on Earth Day, UNC CONNECTION, April 6, 2009. Copy supplied.

Tuition projected to increase nearly \$800, UNC CONNECTION, March 30, 2009. Copy supplied.

Sign asking you to wash your hands not just for employees (satire), UNC CONNECTION, March 30, 2009. Copy supplied.

Help for future homeowners, UNC CONNECTION, March 30, 2009. Copy supplied.

FOCUS founder to speak on moral relativism, UNC CONNECTION, March 30, 2009. Copy supplied.

Student teacher fair coming to UNC, UNC CONNECTION, March 23, 2009. Copy supplied.

Freshmen and sophomores GPAs fall, UNC CONNECTION, March 23, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, March 23, 2009. Copy supplied.

Cause of Snyder fire alarms still unexplainable, UNC CONNECTION, March 23, 2009. Copy supplied.

Run to help student victim of Leukemia, UNC CONNECTION, March 23, 2009. Copy supplied.

Persona non grata arrested, UNC CONNECTION, March 23, 2009. Copy supplied.

Plus minus system equals decrease in GPA, UNC CONNECTION, March 9, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, March 9, 2009. Copy supplied.

Boarding shop makes home in Greeley, UNC CONNECTION, March 9, 2009. Copy supplied.

Highlights from Greeley City Council, UNC CONNECTION, March 9, 2009. Copy supplied.

Words flow in the river room, UNC CONNECTION, March 2, 2009. Copy supplied.

SRC proposal torn down the middle, UNC CONNECTION, March 2, 2009. Copy supplied.

Professor tells history of fraternities, UNC CONNECTION, March 2, 2009. Copy supplied.

Students plead their cases for SRC, UNC CONNECTION, Feb. 23, 2009. Copy supplied.

SRC warned about SFAP absence, UNC CONNECTION, Feb. 23, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, Feb. 23, 2009. Copy supplied.

Harrison Hall pulls for charity, UNC CONNECTION, Feb. 23, 2009. Copy supplied.

The recession doesn't affect everybody, UNC CONNECTION, Feb. 16, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, Feb. 16, 2009. Copy supplied.

SRC and Board of Trustees not compatible this time, UNC CONNECTION, Feb. 16, 2009. Copy supplied.

Rape reported on campus, UNC CONNECTION, Feb. 16, 2009. Copy supplied.

School of Business seeks to expand, UNC CONNECTION, Feb. 16, 2009. Copy supplied.

Student Activities dries up Flobots show, UNC CONNECTION, Feb. 9, 2009. Copy supplied.

Economy not so bad for grants, UNC CONNECTION, Feb. 9, 2009. Copy supplied.

SRC announcements, UNC CONNECTION, Feb. 9, 2009. Copy supplied.

Bad news for sex offenders, UNC CONNECTION, Feb. 9, 2009. Copy supplied.

SRC resolves to deliberate hiring power, UNC CONNECTION, Feb. 2, 2009. Copy supplied.

Innovative technology reaches towards prospective students, UNC CONNECTION, Feb. 2, 2009. Copy supplied.

UNC to host Harvard economist, UNC CONNECTION, Feb. 2, 2009. Copy supplied.

Former UNC employee returns as Dean of Students, UNC CONNECTION, Feb. 2, 2009. Copy supplied.

Substance abuse on the rise, UNC CONNECTION, Jan. 26, 2009. Copy supplied.

Seven-year spike in tuition affects financial aid, UNC CONNECTION, Jan. 26, 2009. Copy supplied.

SRC hires assistant CPE coordinator, UNC CONNECTION, Jan. 26, 2009. Copy supplied.

The Flobots coming to UNC on Feb. 15, UNC CONNECTION, Jan. 19, 2009. Copy supplied.

SRC budget to be cut 85k, UNC CONNECTION, Jan. 19, 2009. Copy supplied.

Greeley Council Worksession deliberates over curfew laws, UNC CONNECTION, Jan. 19, 2009. Copy supplied.

Blood (plasma) money the legal way, UNC CONNECTION, Jan. 19, 2009. Copy supplied.

Textbook costs keep rising, UNC CONNECTION, Jan. 12, 2009. Copy supplied.

Damage from breakins in the thousands, UNC CONNECTION, Jan. 12, 2009. Copy supplied.

Greeley City Council motions to improve pedestrian bike safety, UNC CONNECTION, Jan. 12, 2009. Copy supplied.

Colorado increases minimum wage, UNC CONNECTION, Jan. 12, 2009. Copy supplied.

SRC concludes fall semester, UNC CONNECTION, Dec. 8, 2008. Copy supplied.

Highlights from Greeley City Council, UNC CONNECTION, Dec. 8, 2008. Copy supplied.

Obama denies Disney allegations of loving cheese (satire), UNC CONNECTION, Dec. 8,

2008. Copy supplied.

Economy and competition affect ski resorts, UNC CONNECTION, Dec. 8, 2008. Copy supplied.

Dining Services provides annual holiday tradition, UNC CONNECTION, Dec. 8, 2008. Copy supplied.

UNC to house free AIDS testing, UNC CONNECTION, Dec. 1, 2008. Copy supplied.

RHA Executives move up the regional ladder, UNC CONNECTION, Dec. 1, 2008. Copy supplied.

Local radio stations bring variety to UNC, UNC CONNECTION, Dec. 1, 2008. Copy supplied.

Food Advisory Board holds student meeting, UNC CONNECTION, Dec. 1, 2008. Copy supplied.

Biology professor cures cancer with bleach (satire), UNC CONNECTION, Dec. 1, 2008. Copy supplied.

Voice your opinions to SRC at Fireside Chat, UNC CONNECTION, Nov. 17, 2008. Copy supplied.

UNC students band together in the name of self-defense, UNC CONNECTION, Nov. 17, 2008. Copy supplied.

Restaurant options booming in Greeley, UNC CONNECTION, Nov. 17, 2008. Copy supplied.

Bicycle stalks student (satire), UNC CONNECTION, Nov. 17, 2008. Copy supplied.

UNC hosts charity for Afghani locals, UNC CONNECTION, Nov. 10, 2008. Copy supplied.

SRC deliberates over Somali immigrant fundraiser, UNC CONNECTION, Nov. 10, 2008. Copy supplied.

Cereal killers murder Trix Rabbit in his sleep (satire), UNC CONNECTION, Nov. 10, 2008. Copy supplied.

Atlas Theatre looks to provide community a positive atmosphere, UNC CONNECTION, Nov. 10, 2008. Copy supplied.

UNC plays host to representatives of major and minor candidates, UNC CONNECTION, Nov. 3, 2008. Copy supplied.

Possible mold infects Turner, UNC CONNECTION, Nov. 3, 2008. Copy supplied.

China to hold lead-based toy production contest (satire), UNC CONNECTION, Nov. 3, 2008. Copy supplied.

Wilson RA terminated for alleged solicitation, UNC CONNECTION, Oct. 27, 2008. Copy supplied.

University Center to host community forum, UNC CONNECTION, Oct. 27, 2008. Copy supplied.

Jazz bands to perform at UCCC, UNC CONNECTION, Oct. 27, 2008. Copy supplied.

Halloween Ain't just for kids anymore, UNC CONNECTION, Oct. 27, 2008. Copy supplied.

Congress makes dollar equivalent to three cheeseburgers (satire), UNC CONNECTION, Oct. 27, 2008. Copy supplied.

Offended group pushes for flag ban to stop offensiveness (satire), UNC CONNECTION, Oct. 20, 2008. Copy supplied.

Jazz Studies Dept. adapts to change, UNC CONNECTION, Oct. 20, 2008. Copy supplied.

Gaming Guild moves to invade University Center, UNC CONNECTION, Oct. 20, 2008. Copy supplied.

Fritzler Corn Maze approaches end of season, UNC CONNECTION, Oct. 20, 2008. Copy supplied.

UNC professor wins George C. Pimentel Award, UNC CONNECTION, Oct. 13, 2008. Copy supplied.

SRC brings up effects of past lawsuit, UNC CONNECTION, Oct. 13, 2008. Copy supplied.

Greeley to host Region I Safecon event, UNC CONNECTION, Oct. 13, 2008. Copy supplied.

Circus attendance declines as circus freaks decline (satire), UNC CONNECTION, Oct. 13, 2008. Copy supplied.

UNC hockey falls short against CU, UNC CONNECTION, Oct. 6, 2008. Copy supplied.

West campus renovations planned for Turner Hall, UNC CONNECTION, Sept. 29, 2008. Copy supplied.

SRC shoots down proposal for paper ballot election, UNC CONNECTION, Sept. 29, 2008. Copy supplied.

Disgruntled elder arrested for riot in post office (satire), UNC CONNECTION, Sept. 29, 2008. Copy supplied.

RA makes up for lack of social life by harassment of cool kids (satire), UNC CONNECTION, Sept. 22, 2008. Copy supplied.

Imperfections with Bearmail, UNC CONNECTION, Sept. 22, 2008. Copy supplied.

Bears fall short of victory, UNC CONNECTION, Sept. 22, 2008. Copy supplied.

Theft and desecration of Turner Lion sparks war, UNC CONNECTION, Sept. 15, 2008. Copy supplied.

Dispute confronted at SRC meeting, UNC CONNECTION, Sept. 15, 2008. Copy supplied.

Biden plays female card by donning women's clothing (satire), UNC CONNECTION, Sept. 15, 2008. Copy supplied.

b. Supply 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.

Policy Statement, Abrams Inst. for Freedom of Expression, *Police Body Cam Footage: Just Another Public Record*, Media Freedom & Information Access Clinic (Dec. 2015) (assigned by the law school clinic director to help contribute to the report). Copy supplied.

c. Supply 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.

Letter to Sens. Charles Grassley and Richard Durbin from Missouri Attorney General's Office in support of John Sauer nomination, Feb. 24, 2025. Copy supplied.

Letter to Sens. Charles Grassley and Richard Durbin from state solicitors general in support of John Sauer nomination, Feb. 24, 2025. Copy supplied.

Remarks during Department of Education Negotiated Rulemaking Committee for Higher Education 2023–24, Session 3 (Dec. 11, 2023). Copy supplied.

Proposal for Additional Committee Members to the Department of Education Negotiated Rulemaking Committee for Higher Education 2023–24 (Dec. 8, 2023). Copy supplied.

Proposal to include Taxpayers and Persons Who do not Have Debt on the Department of Education Negotiated Rulemaking Committee for Higher Education 2023–24 (Nov. 14, 2023). Copy supplied.

Letter from Yale students, alumni, and faculty in support of Judge Brett M. Kavanaugh, July 12, 2018. Copy supplied.

d. Supply 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.

March 29, 2025: Panelist, "Has the Right Lost the Argument for Small Government?" Federalist Society, Simi Valley, California. I was a panelist at this conference and was invited to speak about the emerging debate in conservative legal circles about whether to adopt a pro-regulation approach or a libertarian approach. In particular, I talked about regulation of large tech companies. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

March 24, 2025: Speaker, "Guest lecturer for Professor Osgood's criminal law course," Washington University School of Law, Saint Louis, Missouri. I was asked to discuss the role of the Missouri Solicitor General, especially with respect to criminal law. I have no notes, transcript, or recording. The address of the Washington University School of Law is 1 Brookings Drive, Saint Louis, Missouri 63130.

March 10, 2025: Speaker, "Richard Wieler Conference Room dedication ceremony," Jefferson City, Missouri. Notes supplied.

February 27, 2025: Speaker, "Role of States in Separation of Powers," Separation of Powers Institute, Columbus School of Law, Washington, District of Columbia.

Recording available at:

<https://podcasts.apple.com/us/podcast/the-role-of-states-in-administrative-law/id1802636969?i=1000704454778>

February 21, 2025: Keynote Panelist, "Keynote panel," Federalist Society, Jefferson City, Missouri. I was asked to speak about "how state legal officers respond to the evolving dynamics between state and federal authority, tackle issues of federal overreach, and shape national legal and policy discussions." I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

November 20, 2024: Panelist, "Debate: *United States v. Skrametti*," Federalist Society, Yale Law School, New Haven, Connecticut. PowerPoint supplied.

November 7, 2024: Speaker, "Supreme Court Roundup," Federalist Society, University of Cincinnati, Cincinnati, Ohio. I was asked to provide a "roundup" of cases the

Supreme Court decided in October Term 2023 and a preview of some cases from October Term 2024. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

November 7, 2024: Panelist, "Supreme Court Roundup," Federalist Society, Covington, Kentucky. I was asked to provide a "roundup" of cases the Supreme Court decided in October Term 2023 and a preview of some cases from October Term 2024. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

November 6, 2024: Speaker, "Regulating Big Tech after *NetChoice*," Federalist Society, University of Chicago Law School, Chicago, Illinois. PowerPoint supplied.

October 30, 2024: Panelist, "Should America Strengthen Social Media Regulation?" Georgetown University Law Center, Washington, District of Columbia. Recording available at: <https://www.youtube.com/watch?v=RoR2ifkSkPA>.

October 29, 2024: Panelist, "The Springfield Federalist Society's Fall Luncheon and SCOTUS Review," Federalist Society, Springfield, Missouri. I was asked to provide a "roundup" of cases the Supreme Court decided in October Term 2023 and a preview of some cases from October Term 2024. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

October 28, 2024: Speaker, "Regulating Big Tech after *NetChoice*," Federalist Society, Northwestern Pritzker School of Law, Chicago, Illinois. I have no notes, transcript, or recording, but my remarks would have been similar to my November 6, 2024, remarks for which I have supplied PowerPoint slides.

October 9, 2024: Speaker, "Guest lecturer for William Horner's Supreme Court class," University of Missouri School of Law, Columbia, Missouri. I was asked to discuss my experience with the Supreme Court, both as a law clerk and as Solicitor General. I have no notes, transcript, or recording. The address of the University of Missouri School of Law is 820 Conley Avenue, Columbia, Missouri 65211.

August 20, 2024: Panelist, "Supreme Court Roundup: The 2024 Term in Review," Federalist Society, Denver, Colorado. I was asked to provide a "roundup" of cases the Supreme Court decided in October Term 2023 and a preview of some cases from October Term 2024. I have no notes, transcript, or recording. Press coverage is supplied. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

July 17, 2024: Speaker, "Supreme Court Roundup," Federal Bar Association and Federalist Society, Saint Louis, Missouri. I was asked to provide a "roundup" of cases the Supreme Court decided in October Term 2023 and a preview of some cases from October Term 2024. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

July 1, 2024: Panelist, "Courthouse Steps Decision: *Murthy v. Missouri*," Federalist Society, Online. Recording available at:
<https://www.youtube.com/watch?v=hJi5mo3ia7c>

June 14, 2024: Panelist, "State Attorneys General Offices," Heritage Foundation, Washington, District of Columbia. I was asked to speak to nonprofit organizations to discuss how States and public interest firms can work together more effectively. I have no notes, transcript, or recording. The address of The Heritage Foundation is 214 Massachusetts Avenue, Northeast, Washington, District of Columbia 20002.

May 8, 2024: Panelist, "The Race to Regulate the Internet," George Mason University, Arlington, Virginia. Recording available at:
<https://www.youtube.com/watch?v=SYBTmqFN7To>.

April 3, 2024: Panelist, "*NetChoice* Debate," Federalist Society, Washington University School of Law, Saint Louis, Missouri. Notes supplied.

January 19, 2024: Keynote panelist, "Debate: *Missouri v. Biden*," Federalist Society, Jefferson City, Missouri. Notes supplied.

December 15, 2023: Speaker, "Social Media Cases at the Supreme Court," Federal Bar Association, Saint Louis, Missouri. Notes supplied.

September 8, 2023: Panelist, "Modern Strategies for the Offices of the State Attorneys General," Federalist Society, Birmingham, Alabama. Recording available at:
<https://www.youtube.com/watch?v=TTzTPmIxW84>.

July 19, 2023: Panelist, "State Solicitor General Panel," Becket Fund for Religious Liberty, Online. I was asked to talk to interns about my job as Solicitor General. I have no notes, transcript, or recording. The address of The Becket Fund for Religious Liberty is 1919 Pennsylvania Avenue Suite 400, Washington, District of Columbia 20006.

June 16, 2023: Panelist, "Title IX Regulations," Federalist Society, Indianapolis, Indiana. Notes supplied.

April 10, 2023: Speaker, "Professional Development Lunch," Federalist Society, Yale Law School, New Haven, Connecticut. I was asked to discuss my work on tech issues in the Senate and to provide general advice to law students. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

November 3, 2022: Panelist, "Debate: Big Tech Regulation," Federalist Society, Harvard Law School, Cambridge, Massachusetts. Power Point supplied.

October 27, 2022: Panelist, "Careers in Public Service," Federalist Society, American University Washington College of Law, Washington, District of Columbia. I was asked to discuss my career and to provide general advice to law students. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street,

Northwest, Suite 300, Washington, District of Columbia 20006.

October 24, 2022: Speaker, “Can Big Tech be Caught,” Federalist Society, Scalia Law School, Arlington, Virginia. Notes supplied.

October 4, 2022: Speaker, “Conservative Case for Regulating Big Tech,” Federalist Society, Columbia Law School, New York, New York. I have no notes, transcript or recording, but my remarks would have been similar to my October 24, 2022, remarks for which I have supplied notes.

May 25, 2022: Panelist, “Originalism as a Law Clerk,” Georgetown Center for the Constitution, Washington, District of Columbia. I was asked to discuss what role originalism played in my Supreme Court clerkship. I have no notes, transcript, or recording. The address of the Georgetown Center for the Constitution is 600 New Jersey Avenue, Northwest, Washington District of Columbia 20001.

April 21, 2022: Speaker, “Conservative Case for Regulating Big Tech,” Federalist Society, Denver, Colorado. I have no notes, transcript or recording, but my remarks would have been similar to my October 24, 2022, remarks for which I have supplied notes.

April 13, 2022: Speaker, “Conservative Case for Regulating Big Tech,” Federalist Society, Georgetown University Law Center, Washington, District of Columbia. I have no notes, transcript or recording, but my remarks would have been similar to my October 24, 2022, remarks for which I have supplied notes.

April 12, 2022: Panelist, “Big Tech, Antitrust, and the Future,” Federalist Society, American University Washington College of Law, Washington, District of Columbia. I was asked to discuss my thoughts about the future of antitrust enforcement with respect to large technology companies. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

February 22, 2022: Speaker, “Conservative Case for Regulating Big Tech,” Federalist Society, University of Virginia School of Law, Charlottesville, Virginia. I have no notes, transcript or recording, but my remarks would have been similar to my October 24, 2022, remarks for which I have supplied notes.

January 24, 2022: Panelist, “Government Regulation of Social Media Content Moderation,” Federalist Society, Jefferson City, Missouri. Recording available at: https://www.youtube.com/watch?v=b4197_4AMr8.

October 11, 2021: Speaker, “Statutory Federalism and Criminal Law,” Federalist Society, George Washington University Law School, Washington, District of Columbia. I discussed my article *Statutory Federalism and Criminal Law*, 106 VA. L. REV. 127 (2020). Other than the article itself, I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

June 3, 2021: Speaker, "Tech Regulation," Antonin Scalia Fellowship, Online. Notes supplied.

May 27, 2021: Panelist, "Originalism as a Law Clerk," Georgetown Center for the Constitution, Washington, District of Columbia. I was asked to discuss what role originalism played in my Supreme Court clerkship. I have no notes, transcript, or recording. The address of the Georgetown Center for the Constitution is 600 New Jersey Avenue, Northwest, Washington, District of Columbia 20001.

May 2020: Panelist, Rule of Law Defense Fund, Online webinar. I was asked to provide a basic overview of the Foreign Sovereign Immunities Act in the context of China and COVID, including an explanation of Senator Hawley's S.3674 - Civil Justice for Victims of Coronavirus Act. I have no notes, transcript, or recording. The address of the Rule of Law Defense Fund is 1747 Pennsylvania Avenue, Northwest, Suite 800, Washington, District of Columbia 20006.

April 15, 2020: Panelist, "Section 230 of the Communications Decency Act," Federalist Society, Washington, District of Columbia, Online. Recording available at: <https://fedsoc.org/events/section-230-of-the-communications-decency-act-1>.

February 18, 2020: Panelist, "Statutory Federalism and Criminal Law," Future Prosecuting Attorney's Council and Federalist Society, Notre Dame Law School, South Bend, Indiana. I discussed my article *Statutory Federalism and Criminal Law*, 106 VA. L. REV. 127 (2020). Other than the article itself, I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

October 9, 2019: Panelist, "Statutory Federalism and Criminal Law," Federalist Society, Columbia Law School, New York, New York. I discussed my article *Statutory Federalism and Criminal Law*, 106 VA. L. REV. 127 (2020). Other than the article itself, I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

October 8, 2019: Panelist, "Statutory Federalism and Criminal Law," Federalist Society, University of Virginia School of Law, Charlottesville, Virginia. I discussed my article *Statutory Federalism and Criminal Law*, 106 VA. L. REV. 127 (2020). Other than the article itself, I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

February 5, 2019: Speaker, "Statutory Federalism and Criminal Law," Federalist Society, Yale Law School, New Haven, Connecticut. I discussed my article *Statutory Federalism and Criminal Law*, 106 VA. L. REV. 127 (2020). Other than the article itself, I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

January 23, 2019: Panelist, "Careers in Public Service," Federalist Society, University of Chicago Law School, Chicago, Illinois. I was asked to explain my experiences in public service. I have no notes, transcript, or recording. The address of The Federalist Society

is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 20006.

February 10, 2017: Panelist, "Clerking," Federalist Society, Yale Law School, New Haven, Connecticut. I was asked to give advice to future law clerks. I have no notes, transcript, or recording. The address of The Federalist Society is 1776 I Street, Northwest, Suite 300, Washington, District of Columbia 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 copies of the clips or transcripts of these interviews where they are available to you.

Faune Riffin, River Radio KZIM (Feb. 5, 2025). Recording available at: <https://podcasts.apple.com/us/podcast/a-glimpse-into-the-ags-communications-team/id1458752757?i=1000689395833>.

Michael Ryan, *Inside an earthquake: Missouri's 'likely' billion-dollar judgment against China should rock the world, officials say*, The Heartlander (Feb. 4, 2025). Copy supplied.

Joe Hennessy, *Trial date set for Amendment Three lawsuit as abortion remains banned in Missouri*, KCTV 5 (Jan. 31, 2025). Article and video available at: <https://www.kctv5.com/2025/02/01/trial-date-set-amendment-three-lawsuit-abortion-remains-banned-missouri/>.

Missouri Attorney General sues China, KFVS 12 (Jan. 27, 2025). Video available at: <https://www.kfvs12.com/video/2025/01/27/missouri-attorney-general-sues-china-2/>.

Amber Ruch, *Mo. vs. China case held in Cape Girardeau federal court Monday*, KFVS 12 (Jan. 27, 2025). Video available at: <https://www.kfvs12.com/2025/01/24/mo-suing-china-its-role-covid19-pandemic-bailey-says/>.

Morning Crew with Dan and Drew, Real Talk 93.3 (Jan. 16, 2025). Video available at: https://www.facebook.com/RealTalk933fm/videos/the-morning-crew/1705514260374516/?_rdr

Abortion access on hold in Missouri as legal battle drags on, Associated Press (Dec. 6, 2024). Video available at: <https://www.youtube.com/watch?v=bYX6Hl.kXfMY>.

Anna Sporre, Judge could allow Planned Parenthood to begin, Fulton Sun (Dec. 6, 2024). Copy supplied.

Noah Taborda, *Planned Parenthood and Missouri attorney general expect judge to rule soon on abortion restrictions*, KCUR (Dec. 4, 2024). Copy supplied.

Jonathan Shorman, *Abortions could begin in Kansas City on Friday if Jackson Co. judge blocks restrictions*, The Kansas City Star (Dec. 4, 2024). Copy supplied.

Hannah Falcon, *Jackson County judge weighs whether to pause Missouri's abortion ban ahead of Amendment Three going into effect this week*, WGEM (Dec. 4, 2024). Article and video available at: <https://www.wgem.com/2024/12/05/jackson-county-judge-weighs-whether-pause-missouris-abortion-ban-ahead-amendment-three-going-into-effect-this-week>.

Malik Jackson, *Missouri voters affirmed Amendment 3, but stances continue to differ*, Fox 4 (Dec. 4, 2024). Article and video available at: <https://fox4kc.com/news/missouri-voters-affirmed-amendment-3-but-stances-continue-to-differ/> and <https://www.youtube.com/watch?v=bYX6HLkXfMY>.

Matt Evans, *Missouri judge to decide on Injunction restoring abortion access after Amendment 3*, KMBC News 9 (Dec. 4, 2024). Article and video available at: <https://www.kmbc.com/article/missouri-judge-to-decide-injunction-restoring-abortion-access/63098183>.

Ali Sullivan, *Meet Trump's Solicitor General Nominee John Sauer*, Law360 (Nov. 15, 2024). Copy supplied.

Jen Bukowsky Show, 93.9 The Eagle (Oct. 6, 2024). Video available at: <https://www.facebook.com/939TheEagle/videos/522987180347656/>.

Show Me Today, Missouri Attorney General's office says student loan forgiveness attempts sends "wrong message" to colleges, MissouriNet (Aug. 30, 2024). Recording available at: <https://www.missourinet.com/2024/08/30/attorney-generals-office-says-student-loan-forgiveness-attempts-sends-wrong-message-to-colleges-listen/>.

Morning Crew with Dan and Drew, Real Talk 93.3 (Aug. 12, 2024). I have no notes, transcript, or recording and have been unable to obtain a recording. The address of Sponsor is 12594 Veterans Memorial Parkway, Wentzville, Missouri 63385.

Mark Maxwell, *Biden's revised student loan debt plan faces new legal challenge in federal court*, KSDK (June 3, 2024). Article and video available at: <https://www.ksdk.com/article/news/politics/national-politics/biden-revised-student-loan-debt-plan-legal-challenge-federal-court/63-b0ea344d-12ba-4d7e-8765-86599601e552>.

Morning Crew with Dan and Drew, Real Talk 93.3 (June 3, 2024). I have no notes, transcript, or recording and have been unable to obtain a recording. The address of Sponsor is 12594 Veterans Memorial Parkway, Wentzville, Missouri 63385.

With Branden Rathert, Bailey Wire Podcast, Episode 5: *Battling Biden's Unlawful Student Loan Bailout with Solicitor General Josh Divine*, (May 30, 2024). Recording available at: https://www.youtube.com/watch?v=uQsCpCPrvog&list=PLh7Oh6MV0koWNxdMUzv9_hPMxxV1LxKWB&index=4.

Marc Cox, 97.1 The Talk (April 5, 2024). I have no notes, transcript, or recording and have been unable to obtain a recording. The address of Sponsor is 1220 Olive Street, 3rd Floor, Saint Louis, Missouri 63103.

Morning Crew with Dan and Drew, Real Talk 93.3 (April 4, 2024). I have no notes, transcript, or recording and have been unable to obtain a recording. The address of Sponsor is 12594 Veterans Memorial Parkway, Wentzville, Missouri 63385.

Nate Mowry, *Missouri Solicitor General Josh Divine on government influence on social media*, SCOTUSblog (March 18, 2024). Video available at: <https://www.scotusblog.com/2024/03/missouri-solicitor-general-josh-divine-on-government-influence-on-social-media/>.

Sylvie Douglis, *A Supreme Court case that could reshape social media*, NPR (Feb. 22, 2024). Copy supplied.

Wake up Mid Mo, 93.9 The Eagle (Jan. 17, 2024). Video available at: <https://www.youtube.com/watch?v=T4LmPjjoCBA&t=490s>.

Kelley Hoskins, *Religious leaders challenge Missouri's abortion ban, cite separation of church and state*, Fox2Now (Nov. 16, 2023). Article and video available at: <https://fox2now.com/video/religious-leaders-challenge-missouris-abortion-ban-cite-separation-of-church-and-state/9180263/>.

Sarah Kellogg, *Missouri's latest attempt to defund Planned Parenthood will be decided by state Supreme Court*, NPR Saint Louis Public Radio (Nov. 9, 2023). Copy supplied.

Elly Laliberte, *Missouri Supreme Court hears arguments over block of Planned Parenthood funding*, KOMU 8 (Nov. 8, 2023). Article and video available at: https://www.komu.com/news/state/missouri-supreme-court-hears-arguments-over-block-of-planned-parenthood-funding/article_184d4bec-7dc3-11ee-83e4-fb8527824be4.html.

Mercedes Mackay, *Prosecuting Attorney Jean Peters Baker is concerned about how prosecutors are supposed to interpret the abortion ban*, KSDK (Sept. 6, 2023). Article and video available at: <https://www.ksdk.com/article/news/politics/state-prosecutors-missouris-abortion-ban/63-f3524fdb-4d55-47a6-947e-43a48649f88d>.

Ian Robinson, *Arguments begin in landmark government censorship case heard before Louisiana federal court*, Monroe News-Star (May 26, 2023). Copy supplied.

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

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these cases, approximately what percent were:

jury trials: _____ %
bench trials: _____ %

ii. Of these cases, approximately what percent were:

civil proceedings: _____ %
criminal proceedings: _____ %

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

I volunteered to knock doors for one day during the New Hampshire 2016 Republican primary for Marco Rubio.

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

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

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

From 2016 to 2017, I served as a law clerk to the Honorable William H. Pryor, Circuit Judge of the United States Court of Appeals for the Eleventh Circuit.

From 2020 to 2021, I served as a law clerk to the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States.

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

I have not practiced law 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;

2017 – 2019
Office of the Missouri Attorney General
207 West High Street
Jefferson City, Missouri 65101
Deputy Solicitor General

2019 – 2022
United States Senator Josh Hawley
115 Russell Senate Office Building
Washington, District of Columbia, 20510
Chief Counsel (2021 – 2022)
Deputy Counsel (2019 – 2020)

2023 – present
Office of the Missouri Attorney General
207 West High Street
Jefferson City, Missouri 65101
Solicitor General (2023 – present)
Director of Special Litigation (2023 – present)

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

I have not served as a 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.

My practice has focused on complex trial and appellate litigation as well as in-house advice, but I have never specialized in any particular substantive area of the law. As Deputy Counsel and then Chief Counsel in the United States Senate, my role included advising a Senator on all legal issues, answering ethics questions for the office, drafting briefs, assessing whether to join amicus briefs, reviewing and drafting legislation, and answering legal inquiries from other staffers.

As Solicitor General and Director of Special Litigation, I work on constitutional and other complex cases in federal and state court, both at trial and on appeal. I conduct discovery, take depositions, engage in pre-trial motions practice, file briefs, lead trials, examine and cross-examine witnesses, and argue appeals. I also supervise two units that do all these tasks. My practice has been mostly civil but has included some criminal cases as well. As Solicitor General, I supervise appeals for the 200-attorney office. As Director of Special Litigation, I supervise a trial team engaged in complex litigation, and I personally appear in trial courts. (My experience as a Deputy Solicitor General was similar.)

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

As a law clerk I worked on the full range of issues as they came before the Supreme Court and court of appeals.

As Solicitor General and Director of Special Litigation, I work for state agencies and state officials on many different matters, including litigation, regulatory review, administrative law, state-federal relations, and multi-state litigation.

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

During my time in the Attorney General's Office, most of my practice has been in litigation, and I appear in court frequently. I have personally argued dozens of times. In 2024 alone, I had 12 oral arguments, including several multi-hour preliminary-injunction arguments and a two-week trial. Nine of those arguments were in trial courts.

- i. Indicate the percentage of your practice in:

1.	federal courts:	45%
2.	state courts of record:	50%
3.	other courts:	0%
4.	administrative agencies:	5%

- 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.

My cases typically are resolved at the preliminary-injunction stage or on written motions for judgment on the pleadings. Not counting those cases, 14 cases I oversee as Director of Special Litigation since 2023 have gone to a final decision. In addition, I estimate I have been associate counsel on half a dozen additional cases that were tried to final decision during this time.

i. What percentage of these trials were:

1. jury: 5%
2. non-jury: 95%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply 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 served as counsel of record or significant co-counsel and filed merits briefs, amicus briefs, petitions, applications, and other documents before the Supreme Court. Briefs and other pleadings filed in the U.S. Supreme Court in cases in which I served as lead counsel or significant co-counsel are identified below. I have not included multistate amicus briefs authored or led by other States that Missouri joined while I was in the Missouri Attorney General's Office, unless I served as lead counsel or significant co-counsel. I also have not included miscellaneous, pro forma documents like motions for extension of time.

I was counsel of record on merits-stage, certiorari-stage, original-proceeding-stage, and emergency-application-stage briefs in the following cases:

Missouri v. United States, No. 24-796 (2024) (pending) (Petition for Certiorari, 2025 WL 334271; Emergency Application, 2023 WL 6535000; Reply in Support of Emergency Application, 2023 WL 6848874)

Biden v. Missouri, No. 24A173 (2024) (Brief in Opposition to Application to Vacate the Injunction, 2024 WL 3890075)

Murthy v. Missouri, 603 U.S. 43 (2024) (Brief of Respondents, 2024 WL 475271; Response to Application for Stay of Injunction, 2023 WL 6170335; September 25, 2023 Supplemental Letter, copy supplied; October 3, 2023 Supplemental Letter, copy supplied; Response to Applicant's Third Supplemental Memorandum, copy supplied; Response in

Opposition to Motion to Intervene, copy supplied)

Missouri v. New York, No. 22O159 (2024) (Motion for Leave to File Bill of Complaint, copy supplied; Motion for Expedited Consideration, copy supplied; Motion for a Preliminary Injunction or Stay, copy supplied; Reply in Support of Motion for Expedited Consideration, copy supplied; Reply in Support of Motion for Leave to File Bill of Complaint and in Support of Motion for Preliminary Injunction or Stay, copy supplied)

FDA v. Alliance for Hippocratic Medicine, 602 U.S. 367 (2024) (Motion to Intervene by Missouri, Idaho, and Kansas, 2024 WL 286385; Reply in Support of Motion to Intervene, 2024 WL 556093)

Missouri Department of Corrections v. Finney, No. 23-203 (2024) (Petition for Certiorari, 2023 WL 5753615; Reply in Support of Petition, 2023 WL 6940215)

I was counsel of record on amicus briefs in the following cases:

MOHELA v. Good, No. 24-992 (decision pending) (Amicus Brief on Behalf of Missouri in Support of Certiorari, 2025 WL 1181759)

Crouch v. Anderson, No. 24-90 (decision pending) (Amicus Brief on Behalf of 24 States in Support of Certiorari, 2024 WL 3988668)

Folwell v. Kadel, No. 24-99 (2024) (decision pending) (Amicus Brief on Behalf of 24 States in Support of Certiorari, 2024 WL 3988668)

United States v. Skrmetti, No. 23-477 (decision pending) (Amicus Brief on the Merits, 2024 WL 4554619)

Doe Run Resources Corporation v. Reid, No. 24-601 (2025) (Amicus Brief on Behalf of 14 States in Support of Certiorari, 2025 WL 371413)

Alaska v. Department of Education, No. 24A11 (2024) (Amicus Brief on Behalf of Seven States in Support of Emergency Application, 2024 WL 3497592)

FDA v. Alliance for Hippocratic Medicine, 602 U.S. 367 (2024) (Amicus Brief on Behalf of Three States on the Merits, 2024 WL 948009; Amicus Brief in Opposition to Emergency Application 2023 WL 3178449)

Moody v. NetChoice, 603 U.S. 707 (2024) (Amicus Brief on Behalf of 19 States on the Merits, 2024 WL 287651)

NetChoice v. Paxton, 603 U.S. 707 (2024) (Amicus Brief on Behalf of 19 States on the Merits, 2024 WL 287651)

McElrath v. Georgia, 601 U.S. 87 (2024) (Amicus Brief on Behalf of 15 States on the

Merits, 2023 WL 7042383)

I have been listed on briefs as supporting counsel for either a party or *amicus curiae* in the following matters:

Oklahoma v. EPA, No. 24A213 (2024) (Emergency Application for Stay of Final Agency Action During Pendency of Petition for Review, 2024 WL 3974262; Reply in Support of Application for Stay of Final Agency Action During Pendency of Petition for Review, 2024 WL 4494726)

West Virginia v. EPA, No. 24A95 (2024) (Emergency Application for an Immediate Stay of Administrative Action Pending Review in the D.C. Circuit, 2024 WL 3579345; Reply in Support of States' Emergency Application for an Immediate Stay of Administrative Action Pending Review in the D.C. Circuit, 2024 WL 3974265)

Ohio v. EPA, No. No. 24-13 (2024) (Petition for Certiorari, 2024 WL 3361715; Reply in Support of Petition for Certiorari, 2024 WL 4335674)

June Medical Services v. Gee, 591 U.S. 299 (2020) (Amicus Brief on Behalf of Senator Josh Hawley on the Merits, 2019 WL 7397762; Amicus Brief on Behalf of Senator Josh Hawley in Opposition to Certiorari, 2019 WL 2614188)

Bucklew v. Precythe, 587 U.S. 119 (2019) (Brief of Respondents, 2018 WL 3969564; Brief in Opposition to Petition for Writ of Certiorari and in Opposition to Application for Stay of Execution, 2018 WL 1757762)

Association des Eleveurs de Canards et d'Oies du Quebec v. Becerra, No. 17-1285 (2019) (Amicus Brief on Behalf of 11 States in Support of Certiorari, 2018 WL 1806989)

Missouri v. California, 22O148 (2019) (Reply Brief, copy supplied; Supplemental Brief, copy supplied)

Holman v. Sachse, 17-7693 (2018) (Brief in Opposition, copy supplied)

Shockley v. Griffith, 17-8599 (2018) (Brief in Opposition, copy supplied)

Kirk v. Missouri, No. 17-6798 (2018) (Brief in Opposition, copy supplied)

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

a. the date of representation;

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

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

1. *Missouri v. People's Republic of China*, 2025 WL 746202 (E.D. Mo., March 7, 2025); *Missouri v. People's Republic of China*, 90 F.4th 930 (8th Cir. 2024)

Since 2023, I have represented the State of Missouri as lead counsel in an antitrust action against China and obtained the largest judgment in state history. The lawsuit alleged that China committed antitrust violations by engaging in anticompetitive conduct to hoard personal protective equipment at the beginning of the COVID outbreak.

The district court (Judge Limbaugh) initially dismissed the suit as barred by sovereign immunity. I argued the appeal in the Eighth Circuit before Judges Smith, Stras, and Kobes. That court reversed the district court and reinstated the lawsuit, with Judge Smith dissenting. On remand, before the same district court judge, I litigated the case at trial with one of my deputy solicitors general. In March 2025, the district court ruled in Missouri's favor and issued a \$24.4 billion judgment against China.

Other counsel for Plaintiff:

Samuel Charles Freedlund
Missouri Attorney General's Office
815 Olive Street, Suite 200
Saint Louis, MO 63101
(314) 340-4869

Dean John Sauer
[Then Solicitor General of Missouri]
Justin D. Smith
[Then Chief of Staff for the Missouri Attorney General's office]
James Otis Law Group
13321 North Outer Forty Road, Suite 300
Saint Louis, MO 63017
(816) 678-2103

Counsel for Defendants:

China did not enter an appearance.

2. *Missouri v. Biden*, 128 F.4th 979 (2025) (renamed automatically to *Missouri v. Trump* under F.R.C.P. 25); *Missouri v. Biden*, 738 F.Supp.3d 1113 (E.D. Mo., 2024); *Biden v. Missouri*, No. 24A173 (2024)

Since 2024, I have served as lead counsel for a seven-State coalition challenging a regulation by the Department of Education that would have cancelled nearly \$500 billion in student loans. This was the Department's second attempt at cancelling nearly \$500 billion in student loans, after its unsuccessful attempt in *Biden v. Nebraska*, 600 U.S. 477 (2023). After oral argument and evidentiary submissions, the district court (Judge Ross) issued a preliminary injunction. When the Department altered its program to continue forgiving loans despite the district court's injunction, the States successfully moved for a broader injunction pending appeal, which the Eighth Circuit granted in a per curiam opinion joined by Judges Gruender, Grasz, and Erickson. The U.S. Solicitor General filed an emergency application in the Supreme Court to permit the Department to continue forgiving loans. The Supreme Court rejected that request without dissent. After full briefing and oral argument, the same panel of the Eighth Circuit issued a full opinion siding with my client and declaring the Department's actions unlawful. Judge Grasz wrote the unanimous decision, joined by Judges Gruender and Erickson.

I led all aspects of the litigation—from drafting the complaint, motions, and briefs, to delivering several oral arguments and successfully defending the States' injunction at the Supreme Court.

Other counsel for Plaintiffs:

Reed Dempsey
Samuel Charles Freedlund
Missouri Attorney General's Office
815 Olive Street, Suite 200
Saint Louis, MO 63101
(314) 340-4869

Nicholas J. Bronni
[Then Solicitor General of Arkansas]
625 Marshall Street
Little Rock, AR 72201
(501) 682-6687

Dylan L. Jacobs
[Then Deputy Solicitor General of Arkansas]
800 Connecticut Avenue, Northwest, Suite 300
Washington, D.C. 20006
(602) 501-5469

Allen L. Huang
Christine Kimberly Pratt
Florida Attorney General's Office
3507 East Frontage Road, Suite 200
Tampa, FL 33607

(714) 878-8628

Stephen John Petrany
Georgia Attorney General's Office
40 Capitol Square, Southwest
Atlanta, GA 30334
(404) 458-3408

Counsel for Defendants:

Thomas Pulham
Michael Raab
Sarah Nicole Smith
Simon Christopher Brewer
Stephen Michael Pezzi
Simon Gregory Jerome
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
(202) 514-4332

3. *Noe v. Parson*, No. 23AC-CC04530 (19th Circ., MO, 2024)

Since 2023, I have led the trial and appellate representation of Missouri in defense of its law limiting hormonal and surgical gender transition interventions in minors. In 2023, the trial court (Judge Ohmer) held a three-day, 14-witness preliminary injunction hearing just three weeks after the lawsuit was served. I led representation for the hearing, cross-examined all three expert witnesses for the other side, directly examined the State's opening witness, and delivered opening and closing arguments. The trial court ruled in the State's favor—the first trial court in the nation to rule in favor of a State on this issue.

The plaintiffs then took a peremptory strike against Judge Ohmer, which is allowed under Missouri law for any reason if taken within 60 days of the case being filed. Missouri S. Ct. Rule 51.05. The Missouri Supreme Court reassigned the case to Judge Carter. I continued to serve as lead counsel for the next year through trial, taking several depositions and discovery, and again delivering arguments and examining fact and expert witnesses at trial. The trial lasted two weeks and involved 34 witnesses. The court again ruled in favor of the State. To the best of my knowledge, Missouri remains the only State in the nation to prevail on this issue at trial. The plaintiffs have filed a notice of appeal, and briefing remains ongoing.

Counsel for Plaintiffs:

Gillian R. Wilcox
Jason Orr
ACLU of Missouri Foundation

406 West 34th Street, Suite 420
Kansas City, MO 64111
(816) 470-9938

Kristin M. Mulvey
Jonathan D. Schmid
ACLU of Missouri Foundation
906 Olive Street, Suite 1130
Saint Louis, MO 63101
(314) 652-3114

Nora Huppert
Camilla B. Taylor
Lambda Legal Defense and Education Fund, Inc.
65 East Wacker Place, Suite 2000
Chicago, IL 60601
(312) 663-4413

Omar Gonzalez-Pagan
Lambda Legal Defense and Education Fund, Inc.
120 Wall Street, 19th Floor
New York, NY 10005
(212) 809-8585

J. Bennett Clark
Michael E. Rowan
Mary Grace E. Warren
Bryan Cave Leighton Paisner LLP
One Metropolitan Square 211 North Broadway, Suite 3600
Saint Louis, MO 63102
(314) 259-2000

James D. Lawrence
Bryan Cave Leighton Paisner LLP
One Kansas City Place
1200 Main Street, Suite 3800
Kansas City, MO 64105
(816) 374-3200

Other Counsel for Defendants:

Jeremiah J. Morgan
Patrick Sullivan
Samuel C. Freedlund
Peter F. Donohue Sr.
Emily Dodge

Matthew J. Tkachuk
Missouri Attorney General's Office
207 West High Street
Jefferson City, MO 65101
(573) 751-3321

Bryce C. E. Beal
[Then Assistant Attorney General for Missouri]
201 W. Capitol Avenue, Room 318a
Jefferson City, MO 65101
(573) 751-7985

4. *Missouri v. Department of Education*, 2:24-cv-00103 (S.D. Ga.), venue transferred to 4:24-cv-01316 (E.D. Mo.)

Since 2024, I have led a seven-State coalition against the Department of Education's third attempt to mass cancel student loans. The States argued that the Department was illegally attempting to cancel hundreds of billions in student loans and was clandestinely rushing to do so to prevent a court from exercising judicial review. The district court (Judge Hall) agreed and entered two temporary restraining orders against the defendants. Weeks later, the district court concluded that Georgia lacked standing and transferred venue to the Eastern District of Missouri. That court (Judge Schelp) also agreed that the Department was illegally and clandestinely rushing to mass cancel billions of dollars in student loans, so that district court entered a preliminary injunction. Litigation remains ongoing.

As lead counsel for the seven-State coalition, I worked on the complaint, the motions, the briefing, and the evidentiary submissions. I also delivered oral argument.

Other Counsel for Plaintiffs:

Reed Dempsey
Missouri Attorney General's Office
207 West High Street
Jefferson City, MO 65102
(573) 751-8355

Edmund Gerard LaCour, Jr.
Alabama Attorney General's Office
501 Washington Avenue
Montgomery, AL 36130
(334) 353-2196

G. Todd Carter
Brown, Readdick, Bumgartner, Carter, Strickland, & Watkins, LLP
5 Glynn Avenue

Brunswick, GA 31521
(912) 264-8544

Nicholas J. Bronni
[Then Solicitor General of Arkansas]
625 Marshall Street
Little Rock, AR 72201
(501) 682-6687

Dylan L. Jacobs
[Then Deputy Solicitor General of Arkansas]
800 Connecticut Avenue, Northwest, Suite 300
Washington, D.C. 20006
(602) 501-5469

Allen L. Huang
Christine Kimberly Pratt
Florida Attorney General's Office
3507 East Frontage Road, Suite 200
Tampa, FL 33607
(714) 878-8628

James Hamilton Percival, II
[Then Chief of Staff in the Florida Attorney General's Office]
Department of Homeland Security
2707 Martin Luther King Jr., Avenue, Southeast, MSC 0525
Washington, D.C. 20528
(240) 492-2420

Stephen John Petrany
Georgia Attorney General's Office
40 Capitol Square, Southwest
Atlanta, GA 30334
(404) 458-3408

Philip Axt
Attorney General of North Dakota
600 East Boulevard Avenue
Department 125
Bismarck, ND 58505
(701) 328-2210

Thomas Elliot Gaiser
Ohio Attorney General's Office
30 East Broad Street, Suite 17th Floor
Columbus, OH 43215

(614) 466-8980

Counsel for Defendants:

Stephen Michael Pezzi
Simon Gregory Jerome
U.S. Department of Justice
1100 L Street, Northwest
Washington, D.C. 20005
(202) 305-8576

Shannon Heath Statkus
U.S. Attorney's Office
P.O. Box 2017
Augusta, GA 30901
(706) 724-0517

5. *Murthy v. Missouri*, 603 U.S. 43 (2024); *Missouri v. Biden*, 83 F.4th 350 (5th Cir. 2023); *Missouri v. Biden*, 680 F. Supp. 3d 630 (W.D. La., 2023)

Since 2023, I have served as lead counsel for Missouri in an action brought by Missouri, Louisiana, and several private plaintiffs. The States alleged that the Federal Government engaged in a systemic campaign to unlawfully pressure and coerce social media companies to take down free speech content that the Federal Government disliked. The States and private plaintiffs submitted thousands of pages of evidence at a preliminary injunction hearing before Judge Doughty.

The district court agreed that the Federal Government had violated the First Amendment and was continuing to violate the First Amendment. On appeal, the Fifth Circuit affirmed the district court in a unanimous per curiam decision joined by Judges Clement, Elrod, and Willett. The Supreme Court then heard the case. It did not dispute that the States and private plaintiffs had established violations of the First Amendment, but the Court ruled 6-3 that the plaintiffs lacked standing to obtain prospective injunctive relief based on the evidence in the record at the preliminary injunction stage. Justices Thomas, Alito, and Gorsuch dissented. Litigation remains ongoing on remand.

I became lead counsel for Missouri in 2023, the year after the litigation was filed. In that role, I helped draft the motions and briefs both in the trial court, on appeal before the Fifth Circuit, and before the Supreme Court. I delivered oral argument before the Fifth Circuit.

Other Counsel for Missouri:

J. Michael Patton
Todd Scott
Missouri Attorney General's Office

207 West High Street
Jefferson City, MO 65101
(573) 751-8366

Dean John Sauer
[Then Solicitor General of Missouri]
Michael E. Talent
James Otis Law Group
13321 North Outer Forty Road, Suite 300
Saint Louis, MO 63017
(816) 678-2103

Charles F Capps
[Then Deputy Solicitor General of Missouri]
Arizona State University
111 East Taylor Street
Phoenix, AZ 85004
(480) 965-6181

Counsel for Louisiana:

Elizabeth Baker Murrill
Jorge Benjamin Aguinaga
Zachary Faircloth
Tracy Short
Louisiana Attorney General's Office
1885 North Third Street
Baton Rouge, LA 70802
(225) 326-6766

Counsel for private plaintiffs:

John J. Vecchione
Jenin Younes
Zhonette M. Brown
New Civil Liberties Alliance
1225 19th Street, Northwest, Suite 450
Washington, D.C. 20036
(202) 918-6902

John C. Burns
Burns Law Firm
P.O. Box 191250
Saint Louis, MO 63119
(314) 329-5040

Counsel for Defendants:

Elizabeth B. Prelogar
[Then U.S. Solicitor General]
Harvard University
1585 Massachusetts Avenue
Cambridge, MA 02138
(617) 998-2723

Brian M. Boynton
Brian H. Fletcher
Sopan Joshi
Daniel Tenny
Daniel Winik
Simon I. Brewer
Adam Kirschner
Alexander William Resar
Amanda Chuzi
Catherine M Yang
Indraneel Sur
Joshua E Gardner
U.S. Department of Justice
Washington, D.C. 20530
(202) 514-2000

Kyla Snow
[Then Trial Attorney at Department of Justice]
Jacobson Lawyers Group
1629 K Street, Northwest, Suite 300
Washington, D.C. 20006
(301) 823-1148

Kuntal Cholera
[Then Trial Attorney at Department of Justice]
Covington & Burling LLP
850 10th Street, Northwest
Washington, D.C. 20001
(202) 662-6000

6. *Missouri and Texas v. Biden*, 722 F. Supp. 3d 710 (S.D. Tex. 2024) (consolidated with *General Land Office v. Biden*)

Since 2023, I have represented Missouri as lead Missouri counsel in a case brought by Missouri and Texas against the Federal Government for its decision to stop using funds appropriated by Congress to build a wall on the southern border. The case was consolidated with another case by the General Land Office of Texas, which raised

substantially similar claims. The plaintiffs argued that two appropriations bills mandated that the Federal Government spend funds building a border wall.

The district court (Judge Micaela Alvarez) dismissed the suit for lack of standing, but the Fifth Circuit reversed in a decision joined by Judges Jones and Smith, with Judge Graves concurring in part and dissenting in part. On remand, the district court transferred the case to another judge (Judge Tipton), who entered a final judgment in favor of the States.

Although the case began before my tenure as Director of Special Litigation, I took over as lead counsel after the Fifth Circuit remanded. I drafted motions and briefs, assisted with discovery, and conducted several hearings.

Other counsel for Missouri:

Samuel Charles Freedlund
Missouri Attorney General's Office
815 Olive Street
Saint Louis, MO 63188
(314) 340-4869

Dean John Sauer
[Then Solicitor General of Missouri]
Michael E. Talent
[Then Deputy Solicitor General of Missouri]
James Otis Law Group
13321 North Outer Forty Road, Suite 300
Saint Louis, MO 63017
(816) 678-2103

Jeff Philip Johnson
[Then Deputy Solicitor General of Missouri]
Troutman Pepper Locke LLP
1001 Haxall Point
15th Floor
Richmond, VA 23219
(571) 217-1692

Jesus A Osete
[Then Deputy Solicitor General of Missouri]
Bryan Cave Leighton Paisner LLP
221 Bolivar Street, Suite 101
Jefferson City, MO 65101
(573) 556-6620

Maddie McMillian Green
[Then Assistant Attorney General for Missouri]

HB Strategies
217 East Capitol Avenue
Jefferson City, MO 65101
(202) 899-3850

Counsel for Texas:

Ryan Daniel Walters
Munera Al-Fuhaid
Ryan Glen Kercher
Texas Attorney General's Office
209 West 14th Street
8th Floor
Austin, TX 78701
(512) 936-2714

Aaron Francis Reitz
[Then Deputy Attorney General for Legal Strategy for Texas]
U.S. Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530
(202) 514-4601

Counsel for General Land Office:

David Austin R. Nimocks
Christopher Leigh Peele
Peele Nimocks Toth
6836 Bee Caves Road
Building 3, Suite 201
Austin, TX 78746
(512) 522-4893

Cory Liu
Butler Snow LLP
1400 Lavaca Street, Suite 1000
Austin, TX 78701
(737) 802-1800

Donato D Ramos
Law Offices of Donato D Ramos PLLC
6721 McPherson, Suite 350
Laredo, TX 78041
(956) 722-9909

Counsel for Defendants:

Alyssa Marie Iglesias
U.S. Attorney's Office
1701 West Business Highway 83, Suite 600
McAllen, TX 78501
(956) 618-8010

Andrew Irwin Warden
Daniel David Hu
Michael Joseph Gerardi
Joshua Dos Santos
Caroline W. Tan
U.S. Department of Justice
1100 L Street, Northwest
Washington, D.C. 20005
(202) 616-5084

7. *Blackmon v. Missouri*, 2322-CC00120 (22d Cir., MO, 2024)

From 2023 to 2024, I represented the State in this trial-court action involving a challenge to Missouri's abortion laws. The plaintiffs argued that those laws violated Missouri's prohibition on establishing a religion. A local prosecutor (Jean Peters Baker) also sought to join the plaintiffs and attack the validity of those laws. I delivered oral argument; drafted pleadings, motions, and briefs; and supervised discovery. The trial court in the City of Saint Louis (Judge Sengheiser) ruled in the State's favor. The plaintiffs chose not to appeal.

Counsel for Plaintiffs:

Denise D. Lieberman
P.O. Box 56574
Saint Louis, MO 63156
(314) 780-1833

Jenny Samuels
Americans United for Separation of Church and State
1310 L Street, Northwest, Suite 200
Washington, D.C. 20005
(202) 466-7308

Kent A. Yalowitz
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019
(202) 836-8000

Michelle Banker
K. M. Bell
Donya Khadem
National Women's Law Center
1350 I Street, Northwest, Suite 700
Washington, D.C. 20005
(202) 588-7620

John A. Freedman
Matthew Tabas
Annie Blackman
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, D.C. 20001
(202) 942-5000

Daniel E. Raymond
Arnold & Porter Kaye Scholer LLP
70 West Madison Street, Suite 4200
Chicago, IL 60602
(312) 583-2379

Other counsel for State Defendants:

Maria A. Lanahan
Samuel Charles Freedlund
Caleb Aaron Rutledge
Missouri Attorney General's Office
207 West High Street
Jefferson City, MO 65101
(573) 751-0812

Counsel for Defendant Prosecuting Attorney for Boone County:

Charles James Dykhouse
705 East Walnut, Suite 211
Columbia, MO 65201
(573) 886-4414

Deidre Faye Wood
TGH Litigation
28 North 8th Street, Suite 317
Columbia, MO 65201
(573) 256-2850

Counsel for Defendant Prosecuting Attorney for Greene and Jasper Counties:

Stephen Paul Sokoloff
Amy J. Fite
Missouri Association of Prosecuting Attorneys
200 Madison Street, Suite 1060
Jefferson City, MO 65101
(573) 751-0619

Norman Earl Rouse
Collins, Webster, & Rouse
5957 East 20th Street
Joplin, MO 64801
(417) 782-2222

Counsel for Defendant/Cross-Plaintiff Prosecuting Attorney for Jackson County:

Ryan Daryl Taylor
Amanda Rae Langenheim
Office of the Circuit Attorney
415 East 12th Street, Suite 200
Kansas City, MO 64106
(816) 881-3656

Counsel for Defendant Prosecuting Attorney for St. Charles County:

Robert Edward Hoeyneck
Office of the County Counselor
12444 Powerscourt Drive, Suite 250
Saint Louis, MO 63131
(636) 949-7540

Michael Gerard Mueth
Office of the County Counselor
100 North 3rd Street, Suite 216
St. Charles, MO 63301
(636) 949-7540

Counsel for Defendant Prosecuting Attorney for City of Saint Louis:

Aaron Elliott Schwartz
David Harold Luce
Lopa M. Blumenthal
Terrence J. O'Toole
Office of the Circuit Attorney
8182 Maryland Avenue, 15th Floor
Saint Louis, MO 63105

(314) 589-6289

8. *Bucklew v. Precythe*, 587 U.S. 119 (2019); *Bucklew v. Precythe*, 883 F.3d 1087 (8th Cir. 2018)

As a Deputy Solicitor General in 2017 and 2018, I defended the State in an action brought by a death-row inmate challenging the State's method of capital punishment. The inmate argued that the State's method—lethal injection using a single-drug protocol—violated the Eighth Amendment. The district court ruled in the State's favor.

I represented the State on appeal. I briefed and argued the case before the Eighth Circuit, which ruled in the State's favor in a split decision by Judge Loken, joined by Judge Wollman, with Judge Colloton in dissent.

The inmate appealed, and I drafted the brief in opposition to certiorari. The Supreme Court granted certiorari. On appeal before the Supreme Court, I served as second-chair to then-Solicitor General of Missouri John Sauer and helped draft the merits brief and prepare for oral argument. The Supreme Court ruled in the State's favor five-to-four in an opinion by Justice Gorsuch (joined by the Chief Justice and Justices Thomas, Alito, and Kavanaugh), holding that the inmate had failed to establish an Eighth Amendment violation.

Counsel for Plaintiff:

Cheryl A. Pilate
Morgan Pilate LLC
926 Cherry Street
Kansas City, MO 64106
(816) 471-6694

Robert N. Hochman
Lawrence P. Fogel
Steven J. Horowitz
Kelly J. Huggins
Heather B. Sultanian
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000

Raechel J. Bimmerle
[Then associate at Sidley Austin LLP]
Airbus Americas, Inc.
2550 Wasser Terrace, Suite 9100
Herndon, VA, 20171
(703) 834-3400

Suzanne B. Notton
 [Then associate at Sidley Austin LLP]
 Salvatore Prescott Porter & Porter
 1010 Davis Street
 Evanston, IL 60201
 (312) 283-5711

Matthew J. Saldaña
 [Then associate at Sidley Austin LLP]
 Mint Mobile
 17870 Newhope Street, #104-155
 Fountain Valley, CA 92708
 (800) 683-7392

Other counsel for Defendants:

Dean John Sauer
 [Then Solicitor General of Missouri]
 James Otis Law Group
 13321 North Outer Forty Road, Suite 300
 Saint Louis, MO 63017
 (816) 678-2103

Peter T. Reed
 [Then Deputy Solicitor General of Missouri]
 U.S. Attorney's Office for the Southern District of Illinois
 9 Executive Drive
 Fairview Heights, IL 62269
 (618) 628-3700

Julie Marie Blake
 [Then Deputy Solicitor General of Missouri]
 Alliance Defending Freedom
 44180 Riverside Parkway
 Lansdowne, VA 20176
 (571) 707-4655

Michael Joseph Spillane
 Missouri Attorney General's Office
 207 West High Street
 Jefferson City, MO 65102
 (573) 751-8870

9. *Van Orden v. Stringer*, 937 F.3d 1162 (8th Cir. 2019)

Missouri has a program to civilly commit sexually violent predators—individuals who both have a mental abnormality and have been proven to be a danger to the community. In 2018, I defended the State against a constitutional challenge to that program on the grounds that the State was improperly administering the program in a way that violated the constitutional rights of all involved. The suit sought to shut down the program. The district court (Judge Fleissig) initially ruled against the State before ruling in favor of the State on rehearing.

I represented the State on appeal, drafting the briefs and orally arguing the case before Judges Colloton, Beam and Grasz of the Eighth Circuit. The Eighth Circuit ruled in the State's favor in a unanimous opinion.

Counsel for Plaintiffs:

Scott K.G. Kozak
Sandberg & Phoenix
701 Market Street, Suite 600
Saint Louis, MO 63101
(314) 231-3332

Christopher LaRose
Daniel K. O'Toole
Armstrong & Teasdale
7700 Forsyth Boulevard, Suite 1800
Saint Louis, MO 63105
(314) 621-5070

Omri E. Praiss
Khazaeli & Wyrsh
911 Washington Avenue, Suite 211
Saint Louis, MO 63101
(314) 288-0777

John H. Quinn, III
John H. Quinn PC
P.O. Box 221778
Saint Louis, MO 63122
(314) 780-0691

Anthony E. Rothert
[Then at ACLU of Missouri Foundation]
Illinois Guardianship & Advocacy Commission
2nd Floor
115 North Buchanan Street
Edwardsville, IL 62025
(217) 494-4425

Jessie M. Steffan
 [Then Senior Staff Attorney at the ACLU of Missouri Foundation]
 Saint Louis University School of Law
 100 North Tucker Blvd
 Saint Louis, MO 63101
 (314) 977-2800

Thomas E. Wack
 7611 Wydown Boulevard
 Saint Louis, MO 63105
 (314) 643-1887

Gillian R. Wilcox
 ACLU of Missouri Foundation
 406 West 34th Street, Suite 420
 Kansas City, MO 64111
 (816) 470-9938

Other counsel for Defendants:

Dean John Sauer
 [Then Solicitor General of Missouri]
 Michael Martinich-Sauter
 [Then Deputy Attorney General for Legal Policy of Missouri]
 James Otis Law Group
 13321 North Outer Forty Road, Suite 300
 Saint Louis, MO 63017
 (816) 678-2103

Julie Marie Blake
 [Then Deputy Solicitor General of Missouri]
 Alliance Defending Freedom
 44180 Riverside Parkway
 Lansdowne, VA 20176
 (571) 707-4655

Michael Joseph Spillane
 Attorney General of Missouri
 207 West High Street
 Jefferson City, MO 65102
 (573) 751-8870

Katherine S. Walsh
 [Then Assistant Attorney General of Missouri]
 Missouri Department of Commerce & Insurance

301 West High Street, Suite 630
Jefferson City, MO 65101
(573) 751-2619

10. *Missouri v. Ward*, SC96696 (Mo. 2019)

In 2018, I represented the State in a double-jeopardy case before the Missouri Supreme Court. The trial court issued a judgment of “acquittal” but based that acquittal on the court’s conclusion that the underlying statute was unconstitutional. The State sought to appeal the ruling of unconstitutionality, but the criminal defendant argued that double jeopardy barred the State from appealing because the court had issued a verdict marked “acquittal.” I delivered oral argument before the Missouri Supreme Court, which unanimously vacated the trial court’s judgment in an opinion by Judge Powell, joined by Judges Wilson, Draper, Fischer, Breckenridge, Russell, and Stith.

Other counsel for State:

Christine Lesicko
[Then Assistant Attorney General for Missouri]
Watters Wolf Bub Hansmann Law
600 Kellwood Parkway, Suite 120
Chesterfield, MO 63017
(636) 798-0610

Counsel for Defendant:

Ellen H. Flottman
Woodrail Centre, 1000 West Nifong
Building 7, Suite 100
Columbia, MO 65203
(573) 777-9977

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

As Solicitor General, I have been involved in a wide range of legal activities beyond the litigation matters listed above, usually in a supervisory role. My office supervises most civil appeals, including reviewing briefs and deciding whether to pursue an appeal from an adverse judgment. These cases run the gamut from torts on public property to employment-law suits to defending law enforcement officials from suits for conduct in the exercise of their duties. My office also supervises most multi-state matters, including amicus briefs and multi-state investigations.

My office also engages in administrative law work and investigations. I regularly advise agency clients on their obligations in response to court rulings, provide guidance to agencies when they engage in rulemaking, and update agency clients on doctrinal developments affecting their work. The Attorney General also has authority to conduct investigations, and I regularly supervise those.

I have never acted or registered as a lobbyist. I am, however, frequently asked to review potentially problematic bills or legislative proposals and, when necessary, explain constitutional or legal concerns caused by proposed legislation and to offer suggested solutions.

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

I have not taught any courses.

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

None.

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

If confirmed, I may seek to teach a law school course once or twice a year. I have no commitments or agreements to do so, and no other plans for outside activities.

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

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

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse from any cases where I have ever played a role. I do not directly own any stocks and do not anticipate ever changing that practice. But if it were to change, I would recuse from any litigation involving those businesses. I will evaluate any other real or potential conflict, or relationship that could give rise to appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

Having been an attorney for the government my entire career, I have been precluded from pro bono legal services. But I have volunteered in other ways. I try to perform as much educational work as possible. I speak at law schools five or six times a year, volunteer my time to help moot attorneys who are arguing before the Supreme Court on behalf of nonprofit or indigent clients, and mentor young students and lawyers.

26. **Selection Process:**

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

In November 2024, I was contacted by staff from the offices of Senator Hawley and Senator Schmitt to see if I would be interested in a judicial position. In mid-December 2024, I was asked to submit written materials to Senator Schmitt's office, such as a resume, list of references, and list of writings.

On February 14, 2025, I interviewed with attorneys from the White House Counsel's Office at the Eisenhower Building in Washington, D.C. Since then, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination. On May 6, the President called to tell me I would be nominated.

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

No.

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		55	389	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities -- see schedule		309	930	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		92	607
Real estate owned -- see schedule		231	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		5	200	Federal Student Loans		55	662
Cash value-life insurance							
Other assets itemize:							
				Total Liabilities		148	269
				Net Worth		453	250
Total Assets		601	519	Total Liabilities and Net Worth		601	519
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

Vanguard Target Retirement 2055 Investor	\$60,015
Vanguard Target Retirement 2055 Investor	3,515
Vanguard Total Bond Market Index	5,597
Vanguard 500 Index	30,593
Vanguard Total Stock Market Index	16,737
Thrift Savings Plan L 2050	74,778
Maryland 529 Equity Index 500	35,982
Missouri 2055 Fund	48,965
Missouri State Employees' Plan 2011	20,922
TRRIX	8,911
VBPIX	592
VFIAX	2,342
VIPIX	435
VMCIX	276
VSCIX	270
Total Listed Securities	<u>\$309,930</u>

Real Estate Owned

Personal Residence	<u>\$231,000</u>
Total Real Estate Owned	<u>\$231,000</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>\$92,607</u>
Total Real Estate Mortgages Payable	<u>\$92,607</u>

AFFIDAVIT

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

4-25-25

(DATE)

Joshua Divine

(NAME)

Diana Haines 4-25-2025
(NOTARY)



Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Joshua Michael Divine
Nominee to be U.S. District Judge for the Eastern and Western Districts of Missouri
June 11, 2025

1. You previously argued that state-administered literacy tests should be a requirement for voting. Specifically, you stated that individuals who “aren’t informed about issues or platforms...have no business voting.”

Such tests are a racist relic of the Jim Crow era. They were routinely used to prevent immigrants and minorities from exercising their right to vote and were rightly banned by the Voting Rights Act of 1965.

You called these tests “not a bad thing.”

a. Do you still believe that state-administered literacy tests should be a requirement for voting?

Response: The premise of the question and the characterization of the article are not correct. The article in question expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. They were used particularly to target black Americans, but also were used to target people like my ancestors, Italian Americans. I have never advocated any form of Jim Crow literacy test.

The article, written when I was a teenager, was consistent with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned Jim Crow literacy tests but permitted devices that did not have the same history of abuse. After the Supreme Court unanimously held that literacy tests are constitutional so long as they are not applied in a discriminatory way, *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53 (1959), the Civil Rights Act and Voting Rights Act temporarily prohibited literacy tests in States with a history of abuse, but not in other jurisdictions. “[T]he Civil Rights Act of 1964 allowed for the use of literacy tests as a qualification, so long as the test was administered to every individual and conducted in writing.” Paulette Brown, *The Civil Rights Act of 1964*, 92 Wash. U. L. Rev. 527, 534 (2014); 52 U.S.C. § 10101(a)(2)(c). That Act restricted Jim Crow tests that had been administered arbitrarily and unevenly. The Voting Rights Act went further, banning the tests, but only in jurisdictions that had employed tests previously and where “less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.” 52 U.S.C. § 10303(a)–(b). The Voting Rights Act expressly permitted

literacy tests in all other jurisdictions. The article written when I was a teenager expressed ideas consistent with those landmark pieces of legislation.

It was not until years after the Civil Rights Act and Voting Rights Act that Congress passed legislation prohibiting the use of those tests nationwide, in all jurisdictions and regardless of whether the tests were in writing. 52 U.S.C. § 10501. As a teenager in college, I was aware that the Civil Rights Act and the Voting Rights Act had banned some tests while permitting others. I was not aware of the later amendments. I learned about the more recent law in law school. Tests are illegal now, and I have never advocated any form of test (including the ones that the Civil Rights Act and Voting Rights Act permitted) since that article.

In 2016, President Trump attributed one of his primary election wins, in part, to the “poorly educated.” He stated, “I love the poorly educated.”

- b. Do you believe that the “poorly educated” supporters to whom President Trump referred should have been required to pass a literacy test in order to cast their ballots?**

Response: See above.

2. You represented Missouri in its attempts to challenge access to mifepristone, one of two drugs used for medication abortions and miscarriage management. You initially filed a motion in the U.S. District Court for the Northern District of Texas to intervene in a case filed by private plaintiffs who sought a preliminary injunction ordering the Food and Drug Administration to withdraw or suspend access to mifepristone.

Last year, the Supreme Court unanimously held that the private plaintiffs lacked standing. You are now trying to revive the case to limit access to mifepristone despite decades of peer-reviewed research showing that the drug is safe.

In your amended complaint, you cited a study suggesting that access to abortion medication is “depressing expected birth rates for teenaged mothers in Plaintiff States” and claimed that Missouri would be injured because a loss of potential population would lead to “diminishment of political representation” and “loss of federal funds.”

- a. Do you believe it is bad that teenage pregnancy rates are declining in your state?**

Response: The question mischaracterizes the legal filing, which discusses an increase in the abortion rate, not the pregnancy rate. The State has not taken the position that the question suggests. The goal of the lawsuit filed by the State of Missouri is to reinstate safety precautions that the FDA had for decades deemed necessary until President Biden’s administration rescinded them. Regardless of differences people have over the abortion issue, everybody should want the risks

to women to be as minimal as possible. The lawsuit thus seeks to reinstate longstanding safety precautions.

b. Do you believe that teenagers should be forced to give birth to benefit Missouri's coffers and its representation in Congress?

Response: See above.

3. You previously referred to yourself as a “zealot” for the anti-choice movement and wrote that “because we know a genetically unique human comes into existence at fertilization, abortion should not be ethically permitted.”

Last November, Missouri voters passed a ballot initiative that amended the state’s constitution to legalize abortion until fetal viability.

Do you believe this ballot initiative was unethical?

Response: In November 2024, Missouri voters enacted the ballot initiative in question, with 51% voting in favor. As you stated in the March 26, 2025, committee hearing, government attorneys have a “zealous” duty to advocate the government’s positions. And as a government attorney, I have exercised my duty. Before the amendment was even certified, I filed a brief in court acknowledging that passage of the amendment would mean that Missouri’s statutory prohibition on abortion no longer could be enforced. The brief also said that the State would defend other statutes and regulations, such as the requirement that abortion facilities sterilize instruments and stabilize women’s vital signs before discharging women to drive home. To the extent the question asks for political or policy views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

4. In 2024, you posted on social media that you were “the staffer who put pen to paper on initial text” for Senator Hawley’s *No TikTok on Government Devices Act*. You also referred to the Supreme Court’s unanimous opinion upholding the law mandating that Chinese technology company ByteDance divest from TikTok as a “huge decision.”

a. Do you still support the removal of TikTok from federal government devices?

Response: The No TikTok on Government Devices Act was passed by Congress in 2022. While I publicly expressed views on this topic as recently as last year, the judicial code of conduct prohibits any judicial nominee from providing political or policy views today.

b. Do you still support requiring ByteDance to divest from TikTok?

Response: See above.

c. Does TikTok represent a privacy or security threat to Americans from the Chinese Communist Party?

Response: See above.

5. In 2011, you wrote that moral opposition to homosexuality “simply means those persons are opposed to any form of sex that goes against the biological design of procreation and the nurturing of a family. This includes homosexuality, adultery, bestiality, fornication, polygamy, and all other forms of sex that do not take place in a monogamous-marriage setting.”

a. Do you believe that sexual relations between two consenting adults of the same sex are comparable to bestiality?

Response: The question mischaracterizes the article, which argued that those things are *not* the same, the opposite of what the question suggests. The article was written in response to commentary on campus that sharply criticized Muslims, Catholics, and Mormons and asserted that members of those faiths equated those things and thus were bigoted. The article argued that it is wrong to assume people of faith are bigoted simply because one does not understand their theology. The Supreme Court in the *Obergefell* decision agreed, saying that opposition to same-sex marriage “long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world.”

b. If confirmed, will you commit to upholding the Supreme Court’s recognition of the Constitutional right to same-sex marriage in *Obergefell v. Hodges*?

Response: If confirmed, I commit to following all binding precedent of the Supreme Court, including the *Obergefell* decision, as well as all binding precedent of the Eighth Circuit.

6. In July 2016, you argued in favor of Supreme Court expansion following the death of Justice Antonin Scalia. Specifically, you stated that the Supreme Court “need not consist of nine members or even an *odd* number of members” and suggested that Congress creating a Court with an even number of justices would “create a more legitimate and less politicized institution.”

a. Do you still support Supreme Court expansion?

Response: The question does not capture the thesis of the article, which expressed openness to the idea of a Supreme Court with an even number of justices, including an even number fewer than 9 (such as 6 or 8). The judicial code of conduct prohibits any judicial nominee from providing political or policy views.

- b. Do you still believe that an even number of Supreme Court justices would allow the Court to be perceived as “more legitimate and less politicized?”**

Response: See above.

7. In your Senate Judiciary Questionnaire, you noted that you “supervised discovery” while representing the state in *Blackmon v. Missouri*.

- a. Did your office respond to all discovery requests made by the plaintiffs in this case?**

Response: As is common in litigation, the State moved for a protective order so that the State would not have to provide discovery that the State believed to be wasteful and disproportionate to the needs of the case. The State asked for that order relieving the obligation to provide discovery because the State felt it was unnecessary and inefficient to spend taxpayer resources on discovery given the State’s pending dispositive motion for judgment on the pleadings, which would resolve the entire case on purely legal issues. The court partly agreed and partly disagreed. It agreed that the State did not have to provide some of the discovery requested, but it ordered the State to provide other discovery requested, which the State did. Ultimately, the court ended up granting judgment on the pleadings for the State, proving in the end that the State was right that spending resources on discovery in the meantime was wasteful.

- b. Did the Missouri circuit court ultimately order you to produce discovery materials requested by the plaintiffs in this case after they filed a motion to compel?**

Response: See above.

8. According to your Senate Judiciary Questionnaire, you have participated in numerous panels and conferences held out of state since becoming Missouri Solicitor General. For example, since January 2023, you apparently have participated in Federalist Society events in Connecticut, Indiana, Alabama, Colorado, Illinois, Kentucky, Ohio, and California; a Separation of Powers Institute event in the District of Columbia; and a Heritage Foundation Event in the District of Columbia.

- a. Was any of the out-of-state travel for events listed on your Senate Judiciary Questionnaire done at state taxpayer expense?**

Response: No. Travel for each event was paid for through personal funds or by the organization that extended the invitation.

- b. If yes, what was the justification for Missouri taxpayers funding your out-of-state travel?**

Response: See above.

- c. If yes, did you receive any form of pre-travel authorization or file any post-travel expense reports? Did you comply with all relevant state laws addressing travel by public officials at state taxpayer expense?**

Response: See above.

9. Did President Trump lose the 2020 election?

Response: President Biden was certified as the victor and served as the 46th President of the United States.

10. Where were you on January 6, 2021?

Response: I served as a law clerk in the Supreme Court during the OT2020 term. I was in the Supreme Court building working that day.

11. Do you denounce the January 6 insurrection?

Response: As I am not a politician and was rarely using social media at the time, I have never expressed a public position on the events of January 6. The Supreme Court in *Trump v. Anderson* heard arguments about whether an insurrection occurred that day and ultimately concluded that States could not forcibly remove President Trump from the ballot. To the extent the question asks for personal political views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

12. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: The Supreme Court has been clear in *United States v. Klein* and other cases that the pardon power is one of the President's most plenary powers. The decision whether to extend a pardon belongs to the President in his discretion. To the extent the question asks for personal political or policy views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

13. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Litigants have many options, including criticizing the order and appealing it. In some circumstances, defying a court order is necessary to appeal it, as Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), recognizes.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor's opinion for the Court put it, "Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions." *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). "Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment." *Id.*

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Each government official in each branch takes an oath to uphold the Constitution and the laws of the United States. There is a history of executive officials who believe a court order is unlawful to refuse to extend that court order to other potential litigants. President Lincoln took that position with respect to the *Dred Scott* case. The judiciary has authority to adjudicate cases and controversies between different parties.

14. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: The Supreme Court is actively considering this issue and is expected to issue a ruling this month. If I am confirmed to be a lower court judge, I will follow the Supreme Court's ruling.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: See above.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: See above.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: In many cases, my client has sought vacatur under the Administrative Procedure Act. That is typically considered different than a non-party injunction issued purportedly under a court's equitable authority. I cannot recall a case where the client specifically requested a non-party injunction rather than just generically injunctive relief. There have been cases where there was a dispute between the parties about what relief was obtained. In *Missouri v. Biden*, 24A173, for example, the Federal Government took the position that the States had been granted a nationwide injunction. The States disagreed, pointing to language in the Eighth Circuit stating that the court had tailored injunctive relief to provide the States full relief. The Supreme Court ultimately (and unanimously) sided with the States over the Federal Government.

15. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

16. Does the U.S. Constitution permit a president to serve three terms?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice...." I have not reviewed any case law or other authorities addressing or interpreting this Amendment, nor formed an opinion on how it might apply to any particular facts. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

17. When, if ever, may a lower court depart from Supreme Court precedent?

Response: Controlling Supreme Court precedent is binding in all cases. Lower courts should not depart from controlling Supreme Court precedent.

18. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: As a district court nominee, I will not be called upon to overturn circuit court precedent. Circuit courts should follow the standards set in case law for determining whether to overturn their own precedent.

19. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: As a district court nominee, I will not be called upon to overturn Supreme Court precedent. The Supreme Court should follow the standards set in case law for determining whether to overturn its own precedent.

20. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: As dozens of nominees have said before, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. To my knowledge, the only two exceptions to this general rule against opining on the merits of Supreme Court cases are *Brown* and *Loving*. I agree that both those decisions were correctly decided.

b. *Plyler v. Doe*

Response: See above.

c. *Loving v. Virginia*

Response: See above.

d. *Griswold v. Connecticut*

Response: See above.

e. *Trump v. United States*

Response: See above.

f. *Dobbs v. Jackson Women's Health Organization*

Response: See above.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response: See above.

h. *Obergefell v. Hodges*

Response: See above.

i. *Bostock v. Clayton County*

Response: See above.

j. *Masterpiece Cakeshop v. Colorado*

Response: See above.

k. *303 Creative LLC v. Elenis*

Response: See above.

l. *United States v. Rahimi*

Response: See above.

m. *Loper Bright Enterprises v. Raimondo*

Response: See above.

21. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

RESPONSE: When Congress passes a statute or the people enact a constitutional amendment, that law’s meaning does not change until amended with new text. Judges regularly apply a law’s meaning to new circumstances, such as applying the First Amendment’s protection of free speech to the internet. It would be inappropriate for judges to “update” laws out of dissatisfaction that the people or Congress have chosen not to do so.

22. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: See above.

23. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: The *Obergefell* decision holds that the Constitution includes that right. As stated above, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent.

24. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: Yes. The *Loving* decision holds that the Constitution includes that right. As stated above, that is one of the two decisions where it is appropriate for nominees to state whether a case was correctly decided. *Loving* is consistent with, and compelled by, the original meaning of the Constitution.

25. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The relevant text states, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” There are tens of thousands of cases applying these provisions in different contexts. Generally speaking, the Equal Protection Clause requires strict or intermediate scrutiny if a State tries to classify based on a protected characteristic or quasi-protected characteristic. The Due Process Clause has been interpreted to require basic procedural protections and has also been interpreted to include a substantive component that prevents States from passing certain kinds of legislation at all.

26. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has decided many cases brought by plaintiffs in those demographic groups, including the *Virginia Military Institute* case and *Obergefell*. The Supreme Court has interpreted those clauses to protect those groups. As always, if the people are dissatisfied with the Constitution, they can exercise their right to amend it.

27. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Judges should apply the text as written by Congress or the people. It is improper for judges—rather than Congress or the people—to ever “update” or “amend” the laws.

28. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Judges should apply the text as written by Congress or the people. That includes all provisions in the Constitution. It is improper for judges—rather than Congress or the people—to ever “update” or “amend” the laws.

29. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The First Amendment states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The Supreme Court has on occasion determined that the First Amendment applies differently to different persons. For example, free-speech protections have been applied differently with respect to children. *E.g., Ginsberg v. New York*, 390 U.S. 629 (1968).

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

Response: Generally speaking, a law regulating speech is content-based if it regulates a particular kind of speech based on substance (like political speech). The Supreme Court has instructed lower courts to look at whether the law “draws distinctions based on the message a speaker conveys” such as distinguishing based on “particular subject matter” or by “function or purpose.” *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

31. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: In *Counterman v. Colorado*, the Supreme Court explained that under the true-threats doctrine, the First Amendment does not protect “serious expressions conveying that a speaker means to commit an act of unlawful violence.” 600 U.S. 66, 74 (2023) (brackets adopted, quotation marks omitted).

32. Is every individual within the United States entitled to due process?

Response: The Fifth Amendment provides, in relevant part, “No person shall ... be deprived of life, liberty, or property, without due process of law.” The question in most cases is less about whether the doctrine of due process applies and more about how much process is due.

33. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: This question is being actively litigated. Under the canons of judicial conduct, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

34. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: The text of the 14th Amendment excludes from citizenship persons not “subject to the jurisdiction” of the United States. For example, the Indian Citizenship Act of 1924 was enacted based on the understanding that individuals born into Indian tribes are not entitled to birthright citizenship under the Constitution, so Congress granted citizenship by statute.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: This question is being actively litigated. Under the canons of judicial conduct, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

35. **Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.**

Response: Judges ought to be open-minded, and it is paramount that judges consider and be exposed to a wide variety of perspectives. Nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic.

36. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: Judges are bound to follow Congress's directives in sentencing convicted defendants. That includes the First Step Act, as well as the 18 U.S.C. § 3553 factors and the Sentencing Guidelines. Section 3553(a) instructs judges to consider the need for the sentence to, among other things, "reflect the seriousness of the offense," "afford adequate deterrence," "protect the public," and provide the defendant with "correctional treatment." The First Step Act takes particular positions on these factors, and district court judges are obliged to follow those directives.

- b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?**

Response: Yes.

37. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

- a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?**

Response: I am not familiar with the quoted material. I have never participated in drafting any position statement of that organization. There are tens of thousands of members of that organization.

- b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.¹**

- i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?**

Response: I am not aware of what advice has or has not been proffered to the White House. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

- ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?**

¹ Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Response: I am not familiar with the topic this asks about, and it would be inappropriate for a judicial nominee to wade into political disputes.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: If confirmed, I will consult the canons of judicial ethics to determine generally what membership may or may not be appropriate and will make decisions in accordance with that guidance.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I have not spoken to Leonard Leo or Steven Calabresi. The organization has tens of thousands of members, some of whom are friends who reached out to express their congratulations on my nomination.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: I have been invited to speak to students at law schools or, on occasion, to groups of practicing lawyers.

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: To the best of my recollection, I have not been paid any honoraria.

38. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I have not spoken to Leonard Leo. I do not know who is a member of that organization. Nobody has reached out to me on behalf of that organization in connection with the selection process.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No.

- c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

- 39. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”**

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: I have not spoken with Kevin Roberts. Nobody has reached out to me on behalf of that organization in connection with the selection process. I am aware of at least one person, who used to be a coworker and is now affiliated with that organization, who reached out to express his congratulations on my nomination.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: As disclosed on the Questionnaire, I spoke at an event in 2024.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: I do not believe I ever received any honoraria.

- 40. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”**

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: I am not familiar with the members of that organization, but to my knowledge, no.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: During my time in the Senate, outside organizations would routinely reach out to share or discuss ideas, particularly around tech policy. I spoke with individuals from dozens or hundreds of organizations during those years. It is possible that this organization was among them.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

41. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: I am not familiar with the members of that organization, but to my knowledge, no.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: AFLI has been cocounsel in some multistate cases that Missouri joined. Other than that, no.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

42. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: I am not familiar with the members of that organization, but to my knowledge, no.

- b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?**

Response: No.

- 43. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”**

- a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.**

Response: I am in regular discussion with members of that organization because that organization represents co-plaintiffs in a number of cases the State has brought. In addition, a number of individuals at that organization are friends or former coworkers who reached out to express their congratulations on my nomination.

- b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?**

Response: The State of Missouri has brought several cases joined by private plaintiffs represented by that organization. As part of that process, the State regularly shares work product and draft legal filings with that organization. I have also attended the occasional conference hosted by the organization.

- c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?**

Response: Sometime before 2020, I coached law students who participated in a fellowship with the organization to prepare them for job interviews. I believe I was paid a few hundred dollars for a day’s work.

- 44. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government;**

dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: I am not familiar with the members of that organization, but to my knowledge, no—with one exception. The only exception is that Carrie (whom I know because both of us clerked for Justice Thomas) sent me a brief message of congratulations. That is the full extent of the conversation I have had.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I am unaware of the allegations suggested by this question and unfamiliar with the organization described and so have not had the occasion to form an opinion. I am aware of allegations of outside donations to organizations dedicated to opposing my nomination. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: I am unaware of the allegations suggested by this question and unfamiliar with the organization described and so have not had the occasion to form an opinion. I am aware of allegations of outside donations to organizations dedicated to opposing my nomination. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Response: I am unaware of the allegations suggested by this question and unfamiliar with the organization described and so have not had the occasion to form an opinion. I am aware of allegations of outside donations to organizations dedicated to opposing my nomination. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

Senator Mike Lee
Questions for the Record

**Joshua M. Divine, to be United States District Judge for the Eastern and Western Districts
of Missouri**

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

Response: When Congress passes a statute or the people enact a constitutional amendment, that law's meaning does not change until amended with new text. Judges regularly apply a law's meaning to new circumstances, such as applying the First Amendment's protection of free speech to the internet. But that does not mean the meaning of the terms have changed, only that the laws are being applied to a new context. It would be inappropriate for judges to "update" laws out of dissatisfaction that the people or Congress have chosen not to do so.

2. **What qualifies a particular group as a "suspect class," such that laws affecting that group must survive strict scrutiny?**

Response: As the Sixth Circuit has explained, "the Supreme Court recognizes only three" suspect classes: race, alienage, and national origin. *Ondo v. City of Cleveland*, 795 F.3d 597, 608 (6th Cir. 2015). The Supreme Court has recognized two quasi-suspect classes: gender and illegitimacy. *Id.* "The Supreme Court has not recognized any new constitutionally protected classes in over four decades, and instead has repeatedly declined to do so." *Id.* Some circuits have recognized new suspect classes that the Supreme Court has not recognized. As a district court judge, I would be bound by the classes recognized by the Supreme Court as well as any classes recognized by the Eighth Circuit.

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

Response: M.C. Vile in his book *Constitutionalism and the Separation of Powers* traces the history of the development of separation of powers. In effect, the separation of powers operates as a brake to avoid centralization because of a concern that centralization of power will lead to greater abuse of power. Checks and balances is a related concept, referring to the ability of one branch to provide a "check" against other branches through the separation of powers. For example, the President has the power to veto bills, which is in effect a legislative power of the President that places a check on Congress.

4. **How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?**

Response: Unlike state legislatures, Congress is a body of enumerated powers, meaning there must be a specific grant of authority to justify legislation. The

President generally has powers given to him or her by Congress through legislation, but there are some cases recognizing some inherent authorities within the “executive power.” Similarly, some cases discuss “inherent” authority within the “judicial power,” such as authority to correct or amend defects in records or enter sanctions.

5. How would you explain the difference between judicial review and judicial supremacy?

Response: Judicial review is the ability of courts to assess the law and adjudicate cases or controversies by applying existing law to the fact pattern of the parties before a court. Judicial supremacy occurs when a court goes beyond the law and in effect tries to amend the law by issuing an opinion that is not grounded in the text of the Constitution or the statute.

Nomination of Joshua Michael Divine
 Nominee to the U.S. District Court for the Eastern and Western Districts of Missouri
 Questions for the Record
 Submitted June 11, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

1. You said in your questionnaire that President Trump called you to tell you that you would be nominated.

a. What else did he discuss on the phone call?

Response: He congratulated me on the nomination.

b. Did he ask you to make any commitments?

Response: No.

2. **In *Missouri v. New York*, you filed a bill of complaint asking the Supreme Court to lift New York’s gag order on then-candidate Donald Trump and delay Trump’s sentencing for felony convictions in his hush money criminal case. Why did you file this bill of complaint?**

Response: As Ranking Member Durbin has said many times, government attorneys have a duty to zealously advocate for their clients. The State of Missouri, through the Missouri Attorney General, decided to file the suit. The State and the Attorney General are my clients. The Attorney General instructed me to file the suit, and I complied with the legal and ethical duty to do so.

3. **In a February 2025 post on X, you disputed Politico’s characterization of the unitary executive theory as “fringe,” saying, “[H]ere’s what SCOTUS said just a few years ago: ‘the executive Power—all of it—is vested in a President.’” Do you agree with the unitary executive theory?**

Response: I agree that the Supreme Court held in *Seila Law* that “the executive Power—all of it—is vested in a President.” That is my understanding of what people typically refer to when they refer to that theory.

4. **In 2010, you wrote that people who “aren’t informed about issues or platforms . . . have no business voting.” Do you believe there should be any kind of test to vote?**

Response: No. The article in question, which was written when I was a teenager, expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. The Civil Rights Act of 1964 and Voting Rights Act of 1965 initially permitted some tests (while prohibiting others). For example, the landmark Civil Rights Act permitted tests that were written and administered to

all persons. And the Voting Rights Act permitted tests except in certain jurisdictions that had low turnout in elections. Years after those landmark pieces of litigation, in a bill much less well known, Congress passed a law banning tests nationwide. 52 U.S.C. § 10501. I learned about that legislation years after the 2010 article.

5. You said in your questionnaire that you have been a member of the Federalist Society since 2013. Recently, President Trump said he was “so disappointed” with the Federalist Society’s “bad advice” on nominees, calling Leonard Leo a “sleazebag” and a “bad person who, in his own way, probably hates America.”

- a. **Do you agree with President Trump that Leonard Leo is a “sleazebag”? Why or why not?**

Response: I am not familiar with the topic this asks about, and it would be inappropriate for a judicial nominee to wade into political disputes.

- b. **Do you agree with President Trump that Leonard Leo is a “bad person who, in his own way, probably hates America”? Why or why not?**

Response: I am not familiar with the topic this asks about, and it would be inappropriate for a judicial nominee to wade into political disputes.

1. **Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.**

Response: No.

2. **Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?**

Response: Under the First Amendment, all individuals have the right to criticize judges. As the Supreme Court held in *Nixon v. United States*, 506 U.S. 224 (1993), questions of impeachment and removal fall within the exclusive prerogative of the House and the Senate. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

3. Please explain your understanding of existing case law regarding:

- a. **The executive branch’s obligation to comply with federal court orders.**

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. In some circumstances, defying a court order is necessary to appeal it, as Justice

Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

b. Remedies available to a federal court to ensure executive branch compliance with a court order.

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

c. Federal government lawyers' duty of candor to federal courts before which those lawyers appear.

Response: Any lawyer representing any party has a duty of candor to the courts.

d. The president's legal obligations under the Constitution's Take Care Clause.

Response: The Constitution provides that the President "shall take Care that the Laws be faithfully executed." The Supreme Court has often discussed this clause in the context of the appointment and removal power.

e. The limits of the executive branch's power under the anti-commandeering doctrine.

Response: The Supreme Court in *Printz*, *Murphy*, and other cases has interpreted the Tenth Amendment to permit the States to decline to lend resources to the Federal Government and to forbid Congress from "commandeer[ing] the legislative process of the States."

f. The president's ability or inability to impound congressionally appropriated funds.

Response: Congress passed the Impoundment Control Act in 1974. I have not reviewed any case law or other authorities addressing or interpreting this statute, nor formed an opinion on how it might apply it to any particular facts.

g. The federal government's ability to enact laws or regulations that burden Second Amendment rights.

Response: The Supreme Court has determined in *Heller*, *McDonald*, *Bruen*, and *Rahimi* that the right to bear arms is a "fundamental right" that extends "to all instruments that constitute bearable arms." The Federal Government may enact laws so long as they are "consistent with the Nation's historical tradition of firearm regulation."

- h. The federal government's ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.**

Response: In *Employment Division v. Smith*, the Supreme Court concluded that as a constitutional matter, government may enact neutral, generally applicable laws even if they burden religious practice. That decision proved controversial, and Congress passed the Religious Freedom Restoration Act in response, subjecting those laws to strict scrutiny. Under the *Lukumi* and *Tandon* decisions, a government regulation is not neutral or generally applicable if, though facially nondiscriminatory, it is gerrymandered to target a religion, as in *Lukumi*, or if it "treat[s] any comparable secular activity more favorably than religious exercise," as in *Tandon* (emphasis in original).

- 4. As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.**

Response: In many cases, my client has sought vacatur under the Administrative Procedure Act. That is typically considered different than a non-party injunction issued purportedly under a court's equitable authority. I cannot recall a case where the client specifically requested a non-party injunction rather than just generically injunctive relief. There have been cases where there was a dispute between the parties about what relief was obtained. In *Missouri v. Biden*, 24A173, for example, the Federal Government took the position that the States had been granted a nationwide injunction. The States disagreed, pointing to language in the Eighth Circuit stating that the court had tailored injunctive relief to provide the States full relief. The Supreme Court ultimately (and unanimously) sided with the States over the Federal Government.

- a. Have you ever publicly voiced support or opposition regarding a federal court's issuance of a nationwide injunction or similar relief? If yes, please describe.**

Response: I have discussed the issue of nationwide injunctions on X. To my recollection, I did not voice support or opposition but instead talked about the recent development of those injunctions as a historical matter and the discussions in the literature about whether statutory vacatur is different from a nationwide injunction.

- b. Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'état?**

Response: The Supreme Court is actively considering the issue of the permissibility of nationwide injunctions and is expected to issue a ruling this month.

- c. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?**

Response: The Supreme Court is actively considering the issue of the permissibility of nationwide injunctions and is expected to issue a ruling this month.

d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?

Response: The Supreme Court is actively considering the issue of the permissibility of nationwide injunctions and is expected to issue a ruling this month.

5. Please describe your understanding of natural law.

a. What authority does natural law carry in federal case law?

Response: The Supreme Court has held that certain rights “preexist” the Constitution. For example, the First Amendment does not create a freedom of speech; it instead protects a preexisting freedom of speech. *E.g., District of Columbia v. Heller*, 554 U.S. 570, 592 (2008) (“the Second Amendment, like the First and Fourth Amendments, codified a *pre-existing* right” (emphasis in original)). These are generally described as “natural rights” because they exist without government, and they are expressly protected by the First Amendment and other laws.

b. When do you think it is appropriate for a federal judge to rely on natural law?

Response: See above.

c. If confirmed, do you plan to incorporate natural law into your decisions?

Response: See above.

6. Please describe your understanding of originalism.

Response: Originalism or textualism is the idea that when Congress passes a statute or the people enact a constitutional amendment, that law’s meaning does not change until amended with new text and that it is inappropriate for judges to “update” laws out of dissatisfaction that the people or Congress have chosen not to do so.

a. Do you consider yourself an originalist?

Response: Different people define that term differently. My judicial philosophy is that the law should be applied as written, and not how judges wish it were written.

b. Do you believe that people who do not support or adhere to originalism do not like America?

Response: It would not be appropriate as a judicial nominee to speculate about the motives of individuals who do not consider themselves originalists.

- c. **Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?**

Response: With the exception of *Brown* and *Loving*, it is improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. I would follow *Citizens United* like I would follow every other binding precedent of the Supreme Court.

- d. **Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?**

Response: See above.

7. Please describe your understanding of textualism.

Response: See above, the first response to question 6.

- a. **Do you consider yourself a textualist?**

Response: Different people define that term differently. My judicial philosophy is that the law should be applied as written, and not how judges wish it were written.

- b. **How should a court analyzing a federal statute account for the “Findings” or “Purposes” sections of such statutes?**

Response: It is well establishing that text in a “findings” or “purpose” clause can clarify the meaning of terms that might otherwise be ambiguous.

8. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: In most circumstances, district courts, not appellate courts, are tasked with finding facts, and appellate courts review those findings under a deferential standard (often the clear-error standard). *E.g.*, Fed. R. Civ. Proc. 52.

- a. **What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?**

Response: The Supreme Court has regularly deferred to facts found by Congress, especially when those facts are stated in factual-findings sections. *E.g.*, *Katzenbach v. Morgan*, 384 U.S. 641, 653 (1966).

- b. **Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?**

Response: The Supreme Court typically does not make fact findings but instead issues decisions based on the facts in the record developed by lower courts. If, in a different case, the factual record is different, a lower court must still apply any controlling Supreme Court precedent. The Supreme Court does make fact findings when it sits in original jurisdiction, and the Supreme Court (like all federal courts) sometimes takes judicial notice of facts not reasonably subject to dispute. *See* Federal Rule of Evidence 201.

c. What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?

Response: Lower courts never should fail to apply binding appellate case law. Lower courts must determine whether a precedent controls. That analysis is guided by a close assessment of the facts of each case, the reasoning of the appellate opinion, and whether the appellate opinion is based on the specific facts or instead announces a more general legal interpretation.

9. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: The Supreme Court has determined in *Heller*, *McDonald*, *Bruen*, and *Rahimi* that the right to bear arms is a “fundamental right” that extends “to all instruments that constitute bearable arms.” Governments may enact laws so long as they are “consistent with the Nation’s historical tradition of firearm regulation.” If called upon to determine whether a government restriction is valid, I would consult historical sources and binding precedent to assess whether the Supreme Court’s test is satisfied.

a. As part of these historical analyses, will you solicit input from amici curiae?

Response: Yes, amici are generally free to file briefs in federal courts, including in the districts in Missouri.

b. How will you assess the veracity of historical claims made by parties?

Response: The same way a judge assesses the veracity of any contention: among other things, by consulting the original sources, assessing the credibility and thoroughness of the briefs, assessing the credibility of primary and secondary sources, and assessing whether cited sources are consistent with other available authorities.

c. How will you assess the veracity of historical claims made by amici curiae?

Response: See above.

10. The U.S. Sentencing Commission recently prioritized the “[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry.” Courts can tailor these programs to meet specific needs of

defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: I will follow all directives of Congress. As interpreted by the *Booker* decision, Congress has directed district court judges to carefully consult the recommendations of the Sentencing Commission.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

Response: I will carefully consult the recommendations of the Sentencing Commission and seek guidance from colleagues on the best way to participate in or support programs recommended by the Sentencing Commission.

11. If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?

Response: Yes. I have already attended one training and intend to attend future trainings should I be lucky enough to be confirmed.

12. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

a. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: Judges ought to be open-minded, and it is paramount that judges consider and be exposed to a wide variety of perspectives. In my day-to-day life, I regularly read articles and books that challenge my current thinking. In addition, I anticipate taking a generous policy to granting amici the ability to file briefs.

b. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?

Response: I have broadly sought to recruit from a wide variety of legal and professional backgrounds. In my day-to-day life, I regularly read articles and books that challenge my current thinking.

c. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?

Response: The people I have hired in my current role hold a wide variety of views. If I am lucky enough to be confirmed, I will hire qualified people, without regard to political ideology, who share the understanding that judges ought to apply the law, not make it.

13. If confirmed, do you plan to “boycott” the hiring of law clerks from any specific schools? If so, which schools and why?

Response: I have no intention to do so.

a. Do you believe such boycotts are appropriate?

Response: The question suggests others are engaging in that conduct. I am not familiar enough with the reasons other judges may have chosen to not recruit from certain schools.

14. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.

a. What professional experience do you have overseeing and managing others?

Response: As Solicitor General, I supervise the appeals of 200 attorneys. As Director of Special Litigation, I supervise the day-to-day of an entire litigation team of between 10 and 15 individuals. When I was chief counsel in the Senate, I supervised legal issues for the entire office and also supervised and managed a team much larger than the set of law clerks allotted to a judge.

b. How do you plan to recruit and hire law clerks?

Response: I intend to use the same tools for recruiting that other judges use. I will review all applications that are submitted. I intend to continue speaking at law schools, as appropriate, which tends to increase clerkship applications.

15. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?

Response: I have no present plans to do so but will continually evaluate the situation as that technology develops.

16. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.

Response: I previously had social media accounts that no longer exist. The content on those accounts is no longer available. In addition, I have on occasion deleted posts that included

errors (such as spelling mistakes). Those are not available. Unlike some previous nominees who locked down their X/Twitter accounts when they were nominated, I have kept mine public in the spirit of full transparency.

17. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.

Response: To the best of my recollection, no.

18. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.

a. Sexual harassment?

Response: No.

b. Sex-based discrimination?

Response: No.

c. Race-based discrimination?

Response: No.

d. Discrimination on the basis of national origin?

Response: No.

e. Discrimination on the basis of religion?

Response: No.

f. Workplace misconduct of any kind?

Response: No.

19. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: When my nomination was announced, Carrie (whom I know because both of us clerked for Justice Thomas) sent me a brief message of congratulations. That is the full extent of the conversation I have had.

c. Mike Davis

Response: No.

d. The Article III Project

Response: I am not familiar with the members of that organization, but to my knowledge, no.

20. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has interpreted those amendments to include both substantive and procedural aspects.

21. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: The Supreme Court has interpreted the Constitution to protect a variety of rights not expressly enumerated, and the Ninth Amendment expressly makes reference to rights not mentioned expressly by the Constitution. The Supreme Court has not exhaustively catalogued every unenumerated right but has created, among other things, the *Glucksberg* framework, which guides courts on how to determine if an unenumerated right is protected.

22. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: The President has authority to take care that the laws be executed. That power has generally been understood to ensure that those who work for the President carry out the President's directions. The President, like any other client, generally can fire lawyers who choose not to advocate the interests of the client.

23. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: Under the judicial code of conduct, nominees cannot comment on issues that are currently being litigated or issues that may appear before the court.

24. What protections does the Constitution offer to safeguard the freedom of the press?

Response: The press is expressly safeguarded by the First Amendment in several ways: through the Press Clause, the Speech Clause, and the Petition Clause. Other protections may

also apply. For example, a press outlet owned and run by religious individuals would also enjoy protection under the Religion Clauses.

25. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: Courts generally assess these kinds of questions under the *Pickering-Connick* test established by the Supreme Court. Courts have generally permitted governments to fire people based on speech when they are high-level employees, seek to release classified information, are not speaking on a matter of public concern, or are speaking in their official capacity, among other things. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

26. Do you agree that campaign finance donor disclosure requirements “impose no ceiling on campaign-related activities” and “do not prevent anyone from speaking,” as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: With the exception of *Brown* and *Loving*, it is improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. I would follow *Citizens United* like I would follow every other binding precedent of the Supreme Court.

27. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court in *Trump v. Hawaii* recognized what it described as “obvious”—that “*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution.”

a. Do you agree with Chief Justice Roberts that “[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful”?

Response: I would follow *Trump v. Hawaii* like I would follow every other binding precedent of the Supreme Court, including the Supreme Court’s determination that *Korematsu* “was gravely wrong.” And because I have expressed that *Brown* was correctly decided, I believe any case is necessarily incorrect if it conflicts with *Brown*.

28. The Seventh Amendment ensures the right to a jury “in suits at common law.”

a. What role does the civil jury play in our constitutional system?

Response: The Seventh Amendment’s guarantee of the right to a jury trial in certain civil suits reflects the founding generation’s belief in the importance of that institution. The right has never been incorporated under the Fourteenth Amendment, but to my knowledge most States guarantee at least some form of right to jury trials in civil cases.

b. Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?

Response: I have not had the occasion to consider whether arbitration clauses may in some circumstances conflict with the Seventh Amendment. If a case on that issue were to arise, I would carefully consider the text of the Seventh Amendment, the history, and also the available precedent on the issue.

c. Should an individual's Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?

Response: I have not had the occasion to consider whether the Federal Arbitration Act may in some circumstances conflict with the Seventh Amendment. If a case on that issue were to arise, I would carefully consider the text of the Seventh Amendment, the history, and also the available precedent on the issue.

29. Did Joe Biden win the 2020 presidential election?

Response: President Biden was certified as the victor and served as the 46th President of the United States.

30. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: The President has issued pardons to individuals involved in the events of January 6. The Supreme Court has been clear in *United States v. Klein* that the pardon power is one of the President's most plenary powers. The decision whether to extend a pardon belongs to the President in his discretion. To the extent the question asks for personal political views, the judicial code of conduct prohibits any judicial nominee from providing political or policy views.

a. Where were you on January 6, 2021?

Response: I served as a law clerk in the Supreme Court during the OT2020 term. I was in the Supreme Court building working that day.

31. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: Section 1 of the Twenty-Second Amendment states, in part, "No person shall be elected to the office of the President more than twice...." I have not reviewed any case law or other authorities addressing or interpreting this Amendment, nor formed an opinion on how it might apply to any particular facts. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

Senate Judiciary Committee
Nomination Hearing
June 11, 2025
Questions for the Record
Senator Amy Klobuchar

For Joshua Michael Divine, nominee to be U.S. District Judge for the Eastern and Western Districts of Missouri

1. As Solicitor General of Missouri, you led the effort to restrict women’s access to Mifepristone, a drug that has been approved in over 90 countries and safely used by millions. You sought nationwide injunctions to strip access to Mifepristone for women around the country, and among other things, tried to overturn the FDA’s 2016 approval and refers to these medications as “dangerous drugs.”

- **In filing your suit, were you aware that in 2018 the GAO—an independent, non-partisan agency—evaluated 62 studies and articles that supported the FDA’s decision, and that in 2023, the American Medical Association stated: “There is no evidence that people are harmed by having access to this safe and effective medication”?**

Response: The question does not accurately characterize the lawsuit. The lawsuit seeks statutory relief under the Administrative Procedure Act, not a nationwide injunction under a court’s general equitable authority. And under the lawsuit, mifepristone would still be widely accessible. The lawsuit simply seeks to reinstate safety precautions that FDA long deemed necessary, such as the safety precaution that physicians rule out ectopic pregnancies before distributing mifepristone. The lawsuit argues that it was unlawful for the previous administration to rescind those longstanding safety precautions.

At this early stage of litigation, there remain many factual disputes between the parties. So far, six judges have ruled on the merits of the States’ claims in a separate case that involved private parties, and all six judges agreed that FDA’s decision to rescind longstanding safety requirements was unlawful.

2. In an article you advocated that voters should have to take a literacy test in order to vote. You wrote “there are reasons to take away somebody’s vote”; and you advocated for disenfranchising anybody who could not “spit back his or her chosen candidate’s platform on major issues.”

You also wrote that literacy tests get a bad reputation because they were only used against certain minority communities “but literacy tests themselves are not a bad thing.”

- **What is your current understanding of the ability of states and localities to impose literacy tests or otherwise place burdens on the right to vote?**

Response: I understand much more about voting rights law now than I did as a teenager, when the article was written. I understand that even though Congress initially permitted literacy tests under the Civil Rights Act and Voting Rights Act, those tests are no longer permitted under a less-well-known bill passed years later.

The question's characterization of the article is not correct. The article in question expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. They were used particularly to target black Americans, but also were used to target people like my ancestors, Italian Americans. I have never advocated any form of Jim Crow literacy test.

The article, written when I was a teenager, was consistent with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned Jim Crow literacy tests but permitted devices that did not have the same history of abuse. After the Supreme Court unanimously held that literacy tests are constitutional so long as they are not applied in a discriminatory way, *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53 (1959), the Civil Rights Act and Voting Rights Act temporarily prohibited literacy tests in States with a history of abuse, but not in other jurisdictions. "[T]he Civil Rights Act of 1964 allowed for the use of literacy tests as a qualification, so long as the test was administered to every individual and conducted in writing." Paulette Brown, *The Civil Rights Act of 1964*, 92 Wash. U. L. Rev. 527, 534 (2014); 52 U.S.C. § 10101(a)(2)(c). That Act restricted Jim Crow tests that had been administered arbitrarily and unevenly. The Voting Rights Act went further, banning the tests, but only in jurisdictions that had employed tests previously and where "less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964." 52 U.S.C. § 10303(a)–(b). The Voting Rights Act expressly permitted literacy tests in all other jurisdictions. The article written when I was a teenager expressed ideas consistent with those landmark pieces of legislation.

It was not until years after the Civil Rights Act and Voting Rights Act that Congress passed legislation prohibiting the use of those tests nationwide, in all jurisdictions and regardless of whether the tests were in writing. 52 U.S.C. § 10501. As a teenager in college, I was aware that the Civil Rights Act and the Voting Rights Act had banned some tests while permitting others. I was not aware of the later amendments. I learned about the more recent law in law school. Tests are illegal now, and I have never advocated any form of test (including the ones that the Civil Rights Act and Voting Rights Act permitted) since that article.

Nomination of Joshua Divine to the
United States District Court for the Eastern and Western Districts of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

Response: No.

- a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

Response: No.

2. In your Senate Judiciary Questionnaire, you note that, on May 6, 2025, President Trump called you to tell you that you would be nominated to the federal bench.

- a. How long did that call last?

Response: About two minutes.

- b. Who else, if anyone, participated in the call other than you and President Trump?

Response: A secretary called my line and then patched me into the President. I do not recall speaking to anybody else.

- c. What was discussed on the call?

Response: The President congratulated me on the nomination.

- d. What questions, if any, were you asked by President Trump during the call and how did you answer them?

Response: None.

3. How would you describe your judicial philosophy?

Response: When Congress passes a statute or the people enact a constitutional amendment, that law's meaning does not change until amended with new text. It is

inappropriate for judges to “update” laws out of dissatisfaction that the people or Congress have chosen not to do so. My philosophy is that the law should be applied as written, and not how judges wish it were written.

4. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I were confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent, including as appropriate the *Obergefell* and *Glucksberg* decisions.

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes.

b. Would you consider whether the right is deeply rooted in this nation’s history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation’s history and tradition?

Response: Yes. Many cases, including *Glucksberg*, instruct courts to do that. If a case requiring that analysis were to come before me, I would consult historical resources, including historical case law. Cases applying that framework have consulted a variety of historical resources, and I would look to the kinds of sources those cases considered.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes, whether a right was historically recognized by a court is part of the assessment of whether the right is deeply rooted in history.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider any other factors identified in applicable precedent from the Supreme Court and the Eighth Circuit.

5. **In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.**

Response: To the extent “higher court” means a court with appellate authority over the district court, rather than an appellate court in a different circuit, the answer is I am not aware of a circumstance where ignoring a higher court’s order would be appropriate other than if an even higher court vacated that order (such as the Supreme Court vacating an order of the Eighth Circuit).

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, “[h]igher education at the time was considered dangerous for women,” a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, “As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser.” This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

- a. **When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?**

Response: Courts regularly consider changing facts in assessing a case. For example, a regulation in one era may not chill speech only for the same regulation to chill speech when facts or technology change. Whether changing facts will affect resolution of a dispute will be case specific.

- b. **What is the role of sociology, scientific evidence, and data in judicial analysis?**

Response: The role of these topics will vary depending on the case. For example, in a contract dispute between pharmaceutical companies, scientific evidence may be highly relevant. But it may be irrelevant to a run-of-the-mill contract case. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts’ existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of

the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

- a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?**

Response: Yes, I will follow all directives of Congress, which include the need to consider supervised release and the recommendations of the Sentencing Commission.

- b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?**

Response: In enacting that section into law, Congress necessarily determined that early termination of supervised release is appropriate in some circumstances.

- c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?**

Response: Yes.

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

Response: I am unfamiliar with any case that has squarely held that the President has violated the Take Care Clause. When that allegation was made against President Obama, the Department of Justice took the position that claims under that clause are not justiciable. The Supreme Court never ruled on that question because the case in which it was raised was affirmed by an evenly divided 4-4 vote without opinion. In addition, the Supreme Court has ruled that “[t]he President’s unique status under the Constitution distinguishes him from other executive officials.” *Nixon v. Fitzgerald*, 457 U. S. 731, 750 (1982). I am unaware of any court that has ruled on what the remedy would be in the hypothetical posed by the question, though I would review carefully any briefing if the question were ever presented to me as a judge.

- 9. Is President Trump eligible to be elected President for a third term?**

Response: Section 1 of the Twenty-Second Amendment states, in part, “No person shall be elected to the office of the President more than twice....” I have not reviewed any case

law or other authorities addressing or interpreting this Amendment, nor formed an opinion on how it might apply to any particular facts. To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

10. Who won the 2020 U.S. Presidential Election?

Response: I served as a law clerk in the Supreme Court in 2020. The Court ruled on a case on this issue when I was clerking. Ethical rules prohibit discussing those matters. President Biden was certified as the victor and served as the 46th President of the United States.

11. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: This barebones hypothetical provides insufficient information to assess the question. For example, a “true threat” as recognized by Supreme Court precedent would not be protected by the First Amendment, and so a person issuing a true threat in a newspaper op-ed could generally face punishment. Without knowing more, it is impossible to provide a more fulsome answer. In addition, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

12. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

13. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

14. Do you agree that there is a constitutional right to privacy that protects a woman’s right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court in *Griswold* held that the Constitution protects the conduct described above. As a lower court judge, I would be bound to follow all controlling precedent.

- 15. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.**

Response: The only case I am aware of that addresses that question is *Morrissey v. United States*, 871 F.3d 1260 (11th Cir. 2017), which decided the question in the negative. Because that decision is outside the Eighth Circuit, it would not bind me. I am not aware of a court addressing that question in the Eighth Circuit. To the extent the question asks about current political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

- 16. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?**

RESPONSE: The Fifth Amendment provides, in relevant part, “No person shall ... be deprived of life, liberty, or property, without due process of law.” The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. For example, Presidents of both parties have relied on expedited deportation in certain circumstances, which includes far fewer procedures than a trial.

- 17. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?**

RESPONSE: Generally speaking, courts do not assess the motives of those who enact legislation. “It is a familiar principle of constitutional law that this Court will not strike down an otherwise constitutional statute on the basis of an alleged illicit legislative motive.” *United States v. O'Brien*, 391 U.S. 367, 383 (1968). There have been some exceptions, such as in the *Lawrence v. Texas* decision, where the Supreme Court said that moral views were insufficient for a legislature to enact legislation.

- 18. What role, if any, should the practical consequences of a particular ruling play in a judge’s rendering of a decision?**

RESPONSE: One reason courts are given independence is so that they can rule according to what the law requires without regard to the consequences. Only in limited circumstances (such as when a court is exercising its equitable authority) should a court contemplate consequences. Those matters are typically tangential. For example, some courts have ordered injunctive relief but delayed or paused injunctive relief temporarily due to the consequences an immediate injunction would have on the parties.

- 19. What role, if any, should empathy play in a judge’s decision-making process?**

RESPONSE: It is important for judges to be respectful to all litigants. A judge should never lose sight of the fact that litigation is not an academic exercise, but has immediate

and often profound consequences in the lives of real people. At the same time, a judge takes an oath to “administer justice without respect to persons.” 28 U.S.C. § 453. In all cases, a judge must rule according to the law, regardless of whether he or she empathizes with a litigant.

20. What role, if any, should a judge’s personal life experience play in his or her decision-making process?

RESPONSE: A judge’s life experiences will hopefully have prepared him or her to exercise the judicial office with understanding, diligence, integrity, and impartiality.

21. Under 28 U.S.C. § 455, “[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned.”

- a. You filed an amicus brief in the Supreme Court on behalf of Missouri in *Alliance for Hippocratic Medicine v. Food and Drug Administration*. The case challenged the Food and Drug Administration’s approval of the abortion drug mifepristone. Should you be confirmed, would you recuse yourself from future cases involving abortion drugs? Why or why not?**

RESPONSE: I will recuse myself from any case in which I have been involved. More generally, not having served as a judge before, I am not an expert in the recusal standards. But in any case where recusal might even plausibly be required, I will consult the recusal statute and the code of conduct as well as any necessary additional authorities, such as ethics opinions from the judiciary and the opinions and experiences of colleagues.

22. In your Senate Judiciary Questionnaire, you disclosed that you are a member of the Federalist Society, a group whose members often advocate an “originalist” interpretation of the Constitution. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the “circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light” on the amendment’s original meaning, “it is not enough to resolve the problem with which we are faced. At best, they are inconclusive We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.” 347 U.S. at 489, 490-93. Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?

Response: I am aware that this topic has been the subject of significant scholarly attention and that many well-renowned scholars believe the decision is consistent with originalist principles. *See, e.g.,* Michael W. McConnell, *Originalism and the Desegregation*

Decision, 81 Va. L. Rev. 947, 1140 (1995) (“This Article shows ... that school segregation was understood during Reconstruction to violate the principles of equality of the Fourteenth Amendment.”). I believe *Brown* was correctly decided.

a. Should the public’s understanding of a constitutional provision’s meaning at the time of its adoption ever be dispositive when interpreting that constitutional provision today?

Response: When Congress passes a statute or the people enact a constitutional amendment, that law’s meaning does not change until amended with new text. Judges regularly apply a law’s meaning to new circumstances, such as applying the First Amendment’s protection of free speech to the internet. It would be inappropriate for judges to “update” laws out of dissatisfaction that the people or Congress have chosen not to do so. In addition, the Supreme Court on several occasions has considered the original public meaning of a constitutional provision in addressing that provision’s scope. *E.g.*, *Crawford v. Washington*, 541 U.S. 36 (2004).

b. Does the public’s original understanding of the scope of a constitutional provision constrain its application decades later?

Response: See above.

c. What sources would you employ to discern the contours of a constitutional provision?

Response: Judges regularly consult text, precedent, and history to discern the contours of constitutional provisions. As to history, that includes both primary and secondary sources.

23. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: I cannot envision a circumstance where I would affirmatively instruct a party not to comply with an order. The Supreme Court has squarely recognized that individuals do sometimes have to violate an order so that they can appeal. As Justice Sotomayor’s opinion put it, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). “Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment.” *Id.* It is theoretically possible that I might issue an order that discusses *Mohawk*.

- a. Under what circumstances would you tell a party they could decide not to comply with your orders?**

Response: See above.

- b. What would you do if a party refuses to comply with one of your orders?**

Response: I would assess whether allegations of noncompliance were correct and would invite briefing on the matter. I would also assess whether any recognized defenses apply. In some circumstances, sanctions might be appropriate after a finding that a party has in fact violated an order without proper cause.

24. Discuss your proposed hiring process for law clerks.

Response: I intend to use the same tools for recruiting that other judges use. I will review all applications that are submitted. I intend to continue speaking at law schools, as appropriate, which tends to increase clerkship applications.

- a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?**

Response: As a judicial nominee, the canons of judicial ethics generally prohibit me from endorsing legislative proposals.

25. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: I am not generally familiar with this practice but am open to considering it. Having delivered nearly 40 oral arguments myself, I recognize that my circumstance is unusual and that oral argument opportunities for most attorneys (especially younger attorneys) are rare. I would take that into account when establishing courtroom practices.

- a. How else would you support the skills development of junior lawyers appearing before you?**

Response: In my current role as a supervisor, I strive to give junior attorneys the opportunity to argue cases and take other significant firsthand responsibility. I would generally encourage parties before me to do the same in appropriate circumstances and would seek additional ways to promote the development of junior lawyers.

Questions for the Record for Mr. Joshua M. Divine
Submitted by Senator Richard Blumenthal
June 11, 2025

1. You were the recipient of the Alliance Defending Freedom's Blackstone Fellowship in 2014. One of the Alliance Defending Freedom's founders, James Dobson, said that the 2012 massacre of children at Sandy Hook Elementary School happened because "we have turned our back on the Scripture and on God Almighty and I think He has allowed judgment to fall upon us. I think that's what's going on."

- a. **Do you believe the Sandy Hook school shooting happened because "we have turned our back on the Scripture and on God Almighty and I think He has allowed judgment to fall upon us."?**

Response: I have never heard these comments and am unfamiliar with the person described in the question. The Blackstone Fellowship is one of close to a half dozen fellowships I have participated in with various organizations. Like other fellowships, it consisted of a lecture series exploring legal topics. I was one of hundreds of law students to participate. Crimes like the 2012 Sandy Hook shooting are horrifying, and as a parent, my heart goes out to all the victims.

- b. **Do you disavow these comments?**

Response: It is not my practice to disavow or endorse comments with which I am not familiar, especially when the comments are relayed secondhand.

2. In a 2011 piece you authored, you wrote that moral opposition to homosexuality is not hateful or homophobic because it is grounded in a morality of opposition to "any form of sex that goes against the biological design of procreation and the nurturing of a family," including "homosexuality, adultery, bestiality, fornication, polygamy, and all other forms of sex that do not take place in a monogamous-marriage setting."

- a. **Bestiality is currently illegal in all but one state. Do you believe that people in same-sex relationships should, like those who commit bestiality, be criminally prosecuted?**

Response: The question mischaracterizes the article, which argued that those things are *not* the same, the opposite of what the question suggests. The article was written in response to commentary on campus that sharply criticized Muslims, Catholics, and Mormons and asserted that members of those faiths equated those things and thus were bigoted. The article argued that it is wrong to assume people of faith are bigoted simply because one does not understand their theology. The Supreme Court in the *Obergefell* decision agreed, saying that opposition to same-sex marriage "long has been held—and continues to be held—in good faith by reasonable and sincere people here and throughout the world." I

have never advocated criminal prosecution of individuals in same-sex relationships.

b. Do you consider yourself someone who is morally opposed to “any form of sex that goes against the biological design of procreation?”

Response: As hundreds of nominees before me have noted, the judicial code of conduct prohibits nominees from discussing political or policy views. As a general matter, I can say that many of my political, policy, and even religious views have changed since college. The article in question discussed theological views of a number of religions. To the extent the question asks about religious views, the U.S. Constitution says “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.”

i. If so, knowing of your moral opposition to homosexuality, how can someone who is homosexual expect you to be unbiased in the courtroom?

3. You co-authored a legal complaint in *Missouri v. FDA* in which you cited two studies by James Studnicki, Tessa Longbons, and others that had been published in *Health Services Research and Managerial Epidemiology*. This complaint was electronically filed on November 3, 2023.

On February 5, 2024, Sage Journals, the publisher of *Health Services Research and Managerial Epidemiology*, issued a retraction of the studies. A post-publication peer review “identified fundamental problems with the study design and methodology, unjustified or incorrect factual assumptions, material errors in the authors’ analysis of the data, and misleading presentations of the data” in the studies that, in the opinion of the reviewers, “demonstrate[d] a lack of scientific rigor and invalidate[d] the authors’ conclusions in whole or in part.”

a. When did you learn the studies were retracted?

Response: As the question notes, the retraction occurred after the complaint was filed and despite the publisher having agreed to publish the articles years earlier. I do not recall when or whether learning of the retraction. At the time the question says the articles were retracted, I was recovering from a near-fatal accident. Having researched this issue to respond to this question, I am aware that the authors of the study have sharply criticized the retraction as an anti-scientific retraction taken by the journal for political reasons in response to the article being cited in a legal filing. I have not had the occasion to assess who is correct in that dispute between the authors and the publisher.

b. Did you notify the Court of the retractions?

Response: The litigation in that case is still in its infancy, with the parties litigating baseline questions of venue and jurisdiction. Factual disputes have not yet been litigated, so there has not yet been occasion to discuss factual disputes implicated by the retraction of an article that is not necessary to the complaint and is mentioned only in a footnote of the current complaint.

i. If so, what information did you provide the Court? When did you provide this information?

4. The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges' ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: The question states that the Supreme Court has held this to be true. As a lower court judge, I will abide by and follow all binding Supreme Court precedent.

b. Do you believe that federal judges should be limited in their ability to hold government officials in contempt?

Response: Under Federal Rule of Civil Procedure 65, a "court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." I understand from public reporting that the bill discussed above may be a congressional response to some judges not requiring the bond contemplated by Rule 65. As a judge I would follow the law, and it is not for judicial nominees to endorse or criticize pending legislation.

5. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Judges operate by issuing orders. And Americans—including elected Americans—have a right to criticize judges.

i. Would you have the ability to enforce those orders?

Response: Yes.

ii. What powers would you have to enforce those orders?

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court, such as if the court lacked jurisdiction or if compliance was impossible. *See, e.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65; *United States v. Rylander*, 460 U.S. 752, 757 (1983) (impossibility). In some circumstances, defying a court order is necessary to appeal it, as Justice Sotomayor’s majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: See above.

d. What would make a court order unlawful?

Response: It depends on what the question means by “unlawful,” but one well-recognized rule is that an order is void ab initio if the order is issued without jurisdiction.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Sometimes an appeal is possible. Sometimes it is not. When it is not, the Supreme Court has in fact said parties may defy an order so that they can incur sanctions that trigger a right to appeal. One example of this is when a court orders disclosure of documents that a party believes to be

privileged. Ordinarily, that kind of order is not appealable. So as Justice Sotomayor's opinion put it, a party may have to violate the order so they can appeal: "Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions." *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). "Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment." *Id.*

- ii. Is it ever acceptable to not follow this process? When and why?

Response: As the Supreme Court has said, sometimes the right process is to appeal and sometimes the right process is something else, including "defy[ing]" an order. *Id.*

6. Were you in Washington, D.C. on January 6, 2021?

Response: I served as a law clerk in the Supreme Court during the OT2020 term. I was in the Supreme Court building working that day.

- a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: I understand that "U.S. Capitol grounds" is defined by the Architect of the Capitol to include the Supreme Court building. I was in the Supreme Court building on that day, working as a law clerk. I was not at or in the Capitol building.

Senator Mazie K. Hirono
Questions for the Record
Joshua M. Divine

Nominee to the U.S. District Court for the Eastern and Western Districts of Missouri

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

- a. **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?**

Response: No.

- b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

RESPONSE: No.

2. In a 2010 article for *The Mirror* entitled "Literacy Tests Should Be Required for Elections," you expressed support for state-administered literacy tests as a prerequisite for voting, arguing that people who "aren't informed about issues or platforms...have no business voting." Such tests were outlawed by the Voting Rights Act of 1965.

- a. **Do you stand by your position that literacy tests should be required for voting?**

Response: I do not believe literacy tests should be required for voting. Those tests are illegal.

The question's characterization of the article is not correct. The article in question expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. They were used particularly to target black Americans, but also were used to target people like my ancestors, Italian Americans. I have never advocated any form of Jim Crow literacy test.

The article, written when I was a teenager, was consistent with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned Jim Crow literacy tests but permitted devices that did not have the same history of abuse. After the Supreme Court unanimously held that literacy tests are constitutional so long as they are not applied in a discriminatory way, *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53 (1959), the Civil Rights Act and Voting Rights Act temporarily prohibited literacy tests in States with a history of abuse, but not in other jurisdictions. "[T]he Civil Rights Act of 1964 allowed for the use of literacy tests as a qualification, so long as the test was administered to every individual

and conducted in writing.” Paulette Brown, *The Civil Rights Act of 1964*, 92 Wash. U. L. Rev. 527, 534 (2014); 52 U.S.C. § 10101(a)(2)(c). That Act restricted Jim Crow tests that had been administered arbitrarily and unevenly. The Voting Rights Act went further, banning the tests, but only in jurisdictions that had employed tests previously and where “less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.” 52 U.S.C. § 10303(a)–(b). The Voting Rights Act expressly permitted literacy tests in all other jurisdictions. The article written when I was a teenager expressed ideas consistent with those landmark pieces of legislation.

It was not until years after the Civil Rights Act and Voting Rights Act that Congress passed legislation prohibiting the use of those tests nationwide, in all jurisdictions and regardless of whether the tests were in writing. 52 U.S.C. § 10501. As a teenager in college, I was aware that the Civil Rights Act and the Voting Rights Act had banned some tests while permitting others. I was not aware of the later amendments. I learned about the more recent law in law school. Tests are illegal now, and I have never advocated any form of test (including the ones that the Civil Rights Act and Voting Rights Act permitted) since that article.

i. If so, explain your position.

b. Please explain whether, and if so how, literacy tests for voting would be legally permissible under the Voting Rights Act of 1965.

Response: As originally passed, the Voting Rights Act of 1965 prohibited tests only in certain jurisdictions, but expressly permitted others so long as they were written and administered to every individual. 52 U.S.C. § 10101(a)(2)(c). Later amendments prohibited those tests nationwide. 52 U.S.C. § 10501.

3. You have previously advocated on behalf of President Trump in one of his criminal cases. You submitted a brief to the Supreme Court of the United States requesting that it lift the district court’s order barring President Trump from making public statements targeting court staff, supporting personnel, and reasonably foreseeable witnesses. You also asked the Supreme Court to delay sentencing for President Trump’s felony convictions.

a. Given this advocacy, how can the American people trust you to be impartial, especially in federal court cases involving the President?

Response: The question does not accurately state the nature of the legal filing. I have never been an attorney representing President Trump. The lawsuit in question was filed by the State of Missouri. I will recuse from any case that I have been part of and will consult and follow the recusal statute and all ethical requirements of the code of conduct. As a general matter, I understand that judges are not required to recuse simply because they once advocated in favor of or against one side of an issue on behalf of a client. If that were the rule, then public

defenders who become judges would never be able to hear criminal cases that come before them because of their advocacy in criminal cases against the United States.

b. Do you believe protecting witness safety in criminal proceedings is important?

Response: The question does not accurately characterize the lawsuit, which concerned whether a court could impose a gag order against President Trump, prohibiting him from speaking on issues of public importance. New York agreed that the gag order implicated constitutionally protected speech. As stated in the preliminary injunction motion, the lawsuit sought to lift a gag order that prevented President Trump from “criticiz[ing] the New York prosecution team for their close ties to and contacts with high-ranking officials in the Biden administration” and from “criticiz[ing] Judge Merchan’s close relatives who are actively engaged in Democratic politics and stand to gain financially from a conviction.”

c. Do you believe protecting court staff and personnel from harm by litigants and their supporters is important?

Response: See above.

4. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

a. As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

i. When should each of these tools be used?

Response: Whether a tool should be used will depend on the specific facts of the case.

b. Is it ever permissible for a party in a case to disregard a court order?

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. In some circumstances, defying a court order is necessary to appeal it, as

Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

i. How should a federal judge respond if a party disregards an order issued by the judge?

Response: Typically, a judge will first determine whether a party has in fact failed to respond, whether there is a good reason for not responding and, if not, whether any form of response by the court is worthwhile in light of the specific facts of the case.

ii. Is the President of the United States allowed to disregard a court order?

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. In some circumstances, defying a court order is necessary to appeal it, as Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: Whether a tool should be used will depend on the specific facts of the case.

c. What does it mean for a judge to hold a party in contempt of court?

Response: Contempt of court encompasses a wide variety of conduct, including disorderly conduct, disobeying an order, or generally disrespectful conduct inside a courtroom.

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: The Supreme Court has described contempt authority as an “inherent” part of the judicial power, and some statutes also regulate it. *E.g.*, 18 U.S.C. § 401; Judiciary Act of 1789. I have not reviewed any case law or other authorities addressing or interpreting these authorities, nor formed an opinion on how they might apply to any particular facts.

1. If so, where does that authority come from?

Response: See above.

2. If not, why not?

ii. What tools does a judge possess to punish contumacious conduct?

Response: Courts have a variety of methods to respond to improper conduct, including sanctions orders, drawing adverse inferences, dismissing a case, or engaging in contempt proceedings. What tool is appropriate will depend on the specifics of the case.

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: I have not had the occasion to assess whether precedents hold that contempt proceedings are different when the party is an executive official rather than a commercial litigant, although the Supreme Court has ruled that “[t]he President’s unique status under the Constitution distinguishes him from other executive officials.” *Nixon v. Fitzgerald*, 457 U. S. 731, 750 (1982). If a case arose, I would invite briefing and consult the relevant authorities.

2. If not, why not?

Response: See above.

Nomination of Joshua M. Divine
Nominee to be U.S. District Judge for the Eastern and Western Districts of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. If you are confirmed to the federal bench, you would be one of the least experienced federal district judges in the nation. Having graduated from law school in 2016, you have about nine years of legal experience; of those nine years, you have only seven years of legal practice experience, excluding judicial clerkships.

a. If you are confirmed, what concrete and affirmative steps do you plan to take to try to overcome the relative experience gap between you and your colleagues?

Response: The question does not accurately characterize my experience, which includes supervising the appeals of 200 attorneys and running the special litigation team, the trial unit tasked with handling some of the State's most complex trial litigation. In those roles, I have been lucky enough to acquire more firsthand, high-level, substantive experience in a decade than most attorneys have in their entire careers. I have delivered nearly 40 oral arguments and overseen around a dozen trials, plus many more preliminary injunction hearings. In the last year alone, I obtained victories in trial courts totaling \$700 billion and first-chaired a two-week trial that successfully defended complicated legislation. To this day, I am told that Missouri is the only State in the nation to successfully defend that kind of law at trial even though about half the States have that kind of law. In any event, I believe in being a lifelong learner. I will continue to study to improve and have already begun reading several books designed for new judges. I also look forward to taking advantage of the mentorship programs that the Missouri district courts have, which pair new judges with seasoned judges.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

- a. **Do you agree with AG Bondi that “the ABA no longer functions as a fair arbiter of nominees’ qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations”?**

Response: I am aware of the criticisms levied against the ABA. I do not know as much as the Attorney General knows about the history of ABA ratings.

- b. **How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?**

Response: I understand that the ABA believes individuals should “ordinarily” have 12 years of post-law school experience because few attorneys have substantial firsthand experience until that time. The ABA also waives that 12-year preference—as it did several times in the previous administration—for individuals who have already accumulated “substantial courtroom and trial experience” or other “distinguished accomplishments.” I have argued nearly 40 times in court, including first-chair complicated trial experience. I supervise 200 attorneys, and I have published several academic articles—all of which are highly unusual for attorneys with a decade of experience (or even multiple decades). I am aware of another Solicitor General who was the same or fewer number of years out of law school as me who received a qualified/well-qualified rating from the ABA because he similarly was lucky enough to have high-level experiences earlier in his career.

3. In an article you wrote for your college student newspaper *The Mirror*, you referred to yourself as a “zealot” for the pro-life movement.²

- a. **What is your definition of a “zealot”?**

Response: The question refers to an article that was written when I was a teenager but does not correctly characterize the article. As I explained at the hearing, the term was used in the same way that people regularly refer to lawyers providing “zealous” advocacy—energetically trying to persuade. A democracy like ours depends on the ability and willingness of its citizens to engage in debate and try to persuade.

- b. **Would you describe yourself today as a “zealot” for the pro-life movement?**

Response: I would describe myself as a zealous advocate for my clients: the State of Missouri, its agencies, and its officials. As a government attorney, I do not engage in political activism.

- c. **Do you believe that a woman has the right to make decisions that affect her health?**

² Josh Divine, *The Justification of Zealous Behavior among Pro-Lifers*, THE MIRROR (Oct. 6, 2010).

Response: To the extent the question asks generally about the right and ability of individuals to make their own medical decisions that do not affect others, yes. To the extent the question asks about situations where the Supreme Court has recognized that there are competing interests and that policymakers can pass regulations in response to those competing interests, I believe all people ought to comply with the law.

4. In response to Senator Padilla's question about your writings in your college newspaper about same-sex marriage, you stated, "What I can tell you is that I'm no longer in college. That was almost 15 years ago. I can tell you as a general matter, I've grown up, I've had a lot more experiences, a lot of my policy, political, and even my religious views have changed in that time."

a. How have your policy, political, and religious views changed in the past 15 years?

Response: As I explained to Senator Padilla at the hearing, and as hundreds of nominees before me have explained as well, the judicial code of conduct prohibits judicial nominees from discussing their current policy, political, and religious views. My views on many things have changed in the last 15 years. Every day, I set aside my own views and advocate the interests of my clients. And if I were to be confirmed as a judge, I would likewise set aside any views that I have now or that may develop.

b. Are there any written statements you have published or public statements you have made in the past that you now wish to retract?

Response: Generally speaking, there are many statements from the decades-old articles I have been questioned about that I no longer agree with. But as I explained to Senator Padilla, and as hundreds of nominees before me have explained as well, the judicial code of conduct prohibits judicial nominees from discussing their current policy, political, and religious views. My views on many things have changed in the last 15 years. Every day, I set aside my own views and advocate the interests of my clients. And if I were to be confirmed as a judge, I would likewise set aside any views that I have now or that may develop. While there are statements that I do not agree with and would not express today, I do not regret being an engaged, energetic student who was eager to grapple with issues and explore ideas in college—even if I later came to reject many ideas I had in my youth.

i. If no, please affirm that you continue to stand by all of your previous published written statements and public statements.

5. How would you characterize your judicial philosophy?

Response: When Congress passes a statute or the people enact a constitutional amendment, that law's meaning does not change until amended with new text. It is inappropriate for judges to "update" laws out of dissatisfaction that the people or Congress have chosen not to do so. My philosophy is that the law should be applied as written, and not how judges wish it were written.

6. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Response: Different people define that term differently. My judicial philosophy is summed up in the question above.

7. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Response: Different people define that term differently. My judicial philosophy is summed up in question 6.

8. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: Many justices on the Supreme Court disregard legislative history because they do not believe it is reliable. Others rely on it. Under the doctrine, reliance on legislative history is unnecessary when a statute's language is unambiguous. *Mohamad v. Palestinian Authority*, 566 U.S. 449, 458 (2012). To the extent it is proper to rely on legislative history in some circumstances, it "is meant to clear up ambiguity, not create it." *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011). I would faithfully apply binding precedent.

9. According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.³ Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.⁴ This disparity still persists. Even though rates of illicit drug use do not

³ Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>.

⁴ *Id.*

substantially differ by race and ethnicity,⁵ a 2023 study reports that one in four people arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.⁶

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.⁷ In my home state of New Jersey, "the rate of imprisonment among Black people is more than nine times" that of white people.⁸

a. To what do you attribute the statistics above?

Response: I am not familiar with the study above and so am not positioned to assess any causation.

10. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁹ What do you attribute this to?

Response: I am not familiar with the study above and so am not positioned to assess any causation.

11. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.¹⁰ What do you attribute this to?

Response: I am not familiar with the study above and so am not positioned to assess any causation.

12. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

Response: Under 18 U.S.C. § 3553(a), judges are called on to issue sentences that "avoid unwarranted sentence disparities among defendants with similar records who have been

⁵ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

⁶ Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), <https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/>.

⁷ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

⁸ *Id.* at 9.

⁹ Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

¹⁰ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

found guilty of similar conduct.” As a judge, I would apply this statute when issuing sentences.

13. Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.

Response: Yes, nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic.

14. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person’s gender identity?

Response: If I am fortunate enough to be confirmed, I will treat every litigant with respect and will require that others in the courtroom do the same.

15. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor’s opinion put it, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). “Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment.” *Id.*

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ if confirmed to the federal bench to determine whether that official should be held in contempt?

Response: In that unlikely scenario, I would assess whether allegations of noncompliance were correct and would invite briefing on the matter. I would also assess whether any recognized defenses apply.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges?

Response: See above the first response to question 15.

16. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The Supreme Court has repeatedly recognized that executive officials have substantial, but not unlimited, prosecutorial discretion in choosing how and when to enforce certain laws. To the extent the question asks about current legal disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

17. Does the president have the power to withhold funds appropriated by Congress?

Response: Congress passed the Impoundment Control Act in 1974. I have not reviewed any case law or other authorities addressing or interpreting this statute, nor formed an opinion on how it might apply it to any particular facts. To the extent the question asks about current legal disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

18. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: Yes.

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?

Response: There is active litigation on this issue. To the extent the question asks about current legal disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her. As a general matter, as explained in the answer above, state laws that conflict with federal laws are preempted. But there are current disputes about whether state laws conflict with the federal law mentioned above.

19. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Fifth Amendment provides, in relevant part, “No person shall ... be deprived of life, liberty, or property, without due process of law.” The question in most cases is less about whether the doctrine of due process applies and more about how much process is due.

20. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: In *Whitman v. American Trucking*, the Supreme Court held that the text of the Constitution “permits no delegation” but that no delegation has occurred when Congress

“lay[s] down by legislative act an intelligible principle to which the person or body authorized to act is directed to conform.” 531 U.S. 457, 472 (2001) (brackets omitted).

21. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: As dozens of nominees have said before, it is almost always improper for judicial nominees to give a thumbs-up or thumbs-down to Supreme Court precedent. To my knowledge, the only two exceptions to this general rule against opining on the merits of Supreme Court cases are *Brown* and *Loving*. I agree that both those decisions were correctly decided.

22. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: *Griswold* is binding precedent. It involved an appeal by individuals who were penalized for prescribing contraceptives, and the Court held that the statute violated a “right to privacy” that the Court interpreted to be within the Constitution.

23. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: *Lawrence* is binding precedent. It involved an appeal by an individual penalized for engaging in certain sexual conduct, and the Court held that the statute penalizing engaging in that conduct violated the Constitution.

24. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: *Obergefell* is binding precedent. It involved a challenge to state statutes defining marriage as a union between one man and one woman. The Court held that the Constitution requires States to license a marriage between two people of the same sex.

25. Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.

Response: I served as a law clerk in the Supreme Court in 2020. The Court ruled on a case on this issue when I was clerking. Ethical rules prohibit discussing those matters. President Biden was certified as the victor and served as the 46th President of the United States.

26. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”¹¹

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

¹¹ U.S. CONST. amend. XXII.

Response: Yes, that election was not disputed by the candidates.

- b. Do you agree that President Trump was elected to the office of the President in the 2024 election?**

Response: Yes, that election was not disputed by the candidates.

- c. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?**

Response: Section 1 of the Twenty-Second Amendment states, in part, “No person shall be elected to the office of the President more than twice....” I have not reviewed any case law or other authorities addressing or interpreting this Amendment, nor formed an opinion on how it might apply to any particular facts. To the extent the question asks about political disputes, it would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

- 27. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?**

Response: As part of the process for preparing for the hearing, there was general discussion of the universe of responses the committee has previously received to various questions. I have given answers based on my understanding of what is appropriate consistent with the judicial canons of ethics and have relied on the interpretations and practices of nominees who have preceded me.

- 28. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- 29. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.**

Response: I do not know who is a member of DOGE. To my knowledge, no.

- 30. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- 31. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: Yes. Sometime in December, I interviewed for a position in the Department of Justice with Mr. Mizelle and spoke with him again by phone in mid-January when considering an offer. We discussed my qualifications and experiences as well as the parameters of the job offer.

- 32. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: Yes. Sometime in December, I interviewed for a position in the Department of Justice with Attorney General Bondi. We discussed my qualifications and experiences.

- 33. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- 34. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: Yes. He and I had a short phone conversation about a week after my hearing before this Committee. He is also a judicial nominee, and we discussed some logistics about Judiciary Committee hearings.

- 35. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- 36. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.**

Response: No.

- 37. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- a. Enrique Tarrio

- b. Stewart Rhodes
- c. Kelly Meggs
- d. Kenneth Harrelson
- e. Thomas Caldwell
- f. Jessica Watkins
- g. Roberto Minuta
- h. Edward Vallejo
- i. David Moerschel
- j. Joseph Hackett
- k. Ethan Nordean
- l. Joseph Biggs
- m. Zachary Rehl
- n. Dominic Pezzola
- o. Jeremy Bertino
- p. Julian Khater

38. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: I do not know anybody who received a pardon. To my knowledge, I have never spoken to anybody discussed in the question.

39. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: I affirm that I have left each place of employment voluntarily.

40. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

41. Article III Project (A3P) “defends constitutionalist judges and the rule of law.”
According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how

relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹²

- a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: To the best of my knowledge, no. I am not familiar with the individuals who have been associated with that organization.

- b. Are you currently in contact with anyone associated with A3P? If so, who?**

Response: To the best of my knowledge, no. I am not familiar with the individuals who have been associated with that organization.

- c. Have you ever been in contact with anyone associated with A3P? If so, who?**

Response: To the best of my knowledge, no. I am not familiar with the individuals who have been associated with that organization.

42. According to its Form 990 filed in 2024,¹³ the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) “is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends.”

- a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: I am not familiar with the members of that organization, but to my knowledge, no—with one exception. The only exception is that Carrie Severino (whom I know because both of us clerked for Justice Thomas) sent me a brief message of congratulations. That is the full extent of the conversation I have had. I do not know if Carrie is affiliated with the organization described, but another Senator’s question suggested she is.

- b. Are you currently in contact with anyone associated with The Concord Fund? If so, who?**

¹² See <https://www.article3project.org/about>.

¹³ The Concord Fund, Form 990 (filed on May 13, 2024), available at <https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full>.

Response: To the best of my knowledge, no. I am not familiar with the individuals who have been associated with that organization and have not been in contact with Carrie since she sent me the brief message of congratulations.

c. Have you ever been in contact with anyone associated with The Concord Fund? If so, who?

Response: To the best of my knowledge, no, other than my association with Carrie, whom I know because both of us clerked for Justice Thomas. I am not familiar with the individuals who have been associated with that organization.

43. Please describe the selection process that led to your nomination to be a United States federal judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: The selection process and interviews are described in answer 26 on the Questionnaire.

44. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: I have been in contact with the Office of Legal Policy, which provided me with a general document providing guidance about how to fill out a Senate Judiciary Questionnaire. I made my own decisions about which cases to list.

a. Who?

Response: See above.

b. What advice did they give?

Response: See above.

c. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

45. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: To the best of my knowledge, no. I am not familiar with the individuals who have been associated with that organization.

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

Response: Not as part of the selection process. Friends who are among the tens of thousands of members of that organization have congratulated me on my nomination.

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

Response: The selection process and interviews are described in answer 26 on the Questionnaire. Since submitting the Questionnaire, I have been in regular contact with the Office of Legal Policy regarding logistics of the nomination.

- 48. Please explain, with particularity, the process whereby you answered these written questions.**

Response: I reviewed a few previous nominees' responses to get an idea of the format and general length of appropriate responses. I drafted my responses to each of these questions. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this Committee. My answers are my own.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

June 11, 2025

Questions for Mr. Divine:

- 1. Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. In some circumstances, defying a court order is necessary to appeal it, as Justice Sotomayor’s majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

- 2. Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: I have never advised a client to ignore or defy a court order. I would only ever advise a client consistent with what is legally permitted.

- 3. Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge’s decision or order?**

Response: Judges, like anybody else, are subject to criticism in our democracy. Under the First Amendment, anybody is permitted to criticize rulings of judges with which they disagree. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

- 4. In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

Response: No.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Joshua Divine
Hearing on “Nominations”
Wednesday, June 11, 2025

1. Did you author articles for *The Mirror* while a student at Northern Colorado University?

Response: Yes, although the name of the school was slightly different than stated in the question: University of Northern Colorado.

2. Did you author an article entitled “Literacy tests should be required for elections?”

Response: As explained in the Questionnaire, I did not author article headlines. I authored an article, but the newspaper editors authored the headlines, including the headline discussed in the question.

a. How many years ago did you write the article?

Response: The article was written in 2010, fifteen years ago.

b. In the article, you wrote, “In the Civil Rights Act, literacy tests were banned because they were used as a form of discrimination in that they were only administered to certain groups of people, but literacy tests themselves are not a bad thing.” Do you still agree that literacy tests are not a bad thing?

Response: The quote in isolation does not provide an accurate snapshot of the article. The article in question expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. They were used particularly to target black Americans, but also were used to target people like my ancestors, Italian Americans. I have never advocated any form of Jim Crow literacy test.

The article, written when I was a teenager, was consistent with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned Jim Crow literacy tests but permitted devices that did not have the same history of abuse. After the Supreme Court unanimously held that literacy tests are constitutional so long as they are not applied in a discriminatory way, *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53 (1959), the Civil Rights Act and Voting Rights Act temporarily prohibited literacy tests in States with a history of abuse, but not in other jurisdictions. “[T]he Civil Rights Act of 1964 allowed for the use of literacy tests as a qualification, so long as the test was administered to every individual and conducted in writing.” Paulette Brown, *The Civil Rights Act of 1964*, 92 Wash. U. L. Rev. 527, 534 (2014); 52 U.S.C. § 10101(a)(2)(c). That Act restricted Jim Crow tests that had been administered arbitrarily and unevenly. The Voting

Rights Act went further, banning the tests, but only in jurisdictions that had employed tests previously and where “less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.” 52 U.S.C. § 10303(a)–(b). The Voting Rights Act expressly permitted literacy tests in all other jurisdictions. The article written when I was a teenager expressed ideas consistent with those landmark pieces of legislation.

It was not until years after the Civil Rights Act and Voting Rights Act that Congress passed legislation prohibiting the use of those tests nationwide, in all jurisdictions and regardless of whether the tests were in writing. 52 U.S.C. § 10501. As a teenager in college, I was aware that the Civil Rights Act and the Voting Rights Act had banned some tests while permitting others. I was not aware of the later amendments. I learned about the more recent law in law school. Tests are illegal now, and I have never advocated any form of test (including the ones that the Civil Rights Act and Voting Rights Act permitted) since that article.

- c. In the article, you also wrote, “there are reasons to take away somebody’s vote, such as an unstable residency....” Do you still agree that an unstable residency is a valid reason to take away somebody’s vote?**

Response: The quote in isolation does not provide an accurate snapshot of the article, which discusses felon disenfranchisement in the same sentence. The Fourteenth Amendment has been interpreted to permit States to deny convicted felons the ability to vote. *E.g., Richardson v. Ramirez*, 418 U.S. 24 (1974). As to residency, the Supreme Court has declared “that 30 days appears to be an ample period of time for the State to complete whatever administrative tasks are necessary to prevent fraud” and that “States have the power to require that voters be bona fide residents.” *Dunn v. Blumstein*, 405 U.S. 330, 343, 348 (1972); *see also* 52 U.S.C. § 10502. The Supreme Court and Congress have permitted States to refuse to allow somebody to vote in an election if the person fails to satisfy basic requirements.

- 3. Did you author an article entitled “Reese issue illustrates destructive cannon of political correctness?”**

Response: As explained in the Questionnaire, I did not author article headlines. I authored an article, but the newspaper editors authored the headlines, including the headline discussed in the question.

- a. How many years ago did you write the article?**

Response: The article was written in January 2011, more than fourteen years ago.

- b. In the article, did you write, “Just as Democrats put forth everything bad they could find about President G.W. Bush, so too will a supremacist organization display mostly negative information?”**

Response: The quote in isolation does not provide an accurate snapshot of the article, which contrasted a mainstream organization (Democratic Party) with a fringe organization. The article simply noted that just because a speaker is a well-known opponent of the person they are criticizing does not automatically make their assertions factually incorrect. That the criticizing organization is an institutional opponent may reflect on motive, but it does not (without more) automatically mean everything said by the criticizing organization is incorrect. The article concerned criticisms made by a supremacist organization about Dr. Martin Luther King. That kind of organization obviously lacks any credibility at all, and its motives for those criticisms were no doubt malicious. Yet CNN had verified that at least some of the organization’s criticisms were factually correct. The article noted that the criticisms of Dr. Martin Luther King were a bad-faith “diatribe,” but also noted that college students must become equipped to address criticisms—good faith or bad faith—no matter whether they come from a fringe organization or a mainstream one. Other articles that I wrote, and which were disclosed to the Committee, favorably compared Dr. Martin Luther King to Mother Theresa and Gandhi.

Questions for the Record

Sen. Adam Schiff (CA)

Joshua M. Divine, Nominee to the United States District Court for the Eastern District of Missouri and the Western District of Missouri

1. You have been a member of the Federalist Society since 2013. Additionally, you clerked for U.S. Supreme Court Justice Clarence Thomas, who is also a current or former member of Federalist Society. President Trump recently decried the Federalist Society for its “bad advice” on judicial nominations and called Leonard Leo, its Co-Chairman, a “real sleazebag.”

- a. **Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States District Court for the Eastern District of Missouri and the Western District of Missouri?**

Response: I have no knowledge of whom the White House spoke to or did not speak to. My understanding is that I was recommended by the Senators from Missouri.

- b. **Do you believe the Federalist Society provided “bad advice” to President Trump on judicial nominations?**

Response: I am not aware of what advice has been proffered or not proffered to the White House. To the extent the question asks to wade into political disputes, it would be inappropriate for a judicial nominee to do so.

2. **The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: “No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued.” In your estimation, would this provision, if enacted, impede your ability as a future United States District Judge to enforce contempt orders against the government or government officials?**

Response: Under Federal Rule of Civil Procedure 65, a “court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.” I understand from public reporting that

the bill discussed above may be a congressional response to some judges not requiring the bond contemplated by Rule 65. As a judge I would follow the law, and it is not for judicial nominees to endorse or criticize pending legislation.

3. **Given your previous work for the Missouri Attorney General's office, do you commit to faithfully abiding by all relevant conflict of interest and judicial disqualification policies and procedures during your potential tenure as a District Judge in the Eastern and Western Districts of Missouri?**

Response: Yes.

4. The governing statute of the United States Marshals Service requires that "the United States Marshals Service *shall* execute *all lawful writs, process, and orders* issued under the authority of the United States." Additionally, the "primary . . . mission" of the Service is to "provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.] 28 U.S.C. § 566.

- a. **Based on the Service's governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any "writ[], process [or] order[]" issued by a United States District Judge?**

Response: Not having ever served as a judge, I have not had occasion to become familiar with the statute cited. I have not reviewed any case law or other authorities addressing or interpreting this statute, nor formed an opinion on how it might apply it to any particular facts. To the extent the question asks for a promise or forecast about how I might rule in a case that might come before me, it would be improper for me to provide that forecast or promise.

- b. **If the Service were to obey an executive branch command to disregard, or otherwise not execute, one of your orders, what other mechanisms would you consider employing, as a United States District Judge, to ensure compliance?**

Response: Not having ever served as a judge, I have not had occasion to become familiar with the statute cited. I have not reviewed any case law or other authorities addressing or interpreting this statute, nor formed an opinion on how it might apply it to any particular facts. To the extent the question asks for a promise or forecast about how I might rule in a case that might come before me, it would be improper for me to provide that forecast or promise. As a general matter, if I

am lucky enough to be confirmed, I intend to consult not just case law, but also my colleagues in the event of unusual situations.

5. In October 2010, you wrote, “People who aren’t informed about issues or platforms — especially when it is so easy to become informed these days — have no business voting, which is why I propose state-administered literacy tests,” in the University of Northern Colorado’s student newspaper, *The Mirror*. Literacy tests were used by election officials throughout the Jim Crow South to prevent Black voters from registering to vote and subsequently outlawed in Section 4 of the Voting Rights Act of 1965.

a. Do you still believe that states should administer literacy tests before allowing citizens to vote?

Response: The premise of the question and the characterization of the article are not correct. The article in question expressly condemns Jim Crow literacy tests. Jim Crow literacy tests were gerrymandered, abused, and enforced unevenly to deny Americans the right to vote. They were used particularly to target black Americans, but also were used to target people like my ancestors, Italian Americans. I have never advocated any form of Jim Crow literacy test.

The article, written when I was a teenager, was consistent with the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which banned Jim Crow literacy tests but permitted devices that did not have the same history of abuse. After the Supreme Court unanimously held that literacy tests are constitutional so long as they are not applied in a discriminatory way, *Lassiter v. Northampton Cnty. Bd. of Elections*, 360 U.S. 45, 53 (1959), the Civil Rights Act and Voting Rights Act temporarily prohibited literacy tests in States with a history of abuse, but not in other jurisdictions. “[T]he Civil Rights Act of 1964 allowed for the use of literacy tests as a qualification, so long as the test was administered to every individual and conducted in writing.” Paulette Brown, *The Civil Rights Act of 1964*, 92 Wash. U. L. Rev. 527, 534 (2014); 52 U.S.C. § 10101(a)(2)(c). That Act restricted Jim Crow tests that had been administered arbitrarily and unevenly. The Voting Rights Act went further, banning the tests, but only in jurisdictions that had employed tests previously and where “less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964.” 52 U.S.C. § 10303(a)–(b). The Voting Rights Act expressly permitted literacy tests in all other jurisdictions. The article written when I was a teenager expressed ideas consistent with those landmark pieces of legislation.

It was not until years after the Civil Rights Act and Voting Rights Act that Congress passed legislation prohibiting the use of those tests nationwide, in all jurisdictions and regardless of whether the tests were in writing. 52 U.S.C. § 10501. As a teenager in college, I was aware that the Civil Rights Act and the Voting Rights Act had banned some tests while permitting others. I was not aware of the later amendments. I learned about the more recent law in law school. Tests are illegal now, and I have never advocated any form of test (including the ones that the Civil Rights Act and Voting Rights Act permitted) since that article.

May 29, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Nomination of Joshua Divine to the United States District Courts for the Eastern and Western Districts of Missouri

Dear Chairman Grassley and Ranking Member Durbin:

We are former law clerks to the Honorable Clarence Thomas, and we write solely in our personal capacities to express our support for the nomination of Joshua Divine to the U.S. District Courts for the Eastern and Western Districts of Missouri.

As is evident from his resume, Josh is extraordinarily gifted and accomplished. Josh graduated summa cum laude from the University of Northern Colorado and received his Juris Doctor from Yale Law School, where he served on both the Yale Law Journal and the Yale Law & Policy Review. After law school, Josh dedicated himself to public service. He clerked for Chief Judge William H. Pryor Jr. of the U.S. Court of Appeals for the Eleventh Circuit, and then for Associate Justice Clarence Thomas of the U.S. Supreme Court. He served as Deputy Solicitor General in the Missouri Attorney General's Office, where he argued nine appeals in his first year. He proceeded to serve as Deputy and then Chief Counsel to Senator Josh Hawley before returning to Missouri in January 2023 to serve as Missouri's Solicitor General and Director of Special Litigation. In these roles, he has overseen some of Missouri's most consequential litigation. In all, Josh has presented over 30 oral arguments in state and federal courts and briefed cases at every level of the state and federal judiciary.

What is less obvious from Josh's resume is his personal character. Josh is marked by his integrity, discipline, and temperament. As those of us who have been fortunate enough to have been his colleagues know, Josh works extremely hard and puts in long hours without complaint to ensure that his work is done well and done right. Josh will, without hesitation, step in to help a colleague without expecting anything in return. He debates legal issues earnestly, fairly, and calmly. And he treats everyone he encounters with great respect. We are confident Josh will approach each case before him with diligence and thoughtfulness.

In short, we believe that Josh's professional experience and personal character render him exceptionally qualified to serve as a district court judge, and he would be a tremendous addition to the federal bench. We urge the Senate to act quickly to confirm him to the Eastern and Western Districts of Missouri.

Respectfully,

Christopher Landau (October Term 1991)
 James E. Gauch (October Term 1993)
 Michael O'Neill (October Term 1996)
 Nicole Stelle Garnett (October Term 1998)
 Patrick L. O'Daniel (October Term 1998)
 Kate Comerford Todd (October Term 2000)
 Jennifer K. Hardy (October Term 2004)
 David A. Bragdon (October Term 2006)
 Heath P. Tarbert (October Term 2007)
 Jenn Mascott (October Term 2008)
 Marah Stith McLeod (October Term 2009)
 Brian P. Morrissey (October Term 2009)
 Elbert Lin (October Term 2010)
 Brian Charles Lea (October Term 2011)
 Michelle Stratton (October Term 2011)
 Rebekah Perry Ricketts (October Term 2013)
 Katherine C. Yarger (October Term 2013)
 Jennifer B. Dickey (October Term 2014)
 Brinton Lucas (October Term 2014)
 Sarah Harris (October Term 2015)

Scott G. Stewart (October Term 2015)
 Kasdin Mitchell (October Term 2016)
 Austin Raynor (October Term 2016)
 Brittney Lane Kubisch (October Term 2017)
 Cameron T. Norris (October Term 2017)
 Russell Balikian (October Term 2018)
 Madeline Ward Clark (October Term 2018)
 Christopher Mills (October Term 2018)
 Caroline Cook Lindsay (October Term 2019)
 J. Matthew Rice (October Term 2019)
 Philip M. Cooper (October Term 2020)
 Jack L. Millman (October Term 2020)
 Amy R. Upshaw (October Term 2020)
 Christopher C. Goodnow (October Term 2021)
 Steven J. Lindsay (October Term 2021)
 Manuel Valle (October Term 2021)
 Christine M. Buzzard (October Term 2022)
 Jasmine Akre (October Term 2023)
 Caroline Milner (October Term 2023)

May 23, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

**Re: Nomination of Joshua Divine to the United States District Court for
the Eastern and Western Districts of Missouri**

Dear Chairman Grassley and Ranking Member Durbin:

I write to support the nomination of Joshua Divine to the United States District Court for the Eastern and Western Districts of Missouri. I got to know Josh through his work as the Solicitor General of Missouri. In that role, Josh defended Missouri's SB 49, the Save Adolescents from Experimentation Act (SAFE) Act. The SAFE Act prohibits health care providers from performing gender transition surgeries on minors. My participation with the SAFE Act was testifying in the case of *Noe v. Parson* regarding the facts and circumstances surrounding my medical transition between the ages of 12 to 16, my decision to detransition at the age of 17, and the lifelong medical questions and complications I now face as a result. In my capacity as a victim of medical transition, I had the opportunity to work directly with Josh.

Mine is not an easy story to tell, but it is a necessary one in the hope that I can play a part in stopping these horrific practices. Josh was kind, considerate, and compassionate throughout the process. It is never easy for me to talk about the trauma I endured at the hands of medical professionals who were supposed to protect me, not to mention the sensitivity of discussing my lingering physical complications and regrets. But Josh made sure I was supported and cared for throughout the process. His efforts in support of the SAFE act showed that he was not only an excellent legal advocate, but also a trusted legal counselor in the best sense of the phrase.

Given my opportunities to interact with him, I have no doubt he has the temperament and intelligence to be a wonderful federal judge. I know he will treat

Docusign Envelope ID: CCFB7831-F709-4A08-AB61-2B0211CDE1BD

every person in his courtroom with dignity and respect, and I urge the committee to act quickly to confirm him.

Respectfully,

Chlor Cole

May __, 2025

The Honorable Chuck Grassley
Chairman, Committee on the Judiciary
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Dick Durbin
Ranking Member, Committee on the Judiciary United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

**Re: Nomination of Joshua Divine to the United States District Court for
the Eastern and Western Districts of Missouri**

Dear Chairman Grassley and Ranking Member Durbin:

We write to support the nomination of Joshua Divine to the United States District Court for the Eastern and Western Districts of Missouri. We know Josh through our affiliation as former law clerks for Chief Judge William H. Pryor Jr. of the United States Court of Appeals for the Eleventh Circuit. We believe that Josh's work ethic, self-discipline, intelligence, temperament, and dedication to public service will make him an excellent addition to the federal judiciary.

Josh grew up in southern Colorado and earned a Bachelor of Science in mathematics from the University of Northern Colorado in 2012, graduating summa cum laude, and his Juris Doctor from Yale Law School in 2016, where he served on the Yale Law Journal and Yale Law & Policy Review. After law school, he clerked for Chief Judge Pryor, where several of us saw firsthand his analytical ability and deep commitment to the fair application of the law. Josh went on to clerk for Associate Justice Clarence Thomas of the Supreme Court of the United States.

Between and following his clerkships, Josh built an impressive legal career in public service and appellate advocacy. He served as Deputy Solicitor General in the Missouri Attorney General's Office from 2017 to 2019, where his work earned the "2019 Supreme Court Best Brief Award" from the National Association of Attorneys General. He then served as Deputy Counsel and later Chief Counsel to Senator Josh Hawley from 2019 to 2022, managing legal and policy teams and developing expertise in technology, privacy, and criminal law while working on matters before

the Senate Judiciary Committee. Since January 2023, Josh has served as Missouri's Solicitor General and Director of Special Litigation, where he heads the state's Appellate and Special Litigation divisions. As Solicitor General, Josh has delivered more than twenty oral arguments in appellate and trial courts, demonstrating exceptional advocacy skills.

Josh has excelled in those roles in no small part because of his unwavering honesty, self-discipline, and tireless work ethic. A father of six (with one more on the way!), we know Josh to be a good and honest friend, father, husband, in addition to being an excellent lawyer. We are confident that, as a judge, he would bring these same qualities to bear in the expeditious and impartial administration of justice.

In sum, we are confident Josh's judicial temperament, integrity, and the breadth and depth of his experience make him highly qualified to serve as a federal judge. We urge the Senate to act quickly to confirm him to the Eastern and Western Districts of Missouri.

Respectfully,

C'Zar Bernstein	Kat Ferazzi	Kasdin Mitchell
John C. Brinkerhoff Jr.	E. Caroline Freeman	Stephanie Morman
Matt Capoccia	Molly Drake Glazner	Cameron Norris
Alex Carver	Robert Harrington	Andrew Nussbaum
Madeline Ward Clark	Liz Kiernan	Eric Palmer
Catherine Cole	Edmund LaCour	Krista Perry
Philip Cooper	Ellen V. Lehman	Sarah Welch
C. William Courtney	Elbert Lin	
Aly Cox	Mary K. Mangan	
Jennifer B. Dickey	William C. Marra	
Anthony J. Enright	Caroline Milner	

May 29, 2025

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

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Letter of support from current and former state solicitors general for
Joshua Divine's nomination to the United States District Court for the
Eastern and Western Districts of Missouri

Dear Chairman Grassley and Ranking Member Durbin:

We write as current and former state solicitors general to express our enthusiastic support for the nomination of Joshua Divine to the United States District Court for the Eastern and Western Districts of Missouri. Having collaborated with Josh as we have served as chief appellate advocates for our respective states, we have unique insight into his exceptional qualifications for the federal bench. In addition to his work as Missouri's top appellate lawyer, Josh's leadership on significant multistate litigation has demonstrated his legal acumen, judicious temperament, and unwavering commitment to the rule of law.

As state solicitors general, we often lead complex litigation affecting millions of citizens. This responsibility requires not only mastery of constitutional principles, but also the ability to navigate intricate statutory schemes and administrative regulations—precisely the range of issues that come before federal district courts daily. Throughout our interactions with Josh in his capacity as Missouri's Solicitor General, we have witnessed firsthand his capacity to analyze multifaceted legal questions with both intellectual rigor and practical wisdom.

Josh has distinguished himself among our ranks through his exemplary advocacy in cases spanning diverse areas of federal and state law. His leadership in *Missouri v. Biden*, where he successfully challenged the federal student loan forgiveness program, demonstrated his ability to navigate complex administrative law and constitutional principles at the highest level. In *Noe v. Parson*, he was one of the first lawyers to successfully defend at the trial level state age limits on

hormonal and surgical gender transitioning treatments for minors. And his work in *Missouri v. China* broke new ground in addressing questions of foreign sovereign immunity. Josh approaches each case with meticulous preparation, intellectual honesty, and keen attention to detail.

Beyond his technical legal abilities, Josh exhibits the judicial temperament necessary for the bench. He listens to opposing viewpoints, engages with counterarguments, and maintains professional composure even in the most contentious litigation settings. Josh's colleagues regularly seek his counsel not only for his legal insights but also for his balanced judgment and principled approach to difficult questions. These qualities—patience, fairness, and thoughtful deliberation—are indispensable for a district court judge who must manage complex litigation and render impartial decisions.

As his professional peers who have observed Josh's work in the challenging arena of high-stakes public-law litigation, we are confident that he possesses the intellectual capacity, legal expertise, judicial temperament, and ethical foundation to serve with distinction on the United States District Court. We wholeheartedly endorse his nomination and urge the Committee to support his confirmation.

Respectfully submitted,

J. Benjamin Aguiñaga (Solicitor General of Louisiana, 2024-present)
 Jessica M. Alloway (Solicitor General of Alaska, 2021-present)
 Philip Axt (Solicitor General of North Dakota, 2023-present)
 Cody S. Barnett (Solicitor General of Nebraska, 2025-present)
 James A. Barta (Solicitor General of Indiana, 2023-present)
 Andrée Sophia Blumstein (Solicitor General of Tennessee, 2014-2024)
 John J. Bursch (Solicitor General of Michigan, 2011-2013)
 James A. Campbell (Solicitor General of Nebraska, 2020-2023)
 Christian Corrigan (Solicitor General of Montana, 2022-present)
 Jeffrey DeSousa (Acting Solicitor General of Florida, 2025-present)
 David Dewhirst (Solicitor General of Montana, 2021-2022)
 Andrew Ferguson (Solicitor General of Virginia, 2022-2024)
 Thomas M. Fisher (Solicitor General of Indiana, 2005-2023)
 Benjamin M. Flowers (Solicitor General of Ohio, 2019-2023)
 Garry M. Gaskins, II (Solicitor General of Oklahoma, 2023-present)
 Eric J. Hamilton (Solicitor General of Nebraska, 2023-2025)
 Kyle D. Hawkins (Solicitor General of Texas, 2018-2021)
 Melissa Holyoak (Solicitor General of Utah, 2020-2024)
 Thomas Hydrick (Solicitor General of South Carolina, 2025-present)

Scott A. Keller (Solicitor General of Texas, 2015-2018)
 Matthew F. Kuhn (Solicitor General of Kentucky, 2021-present)
 Edmund LaCour (Solicitor General of Alabama, 2019-present)
 Mithun Mansinghani (Solicitor General of Oklahoma, 2017-2022)
 Liz Murrill (Solicitor General of Louisiana, 2016-2023)
 Aaron L. Nielson (Solicitor General of Texas, 2023-present)
 Autumn Hamit Patterson (Solicitor General of Arkansas, 2025-present)
 Stephen Petrany (Solicitor General of Georgia, 2021-present)
 Anthony Powell (Solicitor General of Kansas, 2023-present)
 Stanford Purser (Solicitor General of Utah, 2024-present)
 J. Matthew Rice (Solicitor General of Tennessee, 2024-present)
 Brunn (Beau) Roysden (Solicitor General of Arizona, 2020-2022)
 Scott G. Stewart (Solicitor General of Mississippi, 2021-present)
 Judd Stone (Solicitor General of Texas, 2021-2023)
 Paul S. Swedlund (Solicitor General of South Dakota, 2021-present)
 Eric Wessan (Solicitor General of Iowa, 2023-present)
 Michael R. Williams (Solicitor General of West Virginia, 2024-present)

Titles are listed only for identification. Signatories write only in their personal capacity.



May 30, 2025

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

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Re: Letter of support for Joshua Divine's nomination to the United States District Court for the Eastern and Western Districts of Missouri

Dear Chairman Grassley and Ranking Member Durbin:

We write as members of the Missouri Senate to express our strong support for the nomination of Joshua Divine to serve as a United States District Judge for the Eastern and Western Districts of Missouri. As elected representatives, we have observed Josh's exceptional service as Solicitor General and his commitment to defending Missouri's laws. His outstanding legal abilities and dedication to the rule of law make him supremely qualified for the federal bench.

Josh has ably defended Missouri's laws with distinction and success. Since January 2023, Josh has served as Missouri's chief appellate advocate, successfully defending our state's interests in complex constitutional litigation. His track record of victories demonstrates his exceptional legal acumen and ability to translate the will of Missouri's people into persuasive legal arguments before state and federal courts.

Josh's leadership in *Noe v. Parson* exemplifies his skill in defending Missouri's commitment to protecting children. When we enacted legislation prohibiting gender-affirming medical procedures for minors, Josh was the only solicitor general in the nation to successfully defend such legislation at the trial court level, securing a complete victory. His preparation, legal arguments, and courtroom advocacy proved his ability to handle complex constitutional questions with legal precision and appropriate judicial temperament.


Josh's successful challenge to President Biden's student loan forgiveness program in *Missouri v. Biden* protected Missouri taxpayers and defended constitutional principles. Josh recognized the threat posed by the federal government's attempt to unilaterally forgive hundreds of billions in student debt.

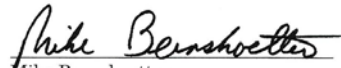
Josh's work defeating the federal Title IX rule that would have allowed biological males to compete in women's sports shows his commitment to protecting opportunities for Missouri's female athletes. Josh understood that the federal government's reinterpretation of Title IX threatened protections for women and girls in athletics. His successful legal challenge preserved the integrity of women's sports in Missouri and across the country.

Josh's exceptional qualifications, proven success, and commitment to the rule of law make him an ideal candidate for the federal judiciary. We are confident he will bring the same dedication and legal excellence to the federal bench that he has demonstrated throughout his career in public service. We respectfully urge the Committee to support Joshua Divine's nomination and advance his confirmation.


Respectfully submitted,

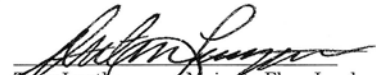

Cindy O'Loughlin, President Pro Tem
State Senator, District 18

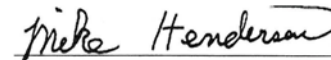

Nick Schroer
State Senator, District 2

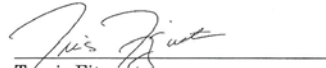

Mike Bernskoetter
State Senator, District 6

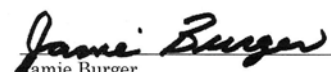

Rusty Black
State Senator, District 12


Brad Hudson
State Senator, District 33


Tony Luetkemeyer, Majority Floor Leader
State Senator, District 34


Mike Henderson
State Senator, District 3


Travis Fitzwater
State Senator, District 10


Jamie Burger
State Senator, District 27

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Whitney Downs Hermandorfer
Whitney Dianne Downs

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

United States Court of Appeals Judge for the Sixth Circuit

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

Office of the Tennessee Attorney General & Reporter
P.O. Box 20207
Nashville, TN 37202-0207

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

1987; Clearwater, Florida

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.

2012 – 2015, The George Washington University School of Law; Juris Doctor (*with highest honors; valedictorian award*), 2015

2005 – 2009, Princeton University; Bachelor of Arts (*magna cum laude*), 2009

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

2023 – present
State of Tennessee, Office of the Attorney General & Reporter
P.O. Box 20207

Nashville, TN 37202-0207
 Director, Strategic Litigation Unit (2023 – present)
 Assistant Solicitor General (2023 – 2024)

2023
 The George Washington University Law School
 2000 H Street NW
 Washington, DC 20052
 Adjunct Professor

2021 – 2023
 Williams and Connolly LLP
 680 Maine Avenue SW
 Washington, DC 20024
 Associate

2020 – 2021
 The Hon. Amy Coney Barrett
 Supreme Court of the United States
 One First Street NE
 Washington, DC 20543
 Law Clerk

2019 – 2020
 Williams and Connolly LLP
 725 Twelfth Street NW
 Washington, DC 20001
 Associate

2018 – 2019
 The Hon. Samuel A. Alito, Jr.
 Supreme Court of the United States
 One First Street NE
 Washington, DC 20543
 Law Clerk

2017 – 2018
 The Hon. Richard J. Leon
 United States District Court for the District of Columbia
 Elijah Barrett Prettyman U.S. Courthouse
 333 Constitution Avenue NW
 Washington, DC 20001
 Law Clerk

2016 – 2017

The Hon. Brett M. Kavanaugh
United States Court of Appeals for the District of Columbia Circuit
Elijah Barrett Prettyman U.S. Courthouse
333 Constitution Avenue NW
Washington, DC 20001
Law Clerk

2015 – 2016

Williams and Connolly LLP
725 Twelfth Street NW
Washington, DC 20001
Law Clerk (2015); Associate (2015 – 2016)

2015

The George Washington University Law School
2000 H Street NW
Washington, DC 20054
Part-time Research Assistant

2014

Williams and Connolly LLP
725 Twelfth Street NW
Washington, DC 20001
Summer Associate

2013

The United States Attorney's Office for the Eastern District of Virginia
Justin W. Williams United States Attorney's Building
2100 Jamieson Ave
Alexandria, VA 22314
Volunteer Legal Intern (unpaid)

2010 – 2012

The American Enterprise Institute for Public Policy Research
1789 Massachusetts Avenue NW
Washington, DC 20036
[formerly 1150 17th Street NW, Washington, DC 20036]
Research Assistant

2009 – 2010

Stillman, Friedman and Shechtman, P.C.
[now Ballard Spahr Stillman & Friedman]
425 Park Avenue, 26th Floor
New York, NY 10022
Legal Assistant

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

I did not serve in the United States military. I was not required to register 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.

The Legal 500, Rising Star for Appellate Litigation, 2023

The Best Lawyers in America, Ones to Watch for Appellate Practice (2022 – 2023),
Administrative/Regulatory Law (2023)

Capital Pro Bono Honor Roll, High Honors (100+ hours) member (2022)

Capital Pro Bono Honor Roll, Honors (50+ hours) member (2021)

American Academy of Achievement Summit, Delegate (2019)

The George Washington University School of Law

John Bell Lerner (valedictorian) Award for the member of the graduating J.D. class who attained the highest cumulative average for the entire course of the degree (2015)

Charles Glover Award for the member of the graduating J.D. class who attained the highest cumulative average in the third year of study (2015)

John Ordronaux Award for the member of the graduating J.D. class who attained the highest cumulative average in the second year of study (2015)

With highest honors designation, J.D. (2015)

Order of the Coif (2015)

George Washington Law Review, Editor-in-Chief (2014 – 2015)

Government Contracts Moot Court Competition, Written Brief Award (2014)

Princeton University

Magna cum laude designation, B.A. (2009)

Co-recipient of Herbert W. Hobler '44 Women's Basketball Award for "player who through her positive attitude, sportsmanship and consistent effort to improve her skills, contributes most to the team" (2009)

Academic All-Ivy Women's Basketball Team (2008 – 2009)

Co-captain, Princeton Women's Varsity Basketball Team (2008 – 2009)

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.

Tennessee Bar Association, 2023 – present

District of Columbia Bar, 2020 – present

Virginia Bar Association, 2015 – 2016

American Bar Association, law student member, 2014 – 2015

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, 2015
District of Columbia, 2020
Tennessee, 2023

There have been no lapses in membership.

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

United States Supreme Court, 2021
U.S. Court of Appeals for the First Circuit, 2024
U.S. Court of Appeals for the Third Circuit, 2021
U.S. Court of Appeals for the Fifth Circuit, 2022
U.S. Court of Appeals for the Sixth Circuit, 2020
U.S. Court of Appeals for the Seventh Circuit, 2020
U.S. Court of Appeals for the Eighth Circuit, 2021
U.S. Court of Appeals for the Ninth Circuit, 2019
U.S. Court of Appeals for the Tenth Circuit, 2023
U.S. Court of Appeals for the District of Columbia Circuit, 2020
U.S. District Court for the Middle District of Tennessee, 2023
U.S. District Court for the Eastern District of Tennessee, 2023
U.S. District Court for the Western District of Tennessee, 2024
U.S. District Court for the District of Columbia, 2020
U.S. District Court for the District of North Dakota, 2023
U.S. District Court for the Eastern District of Texas, 2024

Membership in the U.S. District Court for the District of Columbia lasts for three years. I did not renew in 2023 because I had relocated to Tennessee and no longer practiced before that court. My membership was “provisional” from the period between 2023 and February 2025, at which time I renewed my membership to active status. There have been no other lapses in membership of which I am aware.

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 (2025 – present)

The Harpeth Hall School, Athletic Hall of Fame Selection Committee (2024 – present)

Seven Hills Swim and Tennis Club (2024 – present)

Nashville Zoo at Grassmere (2023 – present)

Brentwood Swim and Tennis Club at Wildwood (2023 – present)

Cheekwood Estate and Gardens (2023 – 2024)

River Park Nursery School (2022 – 2023)

Co-op Management Board, vice president

Federalist Society for Law and Public Policy Studies (2011 – 2014, 2016 – present)

Member, Executive Committee for the Administrative Law & Regulation Practice Group (2024 – present)

Member (2016 – present)

Student member (2011 – 2014)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin 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 copies of all published material to the Committee.

As a senior advisor to Tennessee Attorney General & Reporter Jonathan Skrmetti, I drafted and edited numerous published materials. All of those materials, however, were published under General Skrmetti's name and he maintained ultimate editorial discretion and control over the content of all publications.

As editor-in-chief of the *George Washington Law Review* I performed typographical, minor style, and bluebook editing of dozens of law review articles published in Volumes 82 and 83 of the *Law Review*. The authors of those materials, as well as the assigned articles editors, were responsible for their substantive contents.

Otherwise, to the best of my recollection after conducting a thorough search, I wrote or substantively edited the following published works:

Alumni Newsletter, The George Washington Law Review, Vol. 83, 2015. Copy supplied.

Blown Coverage: Tackling the Law's Failure to Protect Athlete-Whistleblowers, 14 Va. Sports & Ent. L.J. 250 (2015). Copy supplied.

Frederick M. Hess, *Cage-Busting Leadership*, Harvard Education Press, Feb. 1, 2013. Copy supplied.

With Frederick Hess, *Combating the "Culture of Can't"*, Education Next, Jan. 23, 2013. Copy supplied.

With Frederick Hess, *No Citizen Left Behind: Closing America's Civic Empowerment Gap*, AEI, May 14, 2012. Copy supplied.

With Frederick M. Hess, *The Culture of 'Can't' in American Schools*, The Atlantic, Apr. 12, 2012. Copy supplied.

With Frederick J. Hess, *Business Should Step Up on Schooling*, AEIdeas, Oct. 5, 2011. Copy supplied.

Mich. Legislature Caps Employee Benefits; 'Fiscal Terrorism' Accusations Fly, Heartland Institute, Aug. 31, 2011. Copy supplied.

A Closer Look at 'Conservative Cannibalism and Fiscal Terrorism' in Michigan, AEIdeas, Aug. 29, 2011. Copy supplied.

NY Court Does Its Job by Allowing Public Use of Teacher Data, The Daily Caller, Aug. 29, 2011. Copy supplied.

Why Arguments Against Business Involvement in Education Don't Add Up, Education Next, Aug. 23, 2011. Copy supplied.

With Frederick M. Hess, *The Atlanta Cheating Scandal's Tough Lessons for Business Leaders*, AEIdeas, Aug. 17, 2011. Copy supplied.

How Business Can Improve Education, National Review, July 25, 2011. Copy supplied.

Duncan's Dilemma, AEIdeas, July 20, 2011. Copy supplied.

With Frederick M. Hess, *The Business of Education*, National Review, June 14, 2011. Copy supplied.

With Frederick M. Hess, *Partnership Is a Two-Way Street: What It Takes for Business to Help Drive School Reform*, U.S. Chamber of Commerce, Institute for a Competitive Workforce, June 2011. Copy Supplied.

Private Enterprise in American Education, AEIdeas, Apr. 28, 2011. Copy Supplied.

With Frederick M. Hess, *K-12 Budget Picture: Lean Years Ahead*, AEI Report, Nov. 4, 2010. Copy supplied.

Elections and Education Funding, AEIdeas, Nov. 4, 2010. Copy supplied.

First Homestand Proves a Sweeping Success, Daily Princetonian, Nov. 3, 2008. Copy supplied.

League Favorites Square Off Tonight, Daily Princetonian, Oct. 17, 2008. Copy supplied.

Lions, Big Red Next for Princeton, Daily Princetonian, Oct. 10, 2008. Copy supplied.

Non-Ivy Wins Send Message to League, Daily Princetonian, Sept. 30, 2008. Copy supplied.

Hot Hitting Spikes Colgate Off Court in Victory, Daily Princetonian, Sept. 22, 2008. Copy supplied.

Tigers Take New York by Storm, Daily Princetonian, Sept. 15, 2008. Copy supplied.

Cornell Too Strong in Heps Win, Daily Princetonian, May 12, 2008. Copy supplied.

Runners Peaking with Heps Approaching, Daily Princetonian, Apr. 28, 2008. Copy supplied.

Tinney Notches Personal Best in 5,000m, Daily Princetonian, Apr. 21, 2008. Copy supplied.

Field Athletes Take Starring Role in Women's Win, Daily Princetonian, Apr. 14, 2008. Copy supplied.

Schechter's Plus One Highlight of Weekend, Daily Princetonian, Apr. 7, 2008. Copy supplied.

b. Supply 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.

None.

c. Supply 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.

To the best of my recollection:

Letter to Sens. Thune, Grassley, Schumer, and Durbin (with female members of state Attorneys General Offices), Jan. 16, 2025. Copy supplied.

Testimony: Field Hearing Before the House Committee on Financial Services, Subcommittee on Oversight and Investigations, Mar. 18, 2024. Copy of written testimony supplied. A full recording of my testimony is available at <https://www.congress.gov/event/118th-congress/house-event/116965>.

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

The public speaking engagements I can recall, after conducting a thorough search, are as follows:

March 6, 2025: Speaker, Law and Career Panel, Vanderbilt University Law School,

Federalist Society Student Chapter, Nashville, Tennessee. I participated in an informal discussion and question-and-answer session as part of a panel with law students regarding my path to becoming an attorney. I have no notes, transcript, or recording. The address of Vanderbilt University Law School is 131 21st Ave S, Nashville, TN 37203.

February 5, 2025: Speaker, "Litigating in a State Attorneys General's Office," Vanderbilt University Law School, Federalist Society Student Chapter, Nashville, Tennessee. I participated in an informal discussion and question-and-answer session with law students regarding the work of the Tennessee Attorney General's Office. I have no notes, transcript, or recording, but have provided an announcement for the event as posted on the Federalist Society's website. The address of Vanderbilt University Law School is 131 21st Ave S, Nashville, TN 37203.

December 13, 2024: Speaker, "Government Practice Institute Supreme Court Update CLE," Nashville Bar Association, Nashville, Tennessee. I presented on a CLE panel that provided an overview of selected recent and upcoming decisions of the U.S. Supreme Court to practicing government lawyers. The address of the presentation was 312 Rosa L Parks Ave, Nashville, TN 37203. Video and PowerPoint supplied.

November 25, 2024: Speaker, "Litigation Update: State of Tennessee v. Cardona," Federalist Society, Online Forum. A full video recording of this event is available at <https://www.youtube.com/watch?v=Z1liDC8fDiA>.

October 24, 2024: Speaker, "State Impact Litigation Offices: Who Has Them and How Can We Amplify Their Efforts? Fall Legal Strategy Forum," Heritage Foundation, Washington, DC. I participated in a panel discussing the Tennessee Strategic Litigation Unit's work. I have no notes, transcript, or recording. The address of the event was The Heritage Foundation, 214 Massachusetts Avenue NE, Washington, DC 20002.

September 13, 2024: Speaker, "Strategic Litigation for Liberty," Federalist Society Tennessee Chapter, Nashville, Tennessee. I participated in a panel discussing the Tennessee Strategic Litigation Unit's work for members of the Federalist Society's Tennessee chapter. I have provided my preparation notes and enclosed an announcement of the event, which was posted on the Federalist Society website. The address of the event was 401 Korean Veterans Blvd., Nashville, TN 37203.

July 25, 2024: Moderator, "Litigation Update: Roman Catholic Diocese of Albany v. Vullo," Federalist Society, Online Forum. A full video recording of this event is available at <https://www.youtube.com/watch?v=RIITGHfZwwA>.

June 27, 2024: Speaker, Senior Staff Panel Regarding State Litigation Efforts, Republican Attorneys General Association Summer Meeting, White Sulphur Springs, West Virginia. I participated in a panel discussing the Tennessee Strategic Litigation Unit's work, including an update regarding active litigation matters. I have no notes, transcript, or recording. The address of the event was 101 W Main Street, White Sulphur Springs, West Virginia, 24986.

February 21, 2024: Speaker, "Strategic Litigation and Career Preparation: A Conversation with Whitney Hermandorfer," Harvard Law Federalist Society Student Chapter, Cambridge, Massachusetts. I participated in an informal discussion and question-and-answer session with law students regarding the work of the Tennessee Attorney General's Office. I have no notes, transcript, or recording. I have enclosed an announcement of the event, which was posted on the Harvard Law School website. The address of Harvard Law School is 1585 Massachusetts Ave, Cambridge, MA 02138.

February 3, 2024: Speaker, "Young Lawyers Special Session: Making Winning Arguments," Federalist Society Florida Chapters Conference, Kissimmee, Florida. I participated in a panel discussing strategies for legal argumentation geared towards young lawyers. A full video recording of this event is available at <https://www.youtube.com/watch?v=kNgfo1sumes>.

January 30, 2024: Speaker, "State Attorneys General's Offices," Vanderbilt University Law School, Federalist Society Student Chapter, Nashville, Tennessee. I participated in an informal discussion and question-and-answer session with law students regarding the work of the Tennessee Attorney General's Office. I have no notes, transcript, or recording. The address of Vanderbilt University Law School is 131 21st Ave S, Nashville, TN 37203.

October 25, 2023: Speaker, Lipscomb University Pre-Law Class Meeting, Nashville, Tennessee. I presented information regarding the work of the Tennessee Attorney General's Strategic Litigation Unit to a group of pre-law students from Lipscomb University. I have no notes, transcript, or recording. The address of the event was 500 Charlotte Ave, Nashville, TN 37219.

October 13, 2023: Speaker, "Panel One: The Role of State Solicitors General, Federalist Society Kentucky Chapters Conference," Versailles, Kentucky. I participated in a panel discussing the work of the Tennessee Attorney General's Strategic Litigation Unit and Solicitor General's Office. I have no notes, transcript, or recording, but have enclosed an announcement of the event, which was posted on the Federalist Society website. The address of the event was 230 Pisgah Pike, Versailles, KY 40383.

October 12, 2023: Speaker, "State-Led Suits as Separation of Powers Safeguards," Federalist Society Nashville Lawyers Chapter, Nashville, Tennessee. I presented information regarding the work of the Tennessee Attorney General's Strategic Litigation Unit to a group of members of the Nashville Chapter of the Federalist Society. I have no notes, transcript, or recording. I have enclosed an announcement of the event, which was circulated to the Federalist Society's Nashville membership. The address of the event was 1600 Division St # 700 Nashville, TN 37203.

September 29, 2023: Speaker, "Justice in the Supreme Court," Constituting America, Online Conversation, Nashville, Tennessee. A full video recording of this event is available at <https://www.youtube.com/watch?v=G9E3rdYBgks>.

July 2021: Speaker, Supreme Court Term Review (taught by Professor Jennifer Mascott and the Hon. Brett M. Kavanaugh). I have no notes, transcript, or recording. The address of the event was The Antonin Scalia Law School, 3301 Fairfax Dr, Arlington, VA 22201.

Nov. 3, 2022: Speaker, Supreme Court Seminar (taught by Professor Thomas Colby). I have no notes, transcript, or recording. The address of the event was The George Washington University School of Law, 2000 H St NW, Washington, DC 20052.

October 4, 2019: Speaker, "Clerks at 100 Symposium Panel," The National Constitution Center and GW Law Review, Washington, DC. I participated in a panel discussing clerkship experiences and providing advice for law students interested in clerking. I have no notes, transcript, or recording. I have enclosed an announcement of the event, which was posted on the *George Washington Law Review* website. The address of the event was 2000 H St NW, Washington, DC 20052.

October 28, 2013: Speaker, Job Search Panel for 1L Students, George Washington University Law School, Washington, DC. I participated in a panel regarding strategies for securing a summer job in law school. I have enclosed preparation questions from the event. The address of the event was 2000 H St NW, Washington, DC 20052.

July 2018 – July 2019; October 2020 – July 2021: In my capacity as a law clerk at the U.S. Supreme Court, I regularly gave tours of the Supreme Court to various groups of people. I also recall on one occasion speaking with a high school class to provide general background about the Supreme Court and the role of law clerks; I do not recall the exact date of that event, but believe it may have been in the spring of 2019. I have no notes, transcript, or recording.

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 copies of the clips or transcripts of these interviews where they are available to you.

TNAG Recruitment Video - 2024, Office of the Tennessee Attorney General, Oct. 7, 2024. I provided an interview for use in a recruiting video to recruit attorneys to the Attorney General's Office. A recording of a portion of the interview is available at <https://youtu.be/NcxupETrLy4>.

Interview, Federalist Society Florida Chapters Conference, Federalist Society, Feb. 3, 2024. I provided a brief digital-media interview recapping points from our panel. A full video recording of the interview is available at <https://www.instagram.com/fedsoc/reel/C249KUFudCL/?hl=bg>.

GW Law School, *Law Briefs*, *GW Law Grads Land Coveted Supreme Court Clerkships*, GW Magazine, Winter 2022. Copy enclosed.

Menachem Wecker, *GW Law Graduates Fill Supreme Court Clerkships at a High Rate*, GW Today (Sept. 23, 2021), <https://gwtoday.gwu.edu/gw-law-graduates-fill-supreme-court-clerkships-high-rate>. Copy enclosed.

The Harpeth Hall School, *Alumnae Profiles*, HH Focus Magazine, Fall 2018. Copy enclosed.

Alumna Whitney Hermandorfer, *JD'15, to Begin U.S. Supreme Court Clerkship*, GW Law School (July 18, 2018), <https://www.law.gwu.edu/alumna-whitney-hermandorfer-jd-15-begin-us-supreme-court-clerkship>. Copy enclosed.

Joy Pullmann, *Business and Education: Where the Two Sectors Meet, and Sometimes Collide*, School Reform News, Aug. 31, 2011. I do not have a copy or clips of the interview.

How Business Can Transform—Not Just Subsidize—Education Reform, AEI, June 8, 2011. I do not have a copy or clips of the interview.

Ilya Sabnani, *Ivy League's Top Two Teams Prove Mettle*, The Daily Princetonian, Feb. 23, 2009. Copy enclosed.

Ilya Sabnani, *Downs Leads Perfect Road Trip*, The Daily Princetonian, Feb. 10, 2009. Copy enclosed.

Bill Alden, *With Downs Providing Offensive Surge, Tiger Women's Hoops Showing Growth*, Princeton Town Topics, Dec. 17, 2008. Copy enclosed.

Walker Leads No. 3 Cal Past Princeton, 75-53, The Associated Press, Dec. 7, 2008. Copy enclosed.

Zach Kwartler, *Pretty in Pink and Pumped for Crimson, Green*, The Daily Princetonian, Feb. 22, 2008. Copy enclosed.

K.D. Wade, *No. 12 Cal Pulls Away from Princeton Women's Basketball in Second Half*, The Daily Princetonian, Dec. 10, 2007. Copy enclosed.

Zach Kwartler, *Princeton Women's Hoops Takes on St. Francis in Brooklyn, Hosts Duquesne*, The Daily Princetonian, Nov. 29, 2007. Copy enclosed.

K.C. Wade, *Cowher's 18 Points Power Princeton Women's Basketball's First Win*, The Daily Princetonian, Nov. 21, 2007. Copy enclosed.

Zach Kwartler, *Maryland Too Tough for Princeton Women's Basketball*, The Daily Princetonian, Nov. 12, 2007. Copy enclosed.

Zach Kwartler, *Maryland a Tall Order in Opener*, The Daily Princetonian, Nov. 12, 2007. Copy enclosed.

Bill Alden, *Downs Relishing Her New Role as a Starter; Aims to Help PU Women's Hoops Get in Sync*, Princeton Town Topics, Dec. 20, 2006. Copy enclosed.

Jeff Bernstein, *Turnovers, Miscues Plague Tigers*, The Daily Princetonian, Dec. 4, 2006. Copy enclosed.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

- i. Of these cases, approximately what percent were:

jury trials: _____%
bench trials: _____%

- ii. Of these cases, approximately what percent were:

civil proceedings: _____%
criminal proceedings: _____%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

- e. Provide a list of all cases in which certiorari was requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your

decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

I have never been a candidate for or held an elected or appointed public office.

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

I have never held a position or played a role in a political party or election committee, nor in any political campaign.

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

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

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

I served as a law clerk to a judge on four separate occasions:

From 2016 to 2017, I served as a law clerk to the Honorable Brett M. Kavanaugh, U.S. Court of Appeals for the D.C. Circuit.

From 2017 to 2018, I served as a law clerk to the Honorable Richard J. Leon, U.S. District Court for the District of Columbia.

From 2018 to 2019, I served as a law clerk to the Honorable Samuel A. Alito, Jr., Supreme Court of the United States.

From 2020 to 2021, I served as a law clerk to the Honorable Amy Coney Barrett, Supreme Court of the United States.

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

I have never practiced law 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;

2015 – 2016; 2019 – 2020; 2021 – 2023
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
[formerly 725 Twelfth Street NW, Washington, DC 20001].
Associate (2015 – 2016; 2019 – 2020; 2021 – 2023)
Law clerk (2015)

September 2023 – present
 Office of the Tennessee Attorney General & Reporter
 P.O. Box 20207
 Nashville, TN 37202
 Director, Strategic Litigation Unit (2023 – present)
 Assistant Solicitor General (2023 – 2024)

- 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 never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

At various points—from 2015 to 2016, and 2019 to 2020, and 2021 to 2023—I worked as a law clerk and then as an associate at Williams & Connolly LLP. My work principally consisted of appellate litigation, which involved briefing and arguing appeals at various levels of the state and federal appellate court systems, as well as regulatory and administrative-law practice, which involved assisting clients with composing regulatory filings at the notice-and-comment phase of rulemaking proceedings and litigating challenges to various administrative-agency actions (like rules and orders). I also engaged in “issues” work, which consisted of law-driven aspects of trial-court practice such as briefing and legal composition of dispositive motions, drafting proposed jury instructions, and ensuring adequate development and preservation of potential appellate issues. During these times, the general character of my practice did not change, but I acquired increasing responsibility over time and increasingly focused on appellate and administrative litigation implicating issues of constitutional, statutory, and procedural law as the central basis of my practice.

Since fall of 2023, I have served as the Director of the Strategic Litigation Unit in the Office of Tennessee Attorney General and Reporter Jonathan Skrmetti. In that capacity, I am responsible for leading a team of approximately seven attorneys whose role in the Office is to protect the interests of Tennessee, its citizens, and the State’s duly enacted policies by initiating affirmative litigation against the federal government and corporate actors. I also work closely with the Office of the Solicitor General of Tennessee to coordinate and provide trial- and appellate-level litigation defense to the State in complex constitutional and statutory challenges to state laws and policies. Overall, counting both plaintiff- and defensive-side matters, I manage our Office’s involvement in approximately

40-50 active cases and many more *amicus* representations. Finally, I am responsible for providing legal and strategic advice to the Attorney General, other members of his senior staff, and attorneys leading various divisions within the office, as well as for representing our Office in interfacing with other Attorneys General offices.

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

My practice has included a wide range of legal issues and clients. In private practice, I engaged in significant work in administrative law, appellate law, constitutional law, commercial disputes, criminal law, and consumer protection and False Claims Act cases. My clients included various companies, trade associations, and individuals. I also engaged in personal representation of several individuals, including in administrative-law enforcement actions, commercial disputes, and federal criminal cases. I represented these and other clients principally in federal district courts and federal and state appellate courts, as well as before federal administrative agencies.

At the Office of the Tennessee Attorney General and Reporter, my clients include the State of Tennessee as well as state officials, including the Governor, the Attorney General, and leaders of the General Assembly, and various state agencies and entities. In this role, I have principally specialized in pursuing affirmative litigation challenging federal agency actions under the Administrative Procedure Act, federal statutes, and the U.S. Constitution. In many of these representations, our attorneys lead lawsuits in federal court on behalf of large coalitions of States from around the country. In addition, I represent the State, state officials, and state agencies in several complex statutory and constitutional challenges to state laws at both the trial and appellate level.

- 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.

In private practice at Williams & Connolly LLP, my practice consisted almost entirely of litigation work. I appeared in court occasionally to argue appeals.

In the Office of the Tennessee Attorney General and Reporter, where I began in 2023, I spend the great majority of my time handling or supervising litigation. Although many of my cases are resolved on the basis of written legal briefs, I appear in court regularly to argue appeals and trial-level motions.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 80%
- 2. state courts of record: 15%

3. other courts: 0%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

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

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

As primarily an appellate and administrative-law attorney, I have not served as sole or chief counsel in any case tried to verdict or judgment. In private practice, I was involved in cases tried to verdict as a legal strategist responsible for briefing or reviewing important motions, composing jury instructions, and/or ensuring development and preservation of potential appellate arguments.

i. What percentage of these trials were:

1. jury: _____%
2. non-jury: _____%

e. Describe your practice, if any, before the Supreme Court of the United States. Supply 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 served as lead counsel of record for either a party or *amicus curiae* in the following cases in the Supreme Court:

Trump v. Wilcox, Bessent v. Harris, U.S. No. 24A966. Brief supplied.
Trump v. CASA, Inc., Trump v. Washington, Trump v. New Jersey, U.S. Nos. 24A884, 24A885, 24A886. Brief supplied.
Cardona v. Tennessee, U.S. No. 24A79, 603 U.S. 866 (2024). Brief supplied.
Starbucks Corp. v. McKinney, U.S. No. 23-367, 602 U.S. 339 (2024). Brief supplied.

I have been listed as counsel for either a party or *amicus curiae* in the following merits cases:

A.J.T. ex rel. A.T. & G.T. v. Osseo Area Schools, U.S. No. 24-249 (argued Apr. 28, 2025). Brief supplied.
United States v. Skrmetti, U.S. No. 23-477 (argued Dec. 4, 2024). Brief supplied.
West Virginia v. EPA, U.S. No. 24A95. Briefs supplied.
North Dakota v. EPA, U.S. No. 24A180. Briefs supplied.

Although not listed on the briefs or docket, I also assisted in the preparation of briefs in

the following cases:

Royal Canin U.S.A., Inc. v. Wulschleger, U.S. No. 23-677, 604 U.S. 22 (2025). Brief supplied.

Williams v. Washington, U.S. No. 23-191, 145 S. Ct. 465 (2025). Brief supplied.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *Tennessee v. Cardona*, 2:24-cv-072 (Eastern District of Kentucky, Chief Judge Danny C. Reeves; judgment entered Jan. 9, 2025) (representation 2023 – present). Case citations: *Tennessee v. Cardona*, 737 F. Supp. 3d 510 (E.D. Ky. 2024) (preliminary-injunction opinion); *Tennessee v. Cardona*, No. 24-5588, 2024 WL 345880 (6th Cir. July 17, 2024) (Sutton, CJ., and Batchelder and Mathis, JJ.) (denying stay of injunction); *Dep’t of Educ. v. Louisiana*, 603 U.S. 866 (2024) (affirming denial of stay of injunction); *Tennessee v. Cardona*, No. 2:24-cv-72, 2025 WL 63795 (E.D. Ky. Jan. 9, 2025) (vacating rule).

I serve as lead counsel for Tennessee leading a six-State coalition (Tennessee, Kentucky, Ohio, Indiana, West Virginia, and Virginia) in an action challenging the legality of the U.S. Department of Education’s 2024 Title IX Final Rule entitled *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*, 89 Fed. Reg. 33,474 (Apr. 29, 2024). Among other things, the Final Rule interpreted Title IX’s prohibition on “sex” discrimination to impose a variety of new obligations on all federally funded schools to accommodate persons’ “gender identity,” including in restrooms, locker rooms, and other sex-separated facilities and programs. *Id.* at 33,477. My role involved drafting and editing various district-court and appellate filings as well as guiding strategy regarding the legal claims and factual evidence to submit in support of our suit. I presented oral argument on the merits of the preliminary-injunction motion in a hearing before the district court; at that hearing, I also assisted in the presentation of testimony from three factual witnesses and defense of their cross-examination by attorneys from the U.S. Department of Justice. I likewise presented oral argument defending the district court’s decision to grant a preliminary injunction of the Final Rule before a panel of judges in the U.S. Court of Appeals for the Sixth Circuit (Griffin, Mathis, Siler, JJ.). Finally, I led briefing and served as lead counsel in

emergency Sixth Circuit and U.S. Supreme Court proceedings in which the U.S. Department of Justice sought and was denied a stay of the district court's injunction. Ultimately, in January 2025, the district court issued an opinion and final judgment granting the States' summary-judgment motion and vacating the 2024 Title IX Final Rule. The case remains ongoing.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Steven Griffin
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9598

Harrison Gray Kilgore
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 360-0351

Virginia N. Adamson
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 253-5463

Brian Daniel Mounce
[Then at Office of the Tennessee
Attorney General]
Relentless Advocacy PLLC
7000 Executive Center Drive, Suite 240
Brentwood, TN 37027
(615) 891-3901

Cameron T. Norris
Consovoy McCarthy PLLC

1600 Wilson Blvd., Ste. 700
Arlington, VA 22209
(703) 243-9423

Thomas S. Vaseliou
[Then at Consovoy McCarthy PLLC]
White House Counsel's Office
Dwight D. Eisenhower Executive
Office Building
1650 17th Street NW
Washington, DC 20006
(202) 456-4444

C'Zar Bernstein
Consovoy McCarthy PLLC
1600 Wilson Blvd., Ste. 700
Arlington, VA 22209
(703) 243-9423

Counsel for Kentucky

Justin D. Clark
Office of the Kentucky Attorney General
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
(502) 696-5610

Matthew F. Kuhn
Office of the Kentucky Attorney General
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
(502) 696-5300

Counsel for Ohio

T. Elliot Gaiser
Office of the Ohio Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-8980

Counsel for Indiana

James A. Barta
Indiana Attorney General's Office
IGCS – 5th Floor

302 W. Washington St.
Indianapolis, IN 46204
(317) 232-0709

Counsel for Virginia

Kevin M. Gallagher
Virginia Attorney General's Office
202 North 9th Street
Richmond, Virginia 23219
(804) 786-2071

Counsel for West Virginia

Michael R. Williams
Office of the West Virginia Attorney General
State Capitol, Bldg. 1
Room E-26
1900 Kanawha Blvd. E.
Charleston, West Virginia 25305
(304) 558-2021

Counsel for Plaintiff-Intervenors

Henry W. Frampton, IV
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020

Counsel for Defendants

Pardis Gheibi
U.S. Department of Justice
Federal Programs Branch
1100 L Street NW
Room 12406
Washington, DC 20005
(202) 305-3246

2. *United States v. Skrametti*, U.S. No. 23-477 (argued Dec. 4, 2024) (representation 2024 – present).

I serve as counsel for Tennessee in its defense of a law entitled SB1 before the U.S. Supreme Court. SB1 prohibits the provision of certain gender-transition interventions—

namely, hormonal therapy and surgeries—to minors below the age of 18. A group of private plaintiffs challenged the constitutionality of the law; the U.S. Department of Justice then intervened in the suit to press its own constitutional challenge. The U.S. Court of Appeals for the Sixth Circuit upheld the constitutionality of SB1 in an opinion issued in September 2023; thereafter, the private plaintiffs and the United States petitioned the U.S. Supreme Court for certiorari. I became involved in the case at that point and assisted with review and editing of our Brief in Opposition to the petitions for certiorari. After the Supreme Court granted the United States’s petition for certiorari, I served as a co-lead drafter of our response merits brief and was substantially involved with legal and amicus strategy and oral-argument preparation. I served as a second-chair attorney at the oral argument at the U.S. Supreme Court, which was presented by Tennessee Solicitor General J. Matthew Rice in December 2024. The case remains pending decision.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Steven Griffin
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9598

Gabriel Krimm
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-5596

Adam K. Mortara
Lawfair LLC
40 Burton Hills Blvd.
Ste. 200
Nashville, TN 37215
(773) 750-7154

Jeffrey M. Harris
Consovoy McCarthy PLLC

1600 Wilson Blvd., Ste. 700
Arlington, VA 22209
(703) 243-9423

Cameron T. Norris
Consovoy McCarthy PLLC
1600 Wilson Blvd., Ste. 700
Arlington, VA 22209
(703) 243-9423

Counsel for Petitioner United States

Yaira Dubin
U.S. Department of Justice
Office of the Solicitor General
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001
(202) 514-2203

Counsel for Respondents in
Support of Petitioner

Chase B. Strangio
American Civil Liberties Union Foundation
125 Broad Street
New York, NY 10004
(212) 549-2500

3. *Free Speech Coalition v. Skrametti*, No. 2:24-cv-2933 (Western District of Tennessee, Chief Judge Sheryl H. Lipman); No. 24-6158 (6th Cir.) (representation 2024 – present). Case citations: *Free Speech Coalition v. Skrametti*, ___ F. Supp. 3d ___, 2024 WL 5248104 (W.D. Tenn. Dec. 30, 2024) (granting preliminary injunction), *stayed by* 2025 WL 512049 (6th Cir. Jan. 13, 2025) (McKeague, Griffin, Nalbandian, JJ.).

In this case, I serve as counsel for Attorney General Skrametti in defense of a Tennessee law that imposes age-verification requirements on certain websites featuring pornographic content that is harmful to minors. My role involved drafting and editing various district-court and appellate filings and guiding strategy regarding the legal claims and factual evidence to submit in defense against the preliminary-injunction motion. Among other activities, I co-led the drafting of a motion requesting that the U.S. Court of Appeals for the Sixth Circuit stay the district court's preliminary injunction of the challenged age-verification law. A panel of the Sixth Circuit granted that stay motion, meaning that Tennessee's law is now in effect pending the U.S. Supreme Court's disposition of a similar case entitled *Free Speech Coalition, Inc. v. Paxton*, U.S. No. 23-1122 (argued Jan. 15, 2025). The case remains ongoing.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Philip Hammersley
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-7874

Harrison Gray Kilgore
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 360-0351

Zachary L. Barker
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-4098

Andrew D. Denning
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 253-1103

Counsel for Plaintiffs

Jeffrey Sandman
Webb Daniel Friedlander, LLP
5208 Magazine St., Suite #364
New Orleans, LA 70115
(678) 935-0144

4. *Tennessee v. Becerra*, 1:24-cv-161 (Southern District of Mississippi, Judge Louis Guirola, Jr.) (representation 2024 – present). Case citation: *Tennessee v. Becerra*, 739 F. Supp. 3d 467 (S.D. Miss. 2024) (granting preliminary injunction).

I serve as counsel for Tennessee leading a fifteen-State coalition (Tennessee, Mississippi, Alabama, Georgia, Indiana, Kansas, Kentucky, Louisiana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Virginia, and West Virginia) in an action challenging the legality of a 2024 U.S. Department of Health and Human Services (HHS) Final Rule entitled *Nondiscrimination in Health Programs and Activities*, 89 Fed. Reg. 37,522 (May 6, 2024). Among other things, the Final Rule imposed a variety of new obligations on all federally funded healthcare entities and programs to accommodate persons’ “gender identity” and other “sex characteristics,” including by performing and funding certain gender-transition procedures. *Id.* at 37,549. My role involved drafting and editing various district-court filings as well as guiding strategy regarding the legal claims and factual evidence to submit in support of our suit. The district court granted the States’ motion for preliminary relief against the 2024 Final Rule, concluding that it likely exceeded HHS’s statutory authority. The U.S. Department of Justice appealed that decision to the U.S. Court of Appeals for the Fifth Circuit; later, that appeal was dismissed. The district-court proceedings remain ongoing.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Steven Griffin
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9598

Harrison Gray Kilgore
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 360-0351

Counsel for Mississippi

Scott G. Stewart

Mississippi Attorney General's Office
P.O. Box 220
Jackson, Mississippi 39205
(601) 359-3680

Counsel for Alabama

A. Barrett Bowdre
Office of the Alabama Attorney General
501 Washington Avenue
P.O. Box 300152
Montgomery, AL 36130
(334) 242-7300

Counsel for Georgia

Stephen Petrany
Office of the Attorney General of Georgia
Georgia Department of Law
40 Capitol Square SW
Atlanta, Georgia 30334
(404) 458-3408

Counsel for Indiana

James A. Barta
Office of the Attorney General of Indiana
IGC South, Fifth Floor
302 W. Washington St.
Indianapolis, Indiana 46204
(317) 232-0709

Counsel for Kentucky

Justin D. Clark
Office of the Kentucky Attorney General
700 Capital Avenue, Suite 118
Frankfort, Kentucky 40601
(502) 696-5610

Counsel for Kansas

Jay Rodriguez
Office of the Kansas Attorney General
120 SW 10th Ave.
Topeka, KS 66612

(785) 296-4733

Counsel for Louisiana

J. Benjamin Aguinaga
Office of the Louisiana Attorney General
1885 N. 3rd St.
Baton Rouge, Louisiana 70802
(225) 506-3746

Counsel for Nebraska

Lincoln J. Korell
Office of the Attorney General of Nebraska
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-2682

Counsel for Ohio

T. Elliot Gaiser
Office of the Ohio Attorney General
30 East Broad Street, 17th Floor
Columbus, Ohio 43215
(614) 466-8980

Counsel for Oklahoma

Garry M. Gaskins, II
Oklahoma Office of the Attorney General
313 NE 21st Street,
Oklahoma City, OK 73105
(405) 312-2451

Counsel for South Carolina

Thomas T. Hydrick
Office of the Attorney General
State of South Carolina
1000 Assembly Street
Columbia, SC 29201
(803) 734-4127

Counsel for South Dakota

Clifton Katz

Office of the Attorney General
 State of South Dakota
 1302 E. Hwy. 14, Suite #1
 Pierre, SD 57501
 (605) 773-3215

Counsel for Virginia

Kevin M. Gallagher
 Virginia Attorney General's Office
 202 North 9th Street
 Richmond, Virginia 23219
 (804) 786-2071

Counsel for West Virginia

Michael R. Williams
 Office of the West Virginia Attorney General
 State Capitol Complex
 Building 1, Room E-26
 Charleston, WV 25305
 (304) 558-2021

Counsel for Defendants

Sarah M. Suwanda
 U.S. Department of Justice
 Civil Division, Federal Programs Branch
 1100 L St. NW
 Washington, D.C. 20005
 (202) 305-3196

5. *Tennessee v. EEOC*, 2:24-cv-84 (Eastern District of Arkansas, Judge D.P. Marshall, Jr.) (representation 2023 – present). Case citations: *Tennessee v. EEOC*, 737 F. Supp. 3d 685 (E.D. Ark. 2024), *rev'd* by 129 F.4th 452 (8th Cir. 2025) (Colloton, CJ., Loken, Kobes, JJ.).

I serve as counsel for Tennessee leading a seventeen-State coalition (Tennessee, Arkansas, Alabama, Florida, Georgia, Idaho, Indiana, Iowa, Kansas, Missouri, Nebraska, North Dakota, Oklahoma, South Carolina, Utah, West Virginia, and South Dakota) in an action challenging the legality of abortion-accommodation-related portions of an Equal Employment Opportunity Commission (EEOC) Final Rule entitled *Implementation of the Pregnant Workers Fairness Act*, 89 Fed. Reg. 29,096 (Apr. 19, 2024). My role involved drafting and editing a multistate comment opposing the EEOC's proposed rule, drafting various district-court and appellate filings, and guiding strategy regarding the legal claims and factual evidence to submit in support of our suit. After our suit was dismissed for

lack of standing by the district court, I presented oral argument urging reversal and reinstatement of the suit before a panel of judges in the U.S. Court of Appeals for the Eighth Circuit. We succeeded in our appeal, as the Eighth Circuit issued a unanimous opinion holding that the States have standing and remanding our challenge to the district court. The case remains ongoing.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Reed N. Smith
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9593

Virginia N. Adamson
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 253-5463

Joshua D. Minchin
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 837-5069

Joseph M. Fiorile
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-7404

Counsel for Alabama

Edmund G. Lacour

Office of the Alabama Attorney General
 501 Washington Avenue
 P.O. Box 300152
 Montgomery, AL 36130
 (334) 242-7300

Counsel for Arkansas

Autumn Hamit Patterson
 Office of the Arkansas Attorney General
 323 Center Street, Suite 200
 Little Rock, Arkansas 72201
 (501) 682-2007

Counsel for Florida

Allen Liang Huang
 Office of the Florida Attorney General
 3507 East Frontage Road, Suite 200
 Tampa, FL 33607
 (714) 878-8628

Counsel for Georgia

Stephen Petrany
 Office of the Attorney General of Georgia
 Georgia Department of Law
 40 Capitol Square SW
 Atlanta, Georgia 30334
 (404) 458-3408

Counsel for Idaho

Alan M. Hurst
 Office of the Idaho Attorney General
 P.O. Box 83720
 Boise, Idaho 83720
 (208) 334-2400

Counsel for Indiana

James A. Barta
 Office of the Attorney General of Indiana
 IGC South, Fifth Floor
 302 W. Washington St.
 Indianapolis, Indiana 46204

(317) 232-0709

Counsel for Iowa

Eric H. Wessan
Office of the Iowa Attorney General
1305 E. Walnut Street
Des Moines, Iowa 50319
(515) 281-5164

Counsel for Kansas

James Rodriguez
Office of the Kansas Attorney General
120 SW 10th Ave.
Topeka, KS 66612
(785) 368-8197

Counsel for Missouri

Joshua M. Divine
Missouri Attorney General's Office
Post Office Box 899
Jefferson City, MO 65102
(573) 751-1800

Counsel for Nebraska

Lincoln J. Korell
Office of the Attorney General of Nebraska
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-2682

Counsel for North Dakota

Philip Axt
Office of North Dakota Attorney General
600 E. Boulevard Ave., Dept. 125
Bismarck, ND 58505
(701) 328-2210

Counsel for Oklahoma

Garry M. Gaskins, II
Oklahoma Office of the Attorney General

313 NE 21st Street,
Oklahoma City, OK 73105
(405) 312-2451

Counsel for South Carolina

Joseph D. Spate
Office of the Attorney General
State of South Carolina
1000 Assembly Street
Columbia, SC 29201
(803) 734-3371

Counsel for South Dakota

Grant M. Flynn
Office of the Attorney General
State of South Dakota
1302 E. Hwy. 14, Suite #1
Pierre, SD 57501
(605) 773-3215

Counsel for Utah

Lance F. Sorenson
Utah Attorney General's Office
160 East 300 South, 6th floor
PO Box 140856
Salt Lake City, UT 84114-0856
(801) 366-0100

Counsel for West Virginia

Curtis R.A. Capehart
Office of the West Virginia Attorney General
State Capitol Complex
Building 1, Room E-26
Charleston, WV 25305
(304) 558-2021

Counsel for Defendants

Daniel S. Schwei
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW

Washington, DC 20005
(202) 305-8693

6. *Tennessee v. Becerra*, No. 3:23-cv-384 (Eastern District of Tennessee, Chief Judge Travis M. McDonough) (representation 2023 – present). Case citations: *Tennessee v. U.S. Dep’t of Health & Hum. Svcs.*, 720 F. Supp. 3d 564 (E.D. Tenn. 2024); *Tennessee v. Becerra*, 117 F.4th 348 (6th Cir. 2024) (Gibbons, Kethledge, Davis, JJ.), *amended and superseded by* 131 F.4th 350 (6th Cir. 2025).

In this case, I serve as lead counsel for Tennessee in its challenge to the 2023 decision of the U.S. Department of Health and Human Services to defund Tennessee’s longstanding program under Title X of the Public Health Services Act. The basis for the decision to rescind Tennessee’s grant was Tennessee’s refusal to use its state-employed Title X health workers to provide counseling and referrals for elective abortions that are now prohibited by state law. My role involved drafting and editing various trial-level and appellate filings as well as presenting argument in support of preliminary relief before the U.S. Court of Appeals for the Sixth Circuit. In a decision over the dissenting opinion of Judge Kethledge, the Sixth Circuit affirmed the denial of the State’s preliminary injunction. Tennessee then petitioned for rehearing en banc and the Sixth Circuit called for a response; the panel then amended its opinion. The Court provided Tennessee with an opportunity to file a supplemental memorandum of law supporting en banc review and further ordered HHS to respond. Tennessee’s en banc petition and the case remain pending.

Co-counsel

J. Matthew Rice
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6026

Philip Hammersley
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-7874

Harrison Gray Kilgore
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 360-0351

Joseph M. Fiorile
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-7404

Matthew P. Dykstra
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-8726

Trenton Meriwether
[Then at Office of the Tennessee
Attorney General]
Thompson Burton PLLC
Palmer Plaza
1801 West End Avenue
Suite #1550
Nashville, Tennessee 37203
(615) 465-6019

Counsel for Defendant

R. Charlie Merritt
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
(202) 616-8098

Courtney Dixon
U.S. Department of Justice
Civil Division, Appellate Section
Room 7246
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 353-8189

7. *Blackmon v. State of Tennessee*, 23-1196-I (Davidson Cnty. Chancery Ct., Chancellor Moskal, Judge Donaghy, Chancellor Culbreath) (representation 2023 – present).

I serve as counsel for Tennessee and various state officials in defense against a state constitutional challenge to Tennessee Code Ann. §39-15-213, which generally prohibits

abortion unless performed to address enumerated maternal-health issues. Plaintiffs are a group of women, two doctors, and a medical organization who contend that the scope of the statutory exception for permitted abortions is invalid under various provisions of the Tennessee Constitution. My role involved drafting and editing various trial-level filings as well as guiding strategy regarding the legal claims and factual and expert evidence to submit in support of our position. I presented oral argument on the merits of our motion to dismiss and in opposition to Plaintiffs' motion for a temporary injunction at a hearing before the three-judge panel presiding over the case. The State urged that Tennessee law incorporates longstanding language from previously approved statutes that permits physicians to provide abortions when, using reasonable medical judgment, the physician concludes that the abortion is necessary to prevent a pregnant woman's death or to prevent serious risk of other maternal-health issues. The panel thereafter granted our motion to dismiss in part and denied it in part; it rendered the same ruling on Plaintiffs' motion for a temporary injunction. The case remains ongoing.

Co-counsel

Steven Griffin
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9598

Reed N. Smith
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-9593

Andrew Grams
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 741-2935

Jessica Berk
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 253-2831

Jacob Durst

Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-9632

Donna L. Green
Office of the Tennessee
Attorney General
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-6023

John Ross Glover
[Then at Office of the Tennessee
Attorney General]
Litson PLLC
54 Music Square East
Suite 300
Nashville, TN 37203
(615) 985-8205

Counsel for Plaintiffs

Scott P. Tift
Barrett Johnston Martin & Garrison, PLLC
200 31st Avenue North
Nashville, Tennessee 37203
(615) 244-2202

8. *Calcutt v. Fed. Deposit Ins. Corp.*, 6th Cir. No. 20-4303 (representation 2022). Case citation: *Calcutt v. FDIC*, 37 F.4th 293 (6th Cir. 2022) (Boggs, Griffin, Murphy, JJ.); 2022 WL 10225148 (6th Cir. Sept. 15, 2022) (denying reh'g en banc); 598 U.S. 623 (2023) (granting summary reversal).

In this case, I served as appellate counsel to a bank executive who had been subject to an FDIC enforcement action. I entered the case upon the Sixth Circuit's denial of my client's petition for review of the FDIC's enforcement order. My role involved drafting and editing the petition for rehearing en banc, which advanced arguments regarding the panel's legal errors and the importance of correcting those errors. Although I did not participate in the Supreme Court phase of the proceedings, many of the arguments advanced in the en banc petition served as the basis for seeking certiorari and summary reversal from the U.S. Supreme Court. Ultimately, the U.S. Supreme Court summarily reversed the Sixth Circuit panel's decision, adopting the lead argument set out in the en banc petition.

Co-counsel

Ryan T. Scarborough
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5173

Sarah M. Harris
[Then at Williams & Connolly LLP]
U.S. Department of Justice
Office of the Solicitor General
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001
(202) 514-2217

Kimberly Broecker
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5155

Counsel for Respondent

Michelle Ognibene
Federal Deposit Insurance Corporation
3501 Fairfax Drive, VS-D-7144
Arlington, VA 22226
(703) 562-2121

9. *American Home Furnishings Alliance v. Consumer Products Safety Commission*, 5th Cir. No. 23-477 (representation 2022 – 2023).

I served as lead counsel representing an association of furniture manufacturers and other business and manufacturing groups in a challenge to a Consumer Product Safety Commission rule imposing significant new regulations and costs on the manufacturers, wholesalers, and sellers of household furniture items. *See Safety Standard for Clothing Storage Units*, 87 Fed. Reg. 72,598 (Nov. 25, 2022). We challenged the rule through a petition for review filed in the U.S. Court of Appeals for the Fifth Circuit, asserting that the rule exceeded the Commission's statutory authority, violated the Administrative Procedure Act, and was constitutionally invalid due to the Commissioners' for-cause-removal protections. My role involved drafting and editing various appellate filings as well as guiding strategy regarding the legal claims and factual and expert evidence to submit in support of our suit. Following the submission of stay and merits briefing, Congress adopted a law that provided the relief sought through our lawsuit and the Commission voted to abstain from enforcement of the challenged rule. Given the legislative events, we moved and were granted permission to voluntarily dismiss the Fifth Circuit case prior to oral argument.

Co-counsel

Sarah M. Harris
[Then at Williams & Connolly LLP]
U.S. Department of Justice
Office of the Solicitor General
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001
(202) 514-2217

Mark S. Storslee
[Then at Williams & Connolly LLP]
Emory University School of Law
1301 Clifton Rd. NE
Atlanta, GA 30322
(701) 202-6591

Clayton P. Phillips
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5832

Libby A. Baird
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5384

Ikenna N. Ugboaja
Williams & Connolly LLP
680 Maine Avenue SW
Washington, DC 20024
(202) 434-5295

Counsel for Respondent

Courtney Dixon
U.S. Department of Justice
Civil Division, Appellate Section
Room 7246
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 353-8189

10. *Ocee v. Attorney General of the United States*, 3d Cir. No. 20-2423 (representation 2021 – 2022). Case citation: *Ocee v. Att’y Gen.*, No. 20-2423, 2022 WL 3334532 (3d Cir. Aug. 12, 2022) (McKee, Restrepo, and Bibas, JJ.).

In this case, I was appointed by the U.S. Court of Appeals for the Third Circuit to engage in a pro bono representation of an individual who was denied asylum and ordered removed by the Board of Immigration Appeals. In my role as lead appointed counsel, I investigated the case, coordinated with my client, and drafted merits briefing and presented oral argument before a panel of the Third Circuit. As appointed counsel, I contended that administrative-law principles required vacating the decision ordering removal. In a unanimous decision, the Third Circuit agreed with my contentions and vacated the removal order.

Co-counsel

Mary E. Goetz
[Then at Williams & Connolly LLP]
Davis Wright Tremaine LLP
1251 Avenue of the Americas
21st Floor
New York, NY 10020
(212) 402-4039

Counsel for Defendant

Liza S. Murcia
United States Department of Justice
Office of Immigration Litigation
P.O. Box 878
Ben Franklin Station
Washington, DC 20044
(202) 616-4879

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

My practice has principally focused on state and federal litigation of the type described above. While in private practice, I occasionally advised clients about potential litigation and litigation strategy, and also provided general legal advice. To the best of my recollection, that advice typically involved the interpretation of state and federal constitutional, statutory, and regulatory provisions. I also assisted clients in preparing for litigation by drafting filings to be pursued in the event of an adverse agency action; several such matters never progressed to litigation and remain confidential. Finally, I also helped clients compose and edit various regulatory filings, including petitions for review of rules and comments to proposed rules. Those representations

would have almost exclusively involved the interpretation and application of federal statutes, agency proposals, and administrative-law rules.

In my role at the Office of the Tennessee Attorney General, I have occasionally provided advice to state clients regarding potential litigation, and I also have offered general legal advice to state clients. This advice covers various substantive areas, including federal and state constitutional and statutory law.

In my role, I sometimes advise state clients regarding legal issues associated with prospective legislation. I have not, however, performed lobbying activities.

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

I previously taught one online course entitled *An Introduction to the 1L Classroom* at The George Washington University School of Law. I taught this course in July – August 2023. The course provided new law students an overview of law school coursework, legal argumentation, and what to expect during their law classroom experience. Copy of syllabus provided.

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

I have two 401K plans – the first is from my time in private practice at Williams & Connolly and the second is from my time at the Office of the Tennessee Attorney General. I also have participated in the Tennessee Consolidated Retirement System; my interest in this plan vests following five years of service with the State. My understanding is that, should I separate from employment earlier, I would be eligible to roll over the value of my contributions into another qualifying retirement plan.

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

I do not have any plans, commitments, or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

Cases most likely to implicate conflict questions would be those related to my current service as an attorney within the Office of the Tennessee Attorney General. To determine whether I would need to recuse for matters in which the State of Tennessee or a state officers, agency, or employee is a party, I would consult 28 U.S.C. § 455(a) & (b)(3), Canon 3C of the Code of Conduct for United States Judges, and all other applicable rules or canons. I would also consult any judicial decisions or Judicial Conference opinions addressing similar factual circumstances as those raised in the particular case. I will evaluate any other real or potential conflict, or a relationship that could give rise to an appearance of conflict, on a case-by-case basis and take appropriate action, including recusal where necessary.

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

If confirmed, I will carefully review and address any real or potential conflicts of interest by reference to 28 U.S.C. § 455, all applicable canons of the Code of Conduct for United States Judges, and any and all other laws, rules, practices, and procedures governing circumstances relating to real or potential conflicts of interests.

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

During my time in private practice, I regularly undertook pro bono work. As mentioned above, I was named to the District of Columbia's Capital Pro Bono Honor Roll on two occasions, and likely would have qualified for the honor roll in additional years had I worked at Williams & Connolly at the time the firm reported pro bono hours to the Honor Roll. My pro bono work principally comprised briefing and arguing cases in the federal circuit courts and participating in moot courts for lawyers who had pro bono arguments.

My pro bono matters have included:

Ocee v. Attorney General of the United States, 3d Cir. No. 20-2423 (representation 2021 – 2022). Case citation: *Ocee v. Att’y Gen.*, No. 20-2423, 2022 WL 3334532 (3d Cir. Aug. 12, 2022) (McKee, Restrepo, and Bibas, JJ.). As described in further detail above, in this case I was appointed by the U.S. Court of Appeals for the Third Circuit to engage in a pro bono representation of an individual who was denied asylum and ordered removed by the Board of Immigration Appeals. I successfully obtained vacatur of the decision ordering my client removed, and the government declined to pursue further immigration proceedings against him. In the Third Circuit’s opinion, the panel expressed “gratitude” for the pro bono representation, and “commend[ed] the quality of the[] briefing and argument in this case.”

Perry v. Warden, FCI Manchester, 6th Cir. No. 18-5348 (representation 2022 – 2023). In this case, I was appointed by the U.S. Court of Appeals for the Sixth Circuit to engage in a pro bono representation of an individual pressing a petition for habeas corpus challenging his sentencing designation. In addition to analyzing the validity of several habeas claims, I frequently spoke with and advised my client, who was incarcerated, regarding the potential impact of a pending Supreme Court decision on his case. Ultimately, we sought and obtained voluntary dismissal of his appeal in light of the Supreme Court’s decision in *Jones v. Hendrix*, 599 U.S. 465 (2023).

Graham v. Board of Education of the City of Chicago, 7th Cir. No. 19-2745 (representation 2020). Case citation: *Graham v. Board of Educ.*, 8 F.4th 625 (7th Cir. 2021) (Easterbrook, Rovner, Hamilton, JJ.). In this case, I was appointed by the U.S. Court of Appeals for the Seventh Circuit to brief and argue, pro bono, a designated position as *amicus curiae* on behalf of appellant. The case turned on interpretation of a particular provision of the Employee Retirement Income Security Act. I was the principal drafter of two appellate briefs filed in the case, but departed for a clerkship prior to the oral argument. Ultimately, the Seventh Circuit’s opinion did not resolve the issues covered within the scope of the *amicus* representation. In the panel’s opinion, the Seventh Circuit stated: “Although Graham does not want to be represented by a lawyer, we asked one to appear as *amicus curiae* and present oral argument on the ERISA question, which is more complex than the two subjects we have covered. Whitney D. Hermandorfer of Williams & Connolly LLP filled this role ably, as did J. Matthew Rice of the same firm, who presented oral argument. Both have our thanks.”

Demkovich v. St. Andrew the Apostle Parish, 7th Cir. No. 19-2142 (representation 2020). Case citation: *Demkovich v. St. Andrew the Apostle Parish*, 3 F.4th 968 (7th Cir. 2021) (en banc). In this case, I served as pro bono counsel to a group of religious entities comprising the Ethics and Religious Liberty Commission of the Southern Baptist Convention, the Right Reverend Derek Jones, the Assemblies of God (USA), the Church of God in Christ, Inc., Jewish Coalition for Religious Liberty, the Church of Jesus Christ of Latter-Day Saints, the International Society for Krishna Consciousness, Inc., and the General Conference of Seventh-Day Adventists. During the representation, I served as co-lead drafter of a brief supporting en banc reconsideration of a decision interpreting Title VII’s application to religious entities. Ultimately, the position our brief advanced prevailed in a decision issued by the en banc Seventh Circuit.

26. **Selection Process:**

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

There is no selection commission of which I am aware in my jurisdiction. On February 2, 2025, I was contacted by the White House Counsel's Office and provided basic biographical information; I then was asked by the White House Counsel's Office to participate in an interview on approximately February 4, 2025. I interviewed with attorneys from the White House and the Department of Justice on February 11, 2025, in Washington, District of Columbia; that same day, the White House Counsel's Office requested that I provide additional biographical information, which I provided. On February 13, 2025, I interviewed with Senator Blackburn and a member of her staff. On February 28, 2025, I interviewed with Senator Hagerty, and on February 6, 2025, I interviewed with a member of Senator Hagerty's staff. On February 14, 2025, the White House Counsel's Office contacted me to let me know that I was in consideration for the nomination. On April 29, 2025, I met with President Donald Trump concerning my possible nomination. Since then, I have been in contact with officials from the White House Counsel's Office and the Justice Department's Office of Legal Policy regarding the nomination.

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

No.

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		225	515	Notes payable to banks-secured (auto)			
U.S. Government securities		21	850	Notes payable to banks-unsecured			
Listed securities - see schedule		511	108	Notes payable to relatives			
Unlisted securities		52	344	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		907	590
Real estate owned - see schedule	1	408	700	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		68	007				
Cash value-life insurance							
Other assets itemize:							
TN Consolidated Retirement System Pension		15	976				
				Total Liabilities		907	590
				Net Worth	1	395	910
Total Assets	2	303	500	Total Liabilities and Net Worth	2	303	500
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

Roth IRA – Account #1 – UBS Insured Sweep Program	\$ 3,289
Roth IRA – Account #1 – Pacer Trendpilot US (PTLC)	19,476
401k – Account #1 – Vanguard Target Retirement 2050 Trust II	105,300
401k – Account #2 – Vanguard Target Retirement 2050 Inv	27,400
529 Plan – Account #1 – DC College Savings 2034 Portfolio	74,500
529 Plan – Account #2 – DC College Savings 2037 Portfolio	25,181
529 Plan – Account #2 – DC College Savings Intermediate-Term Bond Portfolio	2,284
529 Plan – Account #2 – DC College Savings Non-U.S. Total Stock Market Index Portfolio	2,937
529 Plan – Account #3 – USAA Age-Based Option 0-2: Very Aggressive Portfolio	7,080
Traditional IRA – Account#1	
Cash	1,355
FV	6,486
GSIE	6,668
IJR	5,507
SPYG	26,404
SDY	12,056
VTV	26,304
VB	5,404
VOT	8,214
VOE	9,963
VWO	6,154
VSS	5,058
VEA	8,353
IBDQ	2,692
IBDR	2,713
IBDS	2,714
IBDT	5,452
IBDU	23
IBTH	2,708
IBTI	5,475
IBTJ	44
IBTF	2,664
IBTG	2,710
BSIIX	11,410
Portfolio Management Program (Advisor Discretionary Fund)	
ACN	897
ADBE	375
GOOGL	3,176
AEP	325

AMT	225
AMP	471
CVX	408
CB	572
CSCO	635
KO	580
CMCSA	547
COST	995
CR	322
CXT	94
DHR	199
DEO	224
DG	94
FIS	158
HD	1,081
HON	211
INTC	221
ICE	336
JNJ	625
JPM	734
EL	60
LIN	906
LMT	478
LOW	447
MMC	676
MCD	639
MDT	593
META	1,647
MSFT	3,953
MDLZ	273
NEE	268
NVS	681
ORLY	1,415
PH	605
PSX	312
PG	488
RSG	502
ROK	495
RTX	378
CRM	269
SDZNY	43
TXN	320
TMO	429
TJX	644
TFC	153
UNP	431

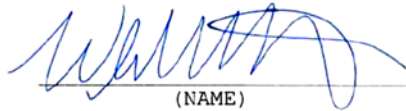
UNH	823
VFC	36
V	691
XMLV	3,241
IJR	6,008
EFA	10,848
IMCG	3,016
FNDC	4,294
VWO	2,082
IBMN	1,737
IBMO	1,737
IBMP	1,461
IBTH	1,241
IBTJ	2,485
IBTF	1,215
BSIIX	5,605
Total Listed Securities	<u>\$511,108</u>
<u>Real Estate Owned</u>	
Personal Residence	<u>\$1,408,700</u>
Total Real Estate Owned	<u>\$1,408,700</u>
<u>Real Estate Mortgages Payable</u>	
Personal Residence – Mortgage	<u>\$907,590</u>
Total Real Estate Mortgages Payable	<u>\$907,590</u>

AFFIDAVIT

I, Whitney D. Hermandorfer,
do swear that the information provided in this statement is, to
the best of my knowledge, true and accurate.

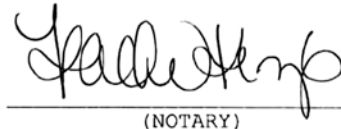
5/5/2025

(DATE)



(NAME)





(NOTARY)

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Whitney Hermandorfer
Nominee to be U.S. Circuit Judge for the Sixth Circuit
June 15, 2025

1. At your hearing, you suggested that the decision to file an amicus brief in *Trump v. CASA, Inc.* was made by the Attorney General of Tennessee. You are the Director of Strategic Litigation in the Office of the Tennessee Attorney General & Reporter, and your signature appeared on the amicus brief submitted to the Supreme Court in March 2025.

a. What role did you have in deciding to file an amicus brief in *Trump v. CASA, Inc.*?

Response: The decision whether to file or sign any amicus brief is made by the Attorney General. I advised the Attorney General regarding the arguments that were being made in the litigation as he considered whether to file an amicus brief.

b. What role did you have in drafting Tennessee's amicus brief in *Trump v. CASA, Inc.*?

Response: I participated in drafting the amicus brief.

c. Do you believe President Trump's executive order on birthright citizenship is constitutional?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it.

In the amicus brief you submitted in *Trump v. CASA, Inc.*, you argued against nationwide injunctions, writing that "[the Supreme] Court should reject plaintiffs' invitation to employ an across-the-board override of an Executive policy throughout the country" and that "[the Supreme] Court should clarify that any injunctive relief must be limited to the parties." However, you sought a nationwide preliminary injunction in several cases you litigated against the Biden Administration, including *Tennessee v. Cardona*.

d. Why do you support the use of nationwide injunctions to enjoin policies of the Biden Administration but not the Trump Administration?

Response: In the cited cases, I was serving as an advocate for a client and not expressing personal "support" for any case outcome. The brief in *Trump v. CASA, Inc.* moreover flags that the arguments regarding the authorization of equitable relief are potentially "distinct" in the context of a challenge to an agency promulgation under the Administrative Procedure Act (APA). See Br. 21; see also, e.g., *Corner Post, Inc. v. Board of Governors of Fed. Reserve Sys.*, 603 U.S. 799, 838 (2024)

(Kavanaugh, J., concurring). The preliminary injunctive relief we received in *Tennessee v. Cardona* was plaintiff specific, not nationwide; ultimately, we received vacatur under the APA. In the non-APA context, including in § 1983, our Office has long filed briefs opposing overly broad, in personam equitable relief that extends to non-parties.

2. In your Questionnaire, you wrote that your Strategic Litigation Unit's role involves "initiating affirmative litigation against the federal government and corporate actors." You have repeatedly chosen to litigate politically charged issues, including challenging anti-discrimination policies of the Biden Administration and defending Tennessee laws that ban health care for transgender youth and restrict reproductive rights.

a. Considering your record in the Tennessee Attorney General's office, why should any transgender person have confidence that you will treat them fairly if you are confirmed to serve as a circuit judge?

Response: In the cited cases, I was serving as an advocate for a client, the State of Tennessee, whose duly enacted legislative policies were directly preempted by federal regulation or lawsuits against which the Attorney General authorized litigation. I stand by the legal arguments our Office has advanced, which have often prevailed—including in the Sixth Circuit. As a judge, I would be called on not to advocate for any particular cause or party but instead to interpret and apply the law neutrally. I understand the distinct roles of advocates and judges and am proud of the support I've received from attorneys of a variety of political and ideological leanings, as well as backgrounds, who have spoken to my reputation for fairness, analytical rigor, and affording my colleagues and opposing counsel respect.

b. If you are confirmed, will you commit to using the preferred names and pronouns of any transgender attorney, litigant, or party who may appear before you?

Response: I would treat and refer to all who may appear before me with dignity, respect, and fairness, and I will require that others in the courtroom treat and refer to case participants and others parties to the judicial process with dignity and respect as well..

3. At your hearing, you told Senator Coons that you "served as chief counsel in many final judgment cases in trial court," but you also stated that you had never served as sole or chief counsel in any case tried to a jury verdict, or in any bench trial. Additionally, in your Questionnaire, you wrote that you "have not served as sole or chief counsel in any case tried to verdict or judgment."

a. Have you ever served as sole counsel in any case tried to verdict, judgment, or final decision?

Response: No, on the understanding that “tried” refers to a case in which the matter is presented live in court, with witnesses, for adjudication by a jury or judge sitting as factfinder.

b. Have you ever served as chief counsel in any case tried to verdict, judgment, or final decision?

Response: No, on the understanding that “tried” refers to a case in which the matter is presented live in court, with witnesses, for adjudication by a jury or judge sitting as factfinder. I have participated in two jury trials, one bench trial, and one panel arbitration in various legal capacities, but not as counsel.

c. What did you mean when you told Senator Coons that you “served as chief counsel in many final judgment cases in trial court”?

Response: If I had been permitted, I would have explained that I have practiced extensively in federal trial court, serving as party counsel in over twenty matters. The majority of these cases involve challenges to agency action under the APA. As the letter to the Committee from the administrative-law practitioners explains, such matters are typically not “tried” in court, but instead are resolved by the district judge on summary judgment based on a paper evidentiary record, the agency’s administrative record, and appellate-style legal briefs. Those are the category of cases to which I was referring to Senator Coons. I have served as chief or sole counsel for Tennessee and chief counsel for multi-State coalitions in several such cases that have proceeded to final judgment in federal district court.

4. At your hearing, you told Senator Schiff that you have met Leonard Leo “a few times.”

a. How many times have you met Leonard Leo?

Response: To the best of my recollection, two or three times.

b. Have you ever discussed judicial nominations or federal judgeships with Leonard Leo? If yes, please describe these conversations.

Response: No.

c. Have you discussed your prospective nomination with Mr. Leo before you were nominated or since you were nominated? If yes, please describe these conversations.

Response: No.

5. In your Questionnaire, you listed several events sponsored by the Federalist Society in which you participated.

a. Was any of the out-of-state travel for events listed on your Senate Judiciary Questionnaire done at state taxpayer expense?

Response: To the best of my knowledge, I did not seek state reimbursement of the travel listed for the Federalist Society events on my Questionnaire. I recall seeking marginal reimbursement for mileage expenses associated with the June 2024 event in West Virginia, which I attended at the direction of the Attorney General.

b. If yes, what was the justification for Tennessee taxpayers funding your out-of-state travel?

Response: I attended at the direction of the Attorney General in furtherance of my role as Director of Strategic Litigation.

c. If yes, did you receive any form of pre-travel authorization or file any post-travel expense reports? Did you comply with all relevant state laws addressing travel by public officials at state taxpayer expense?

Response: To the best of my knowledge, I followed all applicable procedures and regulations.

6. Did President Trump lose the 2020 election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

7. Where were you on January 6, 2021?

Response: I was working from my home in Washington, DC.

8. Do you denounce the January 6 insurrection?

Response: The characterization of the conduct of persons located at the Capitol on January 6, 2021, is a matter of significant political debate. In addition, I am aware that the legal import of pardons issued to those prosecuted for involvement in events at the Capitol on January 6, 2021 is a matter subject to ongoing litigation and that could arise in cases were I confirmed as a judge; so too, if I am confirmed, persons present at the Capitol on January 6, 2021 could come before me as parties to future cases. As a judicial nominee it would thus be inappropriate to provide comments that could implicate issues or parties that might come before me.

9. **Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?**

Response: See preceding answer.

10. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

- a. **What options do litigants—including the executive branch—have if they disagree with a court order?**

Response: Generally, if there is a lower-court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. If the order relates to the interpretation of a statute with which a party might disagree, the party also might push for legislative amendment of the statute.

- b. **Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?**

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower-court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court’s binding “judgment[.]” and its “statements in opinions.” *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sanford*). And I am generally aware that, there are certain interlocutory orders might be immediately appealable only via

the avenue of a contempt finding. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the “general rule” is that a non-party “seeking to appeal a discovery order must first disobey the order and suffer a contempt citation.” 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Article III of the U.S. Constitution states that “[t]he judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish,” and that this power “shall extend to all Cases, in Law and Equity, arising under the Constitution” or other federal laws, among other “Cases” and “Controversies.” Otherwise, please see my answers to Questions 10.a.-b.

11. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”

a. Are non-party injunctions constitutional?

Response: This question relates to matters that are the subject of ongoing litigation and directly before the Supreme Court in *Trump v. CASA, Inc.* at present, so it would be improper for me as a judicial nominee to opine further on this issue.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my answer to Question 11.a.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Please see my answer to Question 11.a

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: As an attorney representing private clients and the State of Tennessee, I have sought injunctive relief against the implementation of federal agency action as well as vacatur and stays under the APA. Examples of such cases are listed on my Senate Judiciary Questionnaire (listing, e.g., *Tennessee v. Cardona*, 2:24-cv-072 (E.D. Ky.); *Tennessee v. Becerra*, 1:24-cv-161 (S.D. Miss.); *Tennessee v. EEOC*, 2:24-cv-84 (E.D. Ark.); and *American Home Furnishings Alliance v. CPSC* (5th Cir. No. 23-477)).

- 12. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.**

Response: No.

- 13. Does the U.S. Constitution permit a president to serve three terms?**

Response: Section 1 of the 22nd Amendment to the U.S. Constitution directs that “[n]o person shall be elected to the office of the President more than twice.”

- 14. When, if ever, may a lower court depart from Supreme Court precedent?**

Response: It is never appropriate for lower courts to depart from directly controlling Supreme Court precedent. See *Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989) (“If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions.”).

- 15. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?**

Response: I would follow the practices and precedents of the Sixth Circuit with respect to overturning circuit precedent. In the Sixth Circuit, “a three-judge panel may not overturn a prior decision unless a Supreme Court decision mandates modification of [circuit] precedent.” *RLR Invs., LLC v. City of Pigeon Forge, Tennessee*, 4 F.4th 380, 390 (6th Cir. 2021). A circuit may otherwise consider overruling its own precedent only when sitting en banc. To determine when the en banc court should overrule a published panel decision, Federal Rule of Appellate Procedure 35(b)(1) and 6th Cir. I.O.P. 35(a) offer guideposts, including, for example, whether the decision has created a circuit split or whether the decision conflicts with other decisions from the Sixth Circuit or from the Supreme Court.

- 16. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?**

Response: In determining whether to overrule precedent, the Supreme Court applies the stare decisis factors set out in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 268-90 (2022).

17. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

Response: As Justice Kagan explained and many other judicial nominees across administrations have reiterated, it is generally not appropriate for a judicial nominee to “grade” or give a “thumbs-up or thumbs-down” to particular precedents of the Supreme Court. Were I confirmed as a judge, all of the Supreme Court’s pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court’s binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties’ cases.

a. *Brown v. Board of Education*

Response: *Brown v. Board of Education*, 347 U.S. 483 (1954), is a landmark ruling that promotes racial equality and rejected the manifestly unjust and incorrect separate-but-equal rule of *Plessy v. Ferguson*. Consistent with the position of prior judicial nominees, I consider *Brown* to be one of the limited exceptions to the general principle that a judicial nominee should not comment on the Supreme Court’s precedents. I agree with prior nominees that the underlying premise of the *Brown* decision—i.e., that “separate but equal is inherently unequal”—is beyond dispute, and that judges can express their agreement with that principle without calling into question their ability to apply the law faithfully to cases raising similar issues. Therefore, just as other nominees for judicial office have done, I can confirm that *Brown* was rightly decided consistent with the Code of Conduct.

b. *Plyler v. Doe*

Response: *Plyler* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

c. *Loving v. Virginia*

Response: In *Loving v. Virginia*, 388 U.S. 1 (1967), the Supreme Court invalidated a state law prohibiting interracial couples from marrying. Like prior nominees, I consider *Loving*, like *Brown*, to be one of the limited exceptions to the general principle that a judicial nominee should not comment on the Supreme Court’s precedents. In my view, *Loving* correctly reaffirmed *Brown*’s rejection of the “notion that the mere ‘equal application’ of a statute containing racial classifications” comports with the Fourteenth Amendment, *Loving*, 388 U.S. at 8. Consistent with the approach of prior nominees, I thus can articulate *Loving*’s correctness consistent with my duties under the Code of Conduct.

d. *Griswold v. Connecticut*

Response: *Griswold* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

e. *Trump v. United States*

Response: *Trump* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

f. *Dobbs v. Jackson Women's Health Organization*

Response: *Dobbs* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response: *Bruen* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

h. *Obergefell v. Hodges*

Response: *Obergefell* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

i. *Bostock v. Clayton County*

Response: *Bostock* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

j. *Masterpiece Cakeshop v. Colorado*

Response: *Masterpiece* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

k. *303 Creative LLC v. Elenis*

Response: *303 Creative* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

l. *United States v. Rahimi*

Response: *Rahimi* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

m. *Loper Bright Enterprises v. Raimondo*

Response: *Loper Bright* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to 17, preface.

18. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

Response: As a lower court judge, my principal task would be to faithfully apply all applicable precedent of the Supreme Court and the Sixth Circuit, without regard to whether that binding precedent did or did not comport with the original public meaning of that provision. In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court and the Sixth Circuit employ when they undertake to interpret constitutional provisions. Both courts have routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding. See, e.g., *District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004); *Wilson v. Arkansas*, 514 U.S. 927 (1995).

19. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: Please see my answer to Question 18.

20. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: In *Obergefell v. Hodges*, 576 U.S. 644 (2015), the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. As a lower court judge, I would be bound to apply all Supreme Court precedents without regard to critiques about their consistency with the concept of original public meaning. If confirmed, I would faithfully follow *Obergefell* and all other precedents of the Supreme Court.

21. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: In *Loving v. Virginia*, 388 U.S. 1 (1967), the Supreme Court invalidated a state law prohibiting interracial couples from marrying. As discussed in my answers to Question 17.a and .c, and consistent with the answers of prior nominees, I can answer consistent with my duties under the Code of Conduct that *Loving* correctly reaffirmed *Brown*’s rejection of the “notion that the mere ‘equal application’ of a statute containing racial classifications” comports with the Fourteenth Amendment, *Loving*, 388 U.S. at 8.

22. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

At a high level, based on Supreme Court precedent, I understand the Equal Protection Clause of the Fourteenth Amendment to limit the government's ability to classify persons (i) in a way that lacks a rational basis, *see, e.g., Armour v. City of Indianapolis, Ind.*, 566 U.S. 673 (2012), or (ii) in a way that infringes fundamental rights or acts on the basis of quasi-suspect or suspect characteristics, *see, e.g., id.*; *Students for Fair Admission, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). The Due Process Clause of the Fourteenth Amendment, for its part, has been interpreted by the Supreme Court to establish both procedural rules, *see, e.g., Jones v. Flowers*, 547 U.S. 220 (2006), and substantive rights, *see, e.g., Meyer v. Nebraska*, 262 U.S. 390 (1923).

23. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has applied these constitutional provisions to discrimination based on sex, *see, e.g., United States v. Virginia*, 518 U.S. 515 (1996), and sexual orientation, *see, e.g., Romer v. Evans*, 517 U.S. 620 (1996); *Lawrence v. Texas*, 539 U.S. 558 (2003); *Obergefell v. Hodges*, 576 U.S. 644 (2015). As with all other precedents of the Supreme Court, I would faithfully apply these decisions if confirmed. Because other matters related to this question are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

24. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my answer to Question 18.

25. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my answer to Question 18.

26. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: In the First Amendment context, the Supreme Court has instructed that “while laws favoring some speakers over others demand strict scrutiny when the legislature’s speaker preference reflects a content preference, such scrutiny is unwarranted when the differential treatment is justified by some special characteristic of the particular speaker being regulated.” *TikTok Inc. v. Garland*, 145 S. Ct. 57, 68 (2025) (citations and internal quotation marks omitted) (quoting *Minneapolis Star & Tribune Co. v. Minnesota Comm’r of Revenue*, 460 U.S. 575, 585 (1983)). I would faithfully apply that case and other precedents of the Supreme Court and the Sixth Circuit in this area of doctrine. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

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

Response: As with any other question, I would faithfully apply the precedents of the Supreme Court and the Sixth Circuit as relevant to this question. Recent cases providing instruction on this topic include *Reed v. Town of Gilbert*, 576 U.S. 155 (2015); *City of Austin, Texas v. Reagan Nat’l Advertising of Austin, LLC*, 596 U.S. 61 (2022); and *TikTok Inc. v. Garland*, 145 S. Ct. 57 (2025). Among other things, those cases instruct that a “regulation of speech is facially content based under the First Amendment if it target[s] speech based on its communicative content—that is, if it applies to particular speech because of the topic discussed or the idea or message expressed.” *City of Austin*, 596 U.S. at 69 (quoting *Reed*, 576 U.S. at 163). By contrast, the law in *City of Austin* was content neutral because it “require[d] an examination of speech only in service of drawing neutral, location-based lines.” *Id.* I would resolve any questions implicating these issues through the judicial process and careful consideration and application of the parties’ arguments and the governing law and precedents.

28. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: The Supreme Court has instructed that “[t]rue threats” of violence is [a] historically unprotected category of communications.” *Counterman v. Colorado*, 660 U.S. 66, 74 (2023) (citation omitted). In the Supreme Court’s words, “true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Id.* (cleaned up). I would faithfully apply these and other precedents of the Supreme Court and the Sixth Circuit regarding the true-threat doctrine.

29. Is every individual within the United States entitled to due process?

Response: The Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall “be deprived of life, liberty or property, without due process of law” and that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amends. V, XIV. The Supreme Court has stated that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Sixth Circuit in addressing due-process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

30. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my preceding answer.

31. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

32. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: Yes, nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. My experience in law and life has commended the value of sharing experiences with persons of varying backgrounds, life experiences, and viewpoints. Being an effective lawyer depends upon one’s ability to effectively intake, understand, and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I would look forward to learning from and building relationships with my colleagues on the Sixth Circuit and other courts.

33. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: As with any other source of constitutional or statutory law, judges are to faithfully and impartially apply the requirements of the First Step Act, and precedents interpreting it, whenever applicable. What those requirements might direct in a given case is a hypothetical matter on which it would be inappropriate for me to opine as a judicial nominee.

b. Will you commit to fully and fairly considering appeals that come before you when reviewing sentencing law and its application to ensure that criminal sentences are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I commit to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants.

34. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of “traditional values”?

Response: I am unfamiliar with that statement, its context, or what its author intended to reference.

b. President Trump wrote on Truth Social that the Federalist Society gave him “bad advice” on “numerous Judicial Nominations.” He also wrote that Leonard Leo is a “sleazebag” who “probably hates America.” If you are not familiar with this post, please refer to it in the footnote.¹

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

Response: Consistent with the Code of Judicial Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy.

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

¹ Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Response: Please see my preceding answer.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: If confirmed, I would evaluate all of my associations and memberships for consistency with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I have not spoken to or corresponded with any individuals associated with the Federalist Society as part of my selection process.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, as disclosed on my Senate Judiciary Questionnaire.

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No.

35. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

a. In your Questionnaire, you state that you are currently or were previously a member of the Teneo Network. How many meetings have you attended since joining?

Response: One, prior to my nomination.

b. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I am unaware of the full composition of the Teneo Network’s membership. To my knowledge, I have not spoken to or corresponded with any individuals associated with the Teneo Network as part of my selection process.

- c. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- d. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

- 36. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”**

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: I have not spoken to or corresponded with any individuals associated with Heritage as part of my selection process.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: I once appeared as part of a panel event located at the Heritage Foundation to discuss the work of the Office of the Tennessee Attorney General.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No.

- 37. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”**

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: Not to my knowledge.

- b. **Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

38. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: I met Stephen Miller in passing while awaiting entry into the Oval Office prior to my meeting with President Trump. Otherwise, not to my knowledge.

- b. **Have you ever been asked to and/or provided services to AFLI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

39. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.**

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?**

Response: No.

- 40.** The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.**

Response: I have not spoken to or corresponded with individuals associated with ADF as part of my selection process.

- b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?**

Response: I was once asked to serve as a speaker on a panel at an ADF event; I did not participate as a speaker.

- c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?**

Response: No.

- 41.** The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I am unaware of what particular activities private groups and individuals might be undertaking to advocate for or against my confirmation. If I am confirmed, any public advocacy for or against my confirmation will be irrelevant to my decision-making as a judge. To the extent that this question is addressed to whether I think such donations should be made public as a policy matter, I do not believe that it would be appropriate for me, as a judicial nominee, to address such policy questions.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. To the extent that this question is addressed to whether I think such donations should be made public as a policy matter, I do not believe that it would be appropriate for me, as a judicial nominee, to address such policy questions. Otherwise, please see my answer to Question 41.d.

- f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: Please see my answers to Questions 41.d-e.

Senator Mike Lee

Questions for the Record

Whitney D. Hermandorfer to be United States Circuit Judge for the United States Court of Appeals for the Sixth Circuit

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

Response: I would begin addressing any question of constitutional interpretation by applying any applicable precedent of the Supreme Court or the Sixth Circuit construing the relevant provision. If such precedent does not resolve the question, then it would be appropriate to consider the original public meaning of the constitutional text—defined as the contemporaneous meaning a reasonably informed member of the community would have assigned to the words at the time of their adoption—as well as how that meaning would apply to the circumstances presented by the case. The Supreme Court has often employed that method of looking to the original public meaning of a constitutional provision to resolve cases and controversies.

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

Response: To determine whether a particular group qualifies as a “suspect class,” the Supreme Court has assessed whether the relevant individuals “exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group,” *Bowen v. Gilliard*, 483 U.S. 587, 602 (1987), as well as whether the group is “politically powerless” or has experienced a history of discriminatory treatment, *Lyng v. Castillo*, 477 U.S. 635, 638 (1986); *see also City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 440-41 (1985) (listing five protected classes).

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

Response: The Supreme Court has instructed that the horizontal separation-of-powers—between the three branches of federal government—and the vertical separation-of-powers—between the federal government and state governments—are both vital structural features of our constitutional system that “safeguard individual liberty,” promote political accountability, and permit policy experimentation. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 416 (2024) (Thomas, J., concurring) (citing A. Scalia, *Foreword: The Importance of Structure in Constitutional Interpretation* 83 Notre Dame L. Rev. 1417, 1418 (2008)). They do so, among other ways, by avoiding the consolidation of power, ensuring deliberative consideration of federal laws that bind the public, and allowing the public to assign the appropriate lawmakers and officials with political responsibility for laws and policies that affect them.

4. How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: I would follow the appropriate judicial process on this or any other question that may come before me. Generally, I would begin addressing any question of constitutional interpretation by applying any applicable precedent of the Supreme Court or the Sixth Circuit construing the relevant provision or addressing similar scenarios of claimed authority. If such precedent does not resolve the question, then it would be appropriate to consider the original public meaning of the constitutional text as well as any structural inferences that might arise from the Constitution's separation and express enumeration of federal powers. The Supreme Court has also instructed that "the longstanding practice of the government" can inform judicial determination "of what the law is in a separation-of-powers case." *NLRB v. Noel Canning*, 573 U.S. 513, 514 (2014) (citations omitted).

5. How would you explain the difference between judicial review and judicial supremacy?

Response: In the context of federal adjudication, I understand judicial review to refer to courts' Article III power to explicate the law and determine the constitutional or statutory validity of legal enactments or actions in the course of issuing judgments in particular cases and controversies. By contrast, I understand judicial supremacy to refer to the view that courts' decisions addressing the meaning of the Constitution reflect the only permissible constitutional reading and, unless and until subsequently reversed, should control other officials' constitutional interpretations even outside of the context of particular cases and controversies or issued judgments.

**Nomination of Whitney Downs Hermandorfer
Nominee to the United States Court of Appeals for the Sixth Circuit
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR WHITEHOUSE

1. You said in your questionnaire that you met with President Trump regarding your possible nomination on April 29.

- a. **What did you discuss in that meeting?**

- Response: We discussed my background as a Tennessean and former college basketball player, as well as my legal credentials and qualifications for a position as a judge on the United States Court of Appeals for the Sixth Circuit.

- b. **Did President Trump ask you to make any commitments? If yes, please describe.**

- Response: No.

2. You said during your nominations hearing that you were invited to join the Teneo Network approximately one week before your nomination was announced.

- a. **In your words, what is the Teneo Network?**

- Response: I understand it to be a group of conservative professionals from various sectors who periodically participate in educational, social, and networking events.

- b. **Why did you join?**

- Response: I joined upon the recommendation of current colleagues.

- c. **What activities have you participated in as part of that group?**

- Response: Prior to my nomination, I attended one networking event with colleagues.

- d. **Leonard Leo declared in a November 2024 NPR interview that his goal with the Teneo Network is to “crush liberal dominance” across American life. Do you agree with Leo’s goal?**

- Response: If I were confirmed as a judge, my only goal would be to faithfully carry out my duty to neutrally and impartially apply the governing laws to the cases at hand. As a judicial nominee, it would be inappropriate for me to comment on partisan or political statements.

e. Why do you think you were asked to join one week before the announcement of your nomination?

Response: It is my understanding that my invitation was among a broader group of invitations that the Teneo Network typically extends around the same time each year.

3. You said in your questionnaire that you have been a member of the Federalist Society since 2011. Recently, President Trump said he was “so disappointed” with the Federalist Society’s “bad advice” on nominees, calling Leonard Leo a “sleazebag” and a “bad person who, in his own way, probably hates America.”

a. Do you agree with President Trump that Leonard Leo is a “sleazebag”? Why or why not?

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy.

b. Do you agree with President Trump that Leonard Leo is a “bad person who, in his own way, probably hates America”? Why or why not?

Response: See previous answer.

4. On March 18, 2024, you testified before the House Financial Services Committee at a field hearing in Tennessee on the SEC climate disclosure rule.

a. During that testimony, you referred several times to a “climate agenda.” Please explain what you meant by that.

Response: To the best of my recollection, I was referring to climate-related agreements and pledges—like Climate Action 100+ and The Net Zero Asset Managers initiative—signed by various financial-industry participants and other entities, *see, e.g.*, Office of the Tenn. Att’y Gen. & Reporter, *Attorney General Jonathan Skrmetti Announces Landmark Settlement with BlackRock, Inc. Regarding ESG Practices* (Jan. 17, 2025, 10:50 am), <https://tinyurl.com/m4rd9zxy>, as well as other “whole of government” directives regarding the promotion of climate-related priorities across federal agencies.

b. Do you believe climate change is real, human caused, and an existential threat to society? If you answered no on any of these points, please explain.

Response: The Supreme Court has described “climate change” as a “controversial subject[]” and “sensitive political topic[.]” *Janus v. AFSCME, Council*, 585 U.S. 878, 913-14 (2018). It would be inappropriate for me as a judicial nominee to opine on this or any other subject of political controversy. If I were to receive a case that

involves environmental regulation or policies, I would carefully review the parties' briefs, the record, and apply the relevant laws to the facts before me; any personal beliefs regarding climate change would not be relevant to the disposition of the case.

- 5. Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.**

Response: In interviewing for the nomination with the White House Counsel's Office, I discussed my beliefs regarding the designated role of Article III judges in our constitutional system and the importance of judges' faithfully and neutrally applying the governing laws in the cases that come before them. To the best of my recollection, we also discussed my current understanding of the Supreme Court's binding precedents in a handful of constitutional areas. I do not recall discussing any other personal views about policy or case law; it is a fundamental tenet of our federal judicial system that judges are not to decide cases based on their personal views or policy preferences.

- 6. Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?**

Response: The U.S. Constitution vests the impeachment power in Congress. *See* U.S. Const., art. I, §§ 2-3. As a judicial nominee, it would be inappropriate to express any view about the legal validity of Congress's hypothetical exercise of that political power in the context of judicial officers or an opinion about whether any given ruling would warrant impeachment. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

- 7. Please explain your understanding of existing case law regarding:**

a. The executive branch's obligation to comply with federal court orders.

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred*

Scott v. Sanford). And I am generally aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the “general rule” is that a non-party “seeking to appeal a discovery order must first disobey the order and suffer a contempt citation.” 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

b. Remedies available to a federal court to ensure executive branch compliance with a court order.

Response: It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress.

c. Federal government lawyers’ duty of candor to federal courts before which those lawyers appear.

Response: Federal government lawyers are subject to the applicable rules of professional practice and ethics that govern all attorneys and officers of the court. In Tennessee, for instance, Rule 3.3 of the Tennessee Supreme Court’s Rules of Professional Conduct sets out attorneys’ obligation of “candor towards the tribunal.” That rule prohibits, among other things, knowingly making a false statement of fact or law to a tribunal, knowingly failing to disclose adverse, controlling legal authority, or offering evidence an attorney knows to be false. *See id.* How those obligations interact with rules regarding attorneys’ obligation to maintain client confidentiality and privilege, *cf. id.* cmt. 8 to Rule 3.3 (“Confidentiality under RPC 1.6 prevails over the lawyer’s duty of candor to the tribunal.”), or related doctrines implicates fact- and case- specific questions that could arise before me as a judge and on which it would be inappropriate for me to further comment as a judicial nominee.

d. The president’s legal obligations under the Constitution’s Take Care Clause.

Response: The Take Care Clause in the U.S. Constitution directs that the President “shall take Care that the Laws be faithfully executed.” U.S. Const., art. II, § 3, cl. 5. The Supreme Court has cited the Take Care Clause as a source of the President’s authority to “oversee executive officers through removal,” *Seila Law LLC v. CFPB*, 591 U.S. 197, 213 (2020) (quotation omitted), as well as the power to engage in

“enforcement of federal ... laws passed by Congress,” *Trump v. United States*, 603 U.S. 593, 627 (2024), including by “mak[ing] arrests and prosecut[ing] offenses on behalf of the United States,” *United States v. Texas*, 599 U.S. 670, 678-79 (2023). The Supreme Court has further instructed that, under the Take Care Clause and the Vesting Clause, *see* Art. II, § 1, cl. 1, the Executive Branch possesses certain authority and discretion to prioritize enforcement of federal law. *See, e.g., Texas*, 599 U.S. at 679; *Heckler v. Chaney*, 470 U.S. 821, 832 (1985). How these or any other Supreme Court cases regarding the Take Care Clause may apply to a course of action by the President is an issue that could arise before me as a judge; thus, as a judicial nominee, it would be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

e. The limits of the executive branch’s power under the anti-commandeering doctrine.

Response: The discussion of this topic with which I am most familiar is contained in the Supreme Court’s decision in *Printz v. United States*, 521 U.S. 898 (1997), and the cases discussed therein. *Printz* deemed unconstitutional the federal Brady Act’s imposition of certain background-check obligations on state law enforcement officers. *Id.* at 933-34. How Supreme Court cases regarding the anti-commandeering doctrine may apply to the Executive Branch is an issue that could arise before me as a judge; thus, as a judicial nominee, it would be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

f. The president’s ability or inability to impound congressionally appropriated funds.

Response: I am aware that the issue regarding the Executive Branch’s withholding of authorized funds was addressed by the Supreme Court’s decision in *Train v. City of New York*, 420 U.S. 35 (1975). That case concluded that the EPA Administrator’s withholding of certain federal funds authorized under the Federal Water Pollution Control Act Amendments of 1972 was inconsistent with the relevant “statutory language and its legislative history.” *Id.* at 43. I am also generally aware of the Impoundment Control Act of 1974, 2 U.S.C. § 681 *et seq.*, which provides various procedures for addressing budget and funding issues. How Supreme Court precedent and statutory or constitutional rules govern the President’s ability or inability to impound congressionally appropriated funds is an issue implicated by active litigation and that could arise before me as a judge. Thus, as a judicial nominee, it would be inappropriate for me to provide further comment on how the legal rules might apply. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

g. The federal government’s ability to enact laws or regulations that burden Second Amendment rights.

Response: As it relates to the federal government, the caselaw on this topic with which I am most familiar comprises the Supreme Court’s decisions in *District of*

Columbia v. Heller, 554 U.S. 570 (2008), *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. 1 (2022), and *United States v. Rahimi*, 602 U.S. 680 (2024). *Heller* held that the Second Amendment protects an individual right to keep and bear arms for self-defense while instructing that the decision should not be read to “cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms” or arms that are not “in common use.” 554 U.S. at 626-27. *Bruen* held that the Second Amendment protects carrying arms “in public for self-defense,” 597 U.S. 33, and that New York’s permitting regime, which limited public-carry permits only to those who demonstrate a “special need for self-protection,” violated the Second Amendment, *id.* at 12-13, 45-46. Assessing a federal statute that applied to persons subject to a domestic violence restraining order, *Rahimi* concluded that “[a]n individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment.” 602 U.S. at 702. The permissible scope of firearms regulation is an issue implicated by active litigation and that could arise before me as a judge. As a judicial nominee, it would be inappropriate for me to provide further comment on how the legal rules might apply. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

h. The federal government’s ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.

Response: That issue implicates caselaw interpreting the First Amendment to the U.S. Constitution as well as federal statutes including the Religious Freedom Restoration Act of 1993 (RFRA), 42 U.S.C. § 2000bb *et seq.*, and the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc *et seq.* In *Employment Division, Dept. of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990), the Supreme Court held that “neutral, generally applicable laws that incidentally burden the exercise of religion usually do not violate the Free Exercise Clause of the First Amendment.” *Holt v. Hobbs*, 574 U.S. 352, 357 (2015). In response, Congress passed RFRA, which applies to the federal government and “provide[s] greater protection for religious exercise than is available under the First Amendment.” *Id.* RFRA states that the “[g]overnment shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability, unless the government demonstrates that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.” *Id.* (quoting 42 U.S.C. §§ 2000bb–1(a), (b)). Congress then adopted RLUIPA, which applies those standards to land-use regulation and religious exercise by institutionalized persons. *Id.* at 357-58. These matters are subject to active litigation and could arise before me as a judge. As a judicial nominee, it would be inappropriate for me to provide further comment on how the legal rules might apply. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

8. **As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.**

Response: As an attorney representing private clients and the State of Tennessee, I have sought injunctive relief against the implementation of federal agency action. Although parties and jurists have flagged the potential difference between “nationwide injunction[s]” and vacatur or a stay of federal agency actions and promulgations under the Administrative Procedure Act (APA), *see Corner Post, Inc. v. Board of Governors of Fed. Reserve Sys.*, 603 U.S. 799, 838 (2024) (Kavanaugh, J., concurring), I also have sought vacatur and stays under the APA on behalf of clients affected by nationwide, binding federal rules. Examples of such cases, which include *Tennessee v. Cardona*, 2:24-cv-072 (E.D. Ky.); *Tennessee v. Becerra*, 1:24-cv-161 (S.D. Miss.); *Tennessee v. EEOC*, 2:24-cv-84 (E.D. Ark.); and *American Home Furnishings Alliance v. CPSC* (5th Cir. No. 23-477), are listed on my Senate Judiciary Questionnaire.

- a. **Have you ever publicly voiced support or opposition regarding a federal court’s issuance of a nationwide injunction or similar relief? If yes, please describe.**

Response: Other than in my capacity as an attorney representing clients through the filing of legal briefs, I have not publicly voiced support or opposition regarding a federal court’s issuance of a nationwide injunction or similar relief.

- b. **Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d’etat?**

Response: I believe it is important for all federal judges to abide the constitutional, statutory, and equitable limits on their authority to exercise the “judicial Power” under Article III of the U.S. Constitution. And I would endeavor to abide those limits if confirmed. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to provide any further comment that could be taken to opine on statements by political figures or the broader political debate regarding the permissible criticism of judges.

- c. **Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?**

Response: My understanding of the current doctrine is that, in certain cases, the U.S. Supreme Court has authorized entry of nationwide equitable relief or vacatur against Executive Branch officials or agency promulgations. If confirmed, I would carefully apply those precedents as well as any other constitutional, statutory, and equitable limits on judges’ authority to exercise the “judicial Power” under Article III of the U.S. Constitution. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to provide any further comment that could be taken to opine on statements by political figures or the broader political debate regarding the permissible criticism of judges.

- d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?**

Response: See prior answer.

9. Please describe your understanding of natural law.

Response: I understand natural law to refer to the idea that certain rights are endowed in all humans by nature or some divine source. *See generally* J. Locke, Two Treatises of Government (Peter Laslett ed., 2d ed. 1967).

- a. What authority does natural law carry in federal case law?**

Response: I have not studied this issue extensively, nor am I aware of any Supreme Court case that definitively addresses the role of natural law in constitutional interpretation.

- b. When do you think it is appropriate for a federal judge to rely on natural law?**

Response: In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. As a judicial nominee, it would be inappropriate for me to opine on hypothetical cases or abstract issues implicating natural law.

- c. If confirmed, do you plan to incorporate natural law into your decisions?**

Response: See previous answer.

10. Please describe your understanding of originalism.

Response: Originalism is a method of constitutional interpretation that requires a judge to apply his or her best understanding of the original public meaning of a constitutional provision.

- a. Do you consider yourself an originalist?**

Response: In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. The Court has routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding.

- b. Do you believe that people who do not support or adhere to originalism do not like America?**

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on jurists, statements by political figures, or the broader political debate regarding the permissible criticism of judges.

c. Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?

Response: The opinions in *Citizens United v. FEC* discuss the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Citizens United* is consistent with originalism, and would follow that and other binding precedents of the Supreme Court regardless.

d. Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?

Response: The opinions in *Trump v. United States* discuss the evidence and sources of authority on which the respective opinions relied. I have not had occasion to study whether *Trump* is consistent with originalism, and would follow that and other binding precedents of the Supreme Court regardless.

11. Please describe your understanding of textualism.

Response: Textualism calls for a judge to interpret the text as it was written, assigning the meaning it had at the time of its enactment. Context surrounding a law's passage can be probative to a textualist to the extent that context sheds light on the original public meaning of the statutory text.

a. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court. The Supreme Court has instructed that the best meaning of statutory text, as assessed by the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other relevant instructions.

b. How should a court analyzing a federal statute account for the "Findings" or "Purposes" sections of such statutes?

The Supreme Court has instructed that such sections, as well as other indicia of meaning like section titles or captions, can permissibly factor as inputs when interpreting the best meaning of a statutory provision. See, e.g., *Yates v. United States*, 574 U.S. 528, 539 (2015); A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 217 (discussing "prefatory-materials canon"). It would be inappropriate for me, as a pending judicial nominee, to comment further on

particular hypotheticals about how a “Findings” or “Purposes” section might or might not affect a statutory analysis.

12. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: My general understanding is that district courts, as the trial courts, maintain primary responsibility for resolving questions of fact and credibility. In contrast to legal questions, which are reviewed de novo, district courts’ resolution of disputed questions of fact or credibility are generally reviewed by appellate courts under more lenient standards such as “clear error” or “abuse of discretion.” Under those standards, appellate courts generally “may not set those findings aside unless, after examining the entire record,” the court is “left with the definite and firm conviction that a mistake has been committed.” *Alexander v. South Carolina State Conf. of the NAACP*, 602 U.S. 1, 18 (2024) (citation omitted).

a. What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?

Response: Depending upon the constitutional status of the right at issue, courts engage in varying levels of review of legislatively found facts. Laws that do not implicate fundamental rights or any suspect characteristic, for instance, are subject to rational-basis review. Under that standard, courts are to afford legislation a “strong presumption of validity,” and may uphold rational legislation even in “the absence of ‘legislative facts.’” *FCC v. Beach Commc’ns, Inc.*, 508 U.S. 307, 314 (1993). By contrast, courts engage in a more stringent assessment of lawmakers’ rationales and evidentiary bases under heightened standards of constitutional review like intermediate and strict scrutiny.

b. Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?

Response: Whether the Supreme Court’s treatment of given facts would bind lower courts in other cases would turn on a fact-, opinion-, and case-specific analysis on which it would be inappropriate for me, as a judicial nominee, to opine in the abstract.

c. What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?

Response: I would consult the parties’ briefs regarding the binding import of any cited precedent, as well as any governing caselaw from the Supreme Court and the Sixth Circuit or decisions discussing the role of precedents in analogous contexts with asserted factual differences. My general understanding of the standard of this area is that “[f]or one decision to be precedent for another, the facts in the two cases need not be identical” but “must be substantially similar, without material difference.” B. Garner et al., *The Law of Judicial Precedent* 93 (2016).

13. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: Under *Bruen*, I understand that judges are to evaluate whether a governmental regulation is “consistent with this Nation’s historical tradition of firearm regulation.” 597 U.S. at 17. *Bruen* and *Rahimi* provide additional guidance about how to engage in such analysis and the common-law, Ratification-era, and post-14th-Amendment sources that are most probative. If confirmed, I would follow those instructions from the Supreme Court.

a. As part of these historical analyses, will you solicit input from amici curiae?

Response: Amici curiae can provide information and contributions that aid the judicial decision-making process. I would welcome such contributions from amici curiae, including in cases implicating historical analyses relevant to applying *Bruen* or any other governing precedent. To the extent the panel concluded that additional historical information would be beneficial, soliciting party or amicus briefs addressing such information would be one potential path.

b. How will you assess the veracity of historical claims made by parties?

Response: I would endeavor to examine a range of historical and legal sources on a given topic, as well as any prior judicial opinions discussing relevant historical sources, to cross-check any historical claims to the best of my ability. I would also seek to obtain and examine original source materials to ensure they are being appropriately characterized, quoted, and cited by the sponsoring advocates.

c. How will you assess the veracity of historical claims made by amici curiae?

Response: See previous answer.

14. The U.S. Sentencing Commission recently prioritized the “[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry.” Courts can tailor these programs to meet specific needs of defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: I have not encountered such programs in my practice. But I would carefully consider the recommendations regarding these programs offered by the U.S. Sentencing Commission or other entities that provide information to the judiciary.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

Response: I would carefully consider the recommendations regarding these programs offered by the U.S. Sentencing Commission or other entities that provide information to the judiciary. I would also follow any directives regarding the use of such programs that might apply under the Sixth Circuit's rules or policies.

15. If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?

Response: I would endeavor to do so to the extent I am able consistent with any judicial obligations that may arise.

16. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

a. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: Being an effective lawyer depends upon one's ability to understand and articulate a range of ideological and legal viewpoints, including those that are contrary to one's position of advocacy in a given case. I have done my best to attend educational events and engage in reading on legal topics that present divergent viewpoints of scholars and jurists, as well as to promote an environment within my litigation teams in which debate and counter-arguments are promoted as useful rather than dismissed or mischaracterized. I would intend to carry forward this practice if confirmed as a judge.

b. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?

Response: See previous answer.

c. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?

Response: My clerkship experience has commended the value that distinct views and approaches to legal questions can bring to the appropriate resolution of cases. I would seek to hire law clerks not based upon any particular view they hold with regard to ideology or the law, but instead based upon their entire applications and supporting materials and my assessment of who would be the best fit for the job, understand the proper role of a law clerk in our judicial system, and get along well with other law clerks and members of chambers.

17. If confirmed, do you plan to “boycott” the hiring of law clerks from any specific schools? If so, which schools and why?

Response: I have no plans to limit my hiring of law clerks from any particular set of schools. I instead intend to evaluate any potential clerk’s entire application and supporting materials to determine whether that person is the best fit for the job.

a. Do you believe such boycotts are appropriate?

Response: I understand this question to implicate a matter of current political and public-policy controversy. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to opine on the issue.

18. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.

a. What professional experience do you have overseeing and managing others?

Response: I have experience overseeing and managing others in various capacities. As a law clerk, I occasionally supervised judicial interns. As a senior law-firm associate, I routinely supervised more junior associates as well as other legal staff. In my current role as Director of Strategic Litigation in the Office of the Tennessee Attorney General, I currently maintain formal supervisory authority over a team of seven lawyers and one legal assistant in the Strategic Litigation Unit; I also exercise supervisory authority over additional attorneys and interns in the office on a case- and matter-specific basis.

b. How do you plan to recruit and hire law clerks?

Response: I would plan to take a holistic approach to recruiting and hiring law clerks, including by advertising any openings on the judiciary’s clerkship hiring platform. I’d otherwise evaluate any potential clerk’s entire application and supporting materials to determine whether that person is the best fit for the job.

19. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?

Response: I have not considered the issue of whether and how to integrate artificial intelligence into my work should I be confirmed as a judge. I am aware that various legal entities are studying the issue, and that the Administrative Office of the Courts has issued guidance with respect to artificial intelligence. If confirmed I would consider and follow all relevant guidance and court-specific instructions on the topic.

- 20. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.**

Response: With respect to publications, the answer is no to the best of my recollection. With respect to posts, to the best of my recollection I have not deleted any posts relating to my professional role or legal matters. I suspect that, at some point over the two decades in which social media has been prevalent, I have previously deleted content like old pictures from personal social-media accounts. I cannot recall any particular instance of doing so nor the posts that would have been involved.

- 21. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.**

Response: No.

- 22. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.**

- a. Sexual harassment?**

Response: No.

- b. Sex-based discrimination?**

Response: No.

- c. Race-based discrimination?**

Response: No.

- d. Discrimination on the basis of national origin?**

Response: No.

- e. Discrimination on the basis of religion?**

Response: No.

- f. Workplace misconduct of any kind?**

Response: No.

- 23. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.**

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: No.

c. Mike Davis

Response: No.

d. The Article III Project

Response: No.

24. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has held that the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights.

25. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: In cases dating back to at least *Meyer v. Nebraska*, 262 U.S. 390 (1923), and *Pierce v. Society of Sisters*, 268 U.S. 510 (1925), the Supreme Court has held that the liberty component of the Due Process Clause of the Fourteenth Amendment protects various rights not further enumerated in the constitutional text. Such rights include a constitutional right to privacy that protects a woman's right to use contraceptives, see *Griswold v. Connecticut*, 381 U.S. 479 (1965), and *Eisenstadt v. Baird*, 405 U.S. 438 (1972); a constitutional right to privacy that protects intimate relations between consenting adults, see *Lawrence v. Texas*, 539 U.S. 558 (2003); and the right to enter into a same-sex marriage, see *Obergefell v. Hodges*, 576 U.S. 644 (2015).

26. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: Under professional rules of practice, attorneys are ethically charged to zealously represent their clients even if politically unpopular. See Tenn. Rules of Professional Conduct, cmt. 1 to Rule 1.3. At the same time, there are many laws, rules, and ethical obligations that apply to attorneys when they are practicing or pursuing the course of a representation. The manner in which any such rules may apply to lawyers implicates matters that are the subject of ongoing litigation, so it would be improper for me as a judicial nominee to opine further on this issue.

27. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on abstract legal issues or hypotheticals or on matters that are the subject of ongoing litigation.

28. What protections does the Constitution offer to safeguard the freedom of the press?

Response: The First Amendment prohibits laws that impermissibly "abridge[e] the freedom of speech, or of the press," among other things. U.S. Const., amend. I. The Supreme Court has interpreted the First Amendment as imposing distinct limits on the government's ability to restrict or compel speech of the press, *see, e.g., Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974), and has required heightened judicial scrutiny in the case of content- or viewpoint-based regulations of speech.

29. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: The Supreme Court has addressed the First Amendment rights of public employees in cases including *Pickering v. Board of Ed. of Township High School Dist. 205*, 391 U.S. 563 (1968); *Garcetti v. Ceballos*, 547 U.S. 410 (2006); and *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022). If confirmed, I would follow those and any other relevant precedents of the Supreme Court and the Sixth Circuit. Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on abstract legal issues or hypotheticals.

30. Do you agree that campaign finance donor disclosure requirements "impose no ceiling on campaign-related activities" and "do not prevent anyone from speaking," as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: If confirmed as a circuit judge, all Supreme Court pronouncements would be binding on me including any portions of the majority opinion in *Citizens United*. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the merits or demerits of the Supreme Court's binding precedents.

31. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court has stated that "*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution." *Trump v. Hawaii*, 585 U.S. 667, 710 (2018).

- a. **Do you agree with Chief Justice Roberts that “[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful”?**

Response: As a circuit judge, I would follow Chief Justice Roberts’s statement for the Supreme Court majority. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the merits or demerits of the Supreme Court’s precedents.

32. The Seventh Amendment ensures the right to a jury “in suits at common law.”

- a. **What role does the civil jury play in our constitutional system?**

Response: In the Supreme Court’s words, “[t]he right to trial by jury is of such importance and occupies so firm a place in our history and jurisprudence that any seeming curtailment of the right has always been and should be scrutinized with the utmost care.” *SEC v. Jarkesy*, 603 U.S. 109, 121 (2024) (internal quotation marks omitted) (quoting *Dimick v. Schiedt*, 293 U.S. 474, 486 (1935)); *see also* Declaration of Independence ¶ 20.

- b. **Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?**

Response: The Seventh Amendment preserves the right to trial by jury “[i]n Suits at common law.” U.S. Const., amend. VII. I have not researched or studied in detail how rules and precedents enforcing the Seventh Amendment apply in the arbitration context. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

- c. **Should an individual’s Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?**

Response: See previous answer.

33. Did Joe Biden win the 2020 presidential election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

34. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: The characterization of the conduct of persons located at the Capitol on January 6, 2021, is a matter of significant political debate. In addition, I am aware that the legal import of pardons issued to those prosecuted for involvement in events at the Capitol on January 6, 2021 is a matter subject to ongoing litigation and that could come before me were I confirmed as a judge. As a judicial nominee, it would thus be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

a. Where were you on January 6, 2021?

Response: I was working from my home in Washington, DC.

35. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: No. *See* U.S. Const., amend. XXII (“No person shall be elected to the office of the President more than twice....”).

**Nomination of Whitney Hermandorfer to be
United States Circuit Judge for the Sixth Circuit
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR COONS

- 1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

Response: No.

- a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

Response: No.

- 2. In your Senate Judiciary Questionnaire, you note that, on April 29, 2025, you met with President Trump.**

- a. Where did that meeting occur?**

Response: The Oval Office.

- b. How long did that meeting last?**

Response: Around five to ten minutes.

- c. Who attended the meeting other than you and President Trump?**

Response: Vice President Vance, the White House Counsel, and an attorney from the White House Counsel's Office.

- d. What was discussed at the meeting?**

Response: We discussed my background as a Tennessean and former college basketball player, as well as my legal credentials and qualifications for a position as a judge on the United States Court of Appeals for the Sixth Circuit.

- e. What questions were you asked by President Trump and how did you answer them?**

Response: See preceding answer.

3. How would you describe your judicial philosophy?

Response: If confirmed, my philosophy would be to faithfully and fully carry out the Article III duties of judges on what the Constitution terms an “inferior” court to the “one [S]upreme Court.” U.S. Const., art. III. Further, I would be bound to follow other oaths and obligations in exercising the Article III “judicial Power,” including the oath of judges set out in 28 U.S.C. § 453 and the Canons of Judicial Conduct. Under those authorities, court of appeals judges are charged with neutrally and impartially applying all precedents of the Supreme Court and governing circuit precedent, as well as any other applicable laws or rules of decision that apply to Article III judges or legal cases and controversies. Judges are bound to apply the law fairly and impartially, even when the result reached in doing so does not align with their policy preferences.

4. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: In addressing such questions if I were fortunate enough to be confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent.

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes, as consistent with any applicable precedent of the Supreme Court. *See, e.g., Timbs v. Indiana*, 586 U.S. 146, 151 (2019) (addressing whether the Fourteenth Amendment’s Due Process Clause incorporates the enumerated protection of the Eighth Amendment’s Excessive Fines Clause); *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010) (same for Second Amendment).

b. Would you consider whether the right is deeply rooted in this nation’s history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation’s history and tradition?

Response: Yes, using the instruction and types of sources set forth in *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215, 237-40 (2022), as well as other Supreme Court precedents pertaining to this issue.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes. If any applicable precedent of the Supreme Court or the Sixth Circuit recognized the right at issue, that would control the analysis. In the

absence of any such precedent, any relevant decisions of other circuits may be consulted for their persuasive value.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider any other factor that the Supreme Court's or Sixth Circuit's precedents identify as relevant to assessing whether the constitution protects an asserted right under a substantive-due-process theory.

5. When, if ever, is it permissible for a circuit court to overturn its own precedent? Please explain.

Response: I would follow the practices and precedents of the Sixth Circuit with respect to overturning circuit precedent. In the Sixth Circuit, "a three-judge panel may not overturn a prior decision unless a Supreme Court decision mandates modification of [circuit] precedent." *RLR Invs., LLC v. City of Pigeon Forge, Tennessee*, 4 F.4th 380, 390 (6th Cir. 2021). A circuit may otherwise consider overruling its own precedent only when sitting en banc. To determine when the en banc court should overrule a published panel decision, Federal Rule of Appellate Procedure 35(b)(1) and 6th Cir. I.O.P. 35(a) offer guideposts, including, for example, whether the decision has created a circuit split or whether the decision conflicts with other decisions from the Sixth Circuit or from the Supreme Court.

6. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: It is never appropriate for a court of appeals judge to depart from directly controlling Supreme Court precedent or a Supreme Court order in a case. *See Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989). Article VI of the U.S. Constitution likewise directs that "the Judges in every State" are "bound" by the U.S. "Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States." U.S. Const., art. VI.

7. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such

couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser.” This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Sixth Circuit governing the consideration of such evidence.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Sixth Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702 and the applicable precedent construing that rule, among other standards. Please see also my answer to Question 25.c for a discussion of the standards that generally govern judicial assessment of scientific evidence under the Administrative Procedure Act.

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

Response: As a nominee to a U.S. Court of Appeals, I do not think that it would be appropriate for me to address the potential remedies in an abstract hypothetical scenario.

9. Is President Trump eligible to be elected President for a third term?

Response: No. *See* U.S. Const., amend. XXII (“No person shall be elected to the office of the President more than twice....”).

10. Who won the 2020 U.S. Presidential Election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

11. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: If expression does not otherwise fall into a category of speech excluded from constitutional protection, the First Amendment generally limits the government's ability to regulate the expression based on the viewpoint it expresses. As a nominee, I do not think that it would be appropriate for me to address how legal rules might apply in an abstract hypothetical scenario.

12. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: Please see my answer to Question 11.

13. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: Under professional rules of practice, attorneys are ethically charged to zealously represent their clients even if politically unpopular. *See* Tenn. Rules of Professional Conduct, cmt. 1 to Rule 1.3. At the same time, there are many laws, rules, and ethical obligations that apply to attorneys when they are practicing or pursuing the course of a representation. As a judicial nominee, I do not think that it would be appropriate for me to address how legal rules might apply in an abstract hypothetical scenario. Nor would doing so be appropriate given that related issues are the subject of ongoing litigation.

14. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court has extended constitutional protection to the use of contraceptives. *See Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). I would faithfully apply those and all other binding precedents of the Supreme Court.

15. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: As the preceding answer indicates, the Supreme Court has recognized a constitutional right to privacy in certain contexts. Whether that right extends to IVF has been the subject of litigation. As a nominee to a U.S. Court of Appeals, I do not think that it would be appropriate for me to opine on matters that may be "pending or impending in any court." *See* Code of Conduct of U.S. Judges, Canon 3A(6).

16. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: Judges are to adjudicate all claims fairly, regardless of the identity of the party. See 28 U.S.C. § 453. As for due process, the Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall “be deprived of life, liberty or property, without due process of law” and that no State shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const., amends. V, XIV. The Supreme Court has stated that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zachrydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Sixth Circuit in addressing due-process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

17. Does the public’s original understanding of the scope of a constitutional provision constrain its application decades later?

Response: From the perspective of a circuit nominee, I would look to the applicable Supreme Court precedent to determine the general manner in which to approach a specific legal issue. In some areas, such as the Confrontation Clause, the Supreme Court has treated originalist principles as highly important. See, e.g., *Crawford v. Washington*, 541 U.S. 36 (2004). In other areas, such as the Eighth Amendment, the Supreme Court has adopted more of an evolving-standards approach. See, e.g., *Roper v. Simmons*, 543 U.S. 551 (2005).

18. What sources would you employ to discern the contours of a constitutional provision?

Response: Please see my answer to Question 17.

19. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Judges’ proper role in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the statute, regulation, or constitutional provision involved. They should not decide cases based on their personal views regarding morality or policy preferences. Judges are not policymakers; they have limited judicial authority. Abiding that role is essential to maintaining public confidence in the rule of law.

20. What role, if any, should the practical consequences of a particular ruling play in a judge’s rendering of a decision?

Response: In certain contexts, such as in assessing the propriety and scope of injunctive relief, a court's application of the relevant legal standards requires consideration of the practical consequences of a particular order on the parties and the public. *See, e.g., Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Outside of those contexts, though, a court must apply the relevant legal standards faithfully and impartially, even if he or she might think that the practical consequences of following the law are undesirable as a policy matter.

21. What role, if any, should empathy play in a judge's decision-making process?

Response: Judges' proper role in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the statute, regulation, or constitutional provision involved. They should not decide cases based on their personal views or on their preference for one party. *Cf.* 28 U.S.C. § 453. But judges should keep in mind that their decisions have real-world effect, and endeavor to reach and explain their decisions in ways fairly reasoned, grounded in the law, and readily accessible to the parties and the public.

22. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: A judge's life experiences will hopefully have prepared the judge to undertake the duties of the office with understanding, courteousness, courage, diligence, integrity, and impartiality.

23. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: There are procedural mechanisms by which judges may stay or defer a party's obligation to comply with a judicial order. *See, e.g., Fed. R. Civ. P. 62.* As a judicial nominee, it would not be appropriate for me to opine on those or other abstract legal issues that might apply in a hypothetical case.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my preceding answer.

b. What would you do if a party refuses to comply with one of your orders?

Response: Please see my answer to Question 23, preface.

24. Under 28 U.S.C. § 455, “[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned.”

- a. **In your role as Director of Strategic Litigation in the Tennessee Attorney General’s Office, you are counsel in the case *U.S. v. Skrmetti*, defending a state law that prohibits the provision of certain gender-affirming care, including hormonal therapy and surgeries, to minors. After the Supreme Court granted the United States’ petition for certiorari, you served as a co-lead drafter of Tennessee’s response merits brief. You also served as a second-chair attorney at the oral argument at the Supreme Court. Should you be confirmed, would you recuse yourself from future cases involving gender-affirming care? Why or why not?**

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. All former litigators have a record of previous advocacy positions, and it is incumbent upon every judge to put aside his or her personal beliefs, previous clients, and prior positions and apply the law fairly and faithfully. Consistent with the Canon of Judicial Conduct and 28 U.S.C. § 455(b)(3)’s specific provision that applies to government attorneys, I would recuse from any particular proceeding or case in which I participated as counsel or provided advice. Otherwise, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

- b. **You were counsel of record in the case *Miguel Cardona, et al. v. State of Tennessee, et al*, arguing on behalf of the state. You argued that Title IX—which prohibits sex-based discrimination in educational programs receiving federal financial assistance—should not protect individuals against discrimination based on gender identity. Should you be confirmed, would you recuse yourself from future cases considering whether gender identity falls under sex-based discrimination? Why or why not?**

Response: Please see my answer to Question 24.a.

- c. **This year, you also submitted a brief to the Supreme Court in *Trump v. CASA*, opposing birthright citizenship and universal injunctions. Should you be confirmed, would you recuse yourself from future cases considering birthright citizenship? Why or why not?**

Response: Please see my answer to Question 24.a.

- d. **Should you be confirmed, would you recuse yourself from cases pertaining to the validity of universal injunctions? Why or why not?**

Response: Please see my answer to Question 24.a.

- 25. In March 2024, you testified at a House Financial Services Committee field hearing, criticizing the SEC for promulgating a mandate requiring climate risk disclosures by public companies. In your testimony, you referred to a “climate agenda.” Can you please explain what that phrase means?**

Response: To the best of my recollection, I was referring to climate-related agreements and pledges—like Climate Action 100+ and The Net Zero Asset Managers initiative—signed by various financial-industry participants and other entities, *see, e.g.*, Office of the Tenn. Att’y Gen. & Reporter, *Attorney General Jonathan Skrmetti Announces Landmark Settlement with BlackRock, Inc. Regarding ESG Practices* (Jan. 17, 2025, 10:50 am), <https://tinyurl.com/m4rd9zxy>, as well as other “whole of government” directives regarding the promotion of climate-related priorities across federal agencies.

- a. Do you believe that human activity has contributed to climate change?**

Response: The Supreme Court has described “climate change” as a “controversial subject[]” and “sensitive political topic[].” *Janus v. AFSCME, Council*, 585 U.S. 878, 913-14 (2018). It would be inappropriate for me as a judicial nominee to opine on this or any other subject of political controversy. If I were to receive a case that involves environmental regulation or policies, I would carefully review the parties’ briefs, the record, and apply the relevant laws to the facts before me; any personal beliefs regarding climate change would not be relevant to the disposition of the case.

- b. If not, do you think climate fluctuations are entirely attributable to natural weather cycles?**

Response: See my answer to Question 25.a.

- c. When is it appropriate, if ever, for the court to substitute its judgment on the veracity of science used by agencies?**

Response: Generally, under the Administrative Procedure Act, an agency “must examine the relevant data and articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The Supreme Court has instructed that the “scope of review” under that standard is “narrow,” and that “[n]ormally, an agency rule would be arbitrary and capricious,” and thus subject to judicial invalidation, “if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Id.* As a judicial nominee, it would be inappropriate for me to

opine on how that standard might apply to an agency's scientific judgment or evidence in a hypothetical case.

26. When is it appropriate for an en banc federal appellate court to reconsider a panel decision?

Response: Please see my answer to Question 5 (citing Fed. R. App. P. 35(b)).

27. Discuss your proposed hiring process for law clerks.

Response: Out of respect for the Senate's pending consideration of my nomination, I have not yet generated a proposed hiring process for law clerks. Generally, I would seek to evaluate clerks based upon their entire applications, recommendations, and supporting materials and my assessment of who would be the best fit for the job, understand the proper role of a law clerk in our judicial system, and get along well with other law clerks and members of chambers.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: I do not believe that it would be appropriate for me, as a judicial nominee, to address policy questions relating to whether to amend Title VII's existing exemption for the federal judiciary. If confirmed, I will endeavor to ensure that discrimination has no place in my chambers.

**Questions for the Record for Ms. Whitney D. Hermandorfer
Submitted by Senator Richard Blumenthal
June 11, 2025**

1. Throughout your time in the Office of the Tennessee Attorney General, you have taken a variety of extreme positions.

You defended Tennessee’s near-total abortion ban. This law—which fails to include exceptions for rape or incest—is an outlier even amongst the slate of highly restrictive anti-choice state laws.

You authored an amicus curiae brief in support of President Trump’s bid to end birthright citizenship, despite the Supreme Court having considered and ruled on the issue over 120 years ago.

You helped litigate a challenge to the ATF’s final rule reclassifying pistols equipped with stabilizing braces as short-barreled rifles. This rule didn’t ban these guns, it just required they be regulated like short-barreled rifles, which are particularly dangerous due to their combination of easily concealed size and deadly accuracy.

You have pushed back against charges of racial gerrymandering in Tennessee’s voting districts, threatening to undo decades of hard-fought progress in extending the right to vote to millions of Americans.

You have taken extreme legal positions, far outside the mainstream, and made a career of championing them.

- a. **Given the highly political and ideological nature of your legal career, how can litigants who were to appear before you have any expectation of you being an unbiased jurist?**

Response: I respectfully disagree with the characterization of the prior legal positions I have advanced as an advocate. In case examples given above in addition to many others, courts have adopted or agreed with legal positions I advanced as an attorney representing the State of Tennessee. *See, e.g., Blackmon v. State of Tennessee*, 23-1196-I (Davidson Cnty. Chancery Ct. 2024) (granting motion to dismiss challenge to abortion statute in part); *Firearms Regul. Accountability Coal., Inc. v. Garland*, 112 F.4th 507 (8th Cir. 2024) (holding that cited ATF pistol-brace rule was likely unlawful); *Tenn. State Conf. of NAACP v. Lee*, 746 F. Supp. 3d 473 (M.D. Tenn. 2024) (dismissing cited challenge to electoral maps). And I have litigated a wide variety of matters representing a wide range of clients. As a judge, I would be called on not to advocate for any particular cause or party but instead to interpret and apply the law neutrally. I understand the distinct roles of advocates and judges and have been called upon, in the course of my clerkships and representations, to advance legal positions even when contrary to my personal policy preferences. I would do the same if I

were fortunate enough to be confirmed as a judge. I am proud of the support I've received from attorneys of a variety of political and ideological leanings, who have spoken to my reputation for fairness, analytical rigor, and affording my colleagues and opposing counsel respect.

2. **The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges' ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.**

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

- a. **Do you believe the contempt power is "essential . . . to the due administration of justice[?]"**

Response: The Supreme Court has long described it in that way. *See, e.g., Bessette v. W.B. Conkey Co.*, 194 U.S. 324, 326-27 (1904).

- b. **Do you believe that federal judges should be limited in their ability to hold government officials in contempt?**

Response: As the Supreme Court has explained, courts have "embraced an inherent contempt authority as a power 'necessary to the exercise of all others.'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831-32 (1994) (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)). Yet the Court has deemed "the contempt power" as something that "uniquely is 'liable to abuse.'" *Id.* at 831 (quoting *Bloom v. Illinois*, 391 U.S. 194, 202 (1968)). "Unlike most areas of law, where a legislature defines both the sanctionable conduct and the penalty to be imposed, civil contempt proceedings leave the offended judge solely responsible for identifying, prosecuting, adjudicating, and sanctioning the contumacious conduct." *Id.* That "fusion of legislative, executive, and judicial powers," the Supreme Court precedent teaches, risks "the prospect of 'the most tyrannical licentiousness.'" *Id.* (quoting *Young v. United States ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 822 (1987) (Scalia, J., concurring in judgment)). So too, "[c]ontumacy 'often strikes at the most vulnerable and human qualities of a judge's temperament.'" *Id.* (citation omitted). The Supreme Court has cautioned that the exercise of the contempt power is in short "a delicate one, and care is needed to avoid arbitrary or oppressive conclusions." *Bloom*, 391 U.S. at 202 (citation omitted).

I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me as a judge. Otherwise, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on any subject of political controversy or to express a position regarding matters of public policy or any ongoing litigation.

3. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that “[j]udges aren’t allowed to control the executive’s legitimate power.” This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions, civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress.

ii. What powers would you have to enforce those orders?

Response: See previous answer.

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. As it relates to the duty of state officials to follow federal law, the U.S. Constitution’s Supremacy Clause directs that the U.S. Constitution, federal laws, and treaties “shall be the supreme Law of the Land ... any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const., art. VI. If there is a lower court order that binds a party, including a state executive official, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. I am generally aware, however, that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, which may require a party to act in a manner inconsistent with judicial orders. *See generally* 15B Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. Juris. (2d ed.) § 3914.23.1 Orders Prior to Trial—Review by Disobedience and Contempt. Because a case involving these

issues could come before me if I were confirmed as a judge, it would be inappropriate to hypothesize an exhaustive list of fact- and case-specific situations in which it might be legally appropriate for a state executive official to ignore or defy a court order. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sanford*). And I am generally aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the "general rule" is that a non-party "seeking to appeal a discovery order must first disobey the order and suffer a contempt citation." 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

d. What would make a court order unlawful?

Response: In broad strokes, a court order could be unlawful if the issuing court lacked jurisdiction or committed a reversible error when interpreting the law or adjudicating issues of fact.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: See answers to Questions 3.b-c.

ii. Is it ever acceptable to not follow this process? When and why?

Response: See answers to Questions 3.b-c.

4. Were you in Washington, D.C. on January 6, 2021?

Response: Yes.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Questions for the Record
Whitney D. Hermandorfer
Nominee to the U.S. Court of Appeals for the Sixth Circuit

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

- a. 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?

Response: No.

- b. Have you ever faced discipline or entered into a settlement related to this kind of conduct?

Response: No.

2. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

- a. As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.

Response: I have been nominated to a position as an appellate judge on the U.S. Court of Appeals for the Sixth Circuit. In that position, I would most often be reviewing orders issued by federal district court judges to ensure that they are consistent with the law in both scope and substance. It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress.

- i. When should each of these tools be used?

Response: Whether and how to employ those or other enforcement and compliance procedures would turn on the governing law, applicable precedents, and the particular facts of a given case. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

- b. Is it ever permissible for a party in a case to disregard a court order?

Response: I have not had occasion to study this issue exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the bound party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court’s binding “judgment[]” and its “statements in opinions.” *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sanford*). And I am generally aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the “general rule” is that a non-party “seeking to appeal a discovery order must first disobey the order and suffer a contempt citation.” 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

i. How should a federal judge respond if a party disregards an order issued by the judge?

Response: See answer to Question 2.a.

ii. Is the President of the United States allowed to disregard a court order?

Response: See answer to Question 2.b.

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: See answer to Question 2.a.i, with the additional note that the Supreme Court has recently instructed that judicial orders “should” give

“due regard to the deference owed to the Executive Branch in the conduct of foreign affairs.” *Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1018 (2025).

c. What does it mean for a judge to hold a party in contempt of court?

Response: I understand this concept to refer to the situation in which a judge issues (i) a civil contempt order that seeks to coerce compliance with a court order through the imposition of penalties like fines or jail time that cease when a party complies with the order, or (ii) a criminal contempt order that punishes a party with a fixed fine or sentence for the party’s prior disobedience or actions that harm or obstruct the judicial process. I also generally understand that distinct hearings and procedures apply to each category of contempt.

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: I have not studied in detail the legal standards or procedures for holding the federal government in contempt, or for issuing other sanctions in cases involving the federal government. As a judicial nominee, it would be inappropriate for me to opine on those issues, which are the subject of active litigation and could come before me were I confirmed as a judge. I would resolve any related questions through the judicial process and careful consideration and application of the parties’ arguments and the governing law and precedents.

1. If so, where does that authority come from?

See answer to Question 2.c.i.

2. If not, why not?

I am generally aware that the Department of Justice has sometimes successfully invoked federal sovereign immunity in response to contempt proceedings. See, e.g., N. Parrillo, *The Endgame of Administrative Law: Governmental Disobedience and the Judicial Contempt Power*, 131 Harv. L. Rev. 685, 697, 704 (2018). Otherwise, see answer to Question 2.c.i.

ii. What tools does a judge possess to punish contumacious conduct?

Response: See answer to Question 2.a. In addition, the Supreme Court has sometimes upheld the imposition of monetary and other litigation-related sanctions. See, e.g., *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991).

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: See answer to Question 2.c.i.

2. If not, why not?

Response: See answers to Questions 2.c.i and 2.c.i.2.

3. In your nominations hearing, when asked about court orders, you stated, “If there is a judgment issued by the court as to the parties, that absolutely binds the parties, and the way to go about your business if you disagree with an order is to seek maybe a stay or emergency relief or appellate review.”

a. If a party seeks such relief and a federal court still rules against them, must they comply with the court order?

Response: Yes, that is my understanding of the relevant legal principles that generally apply; for additional explanation, see answer to Question 2.b.

b. What action should a federal judge take if, after losing the appeals process, a party to the case still refuses to comply with the court order?

Response: The mechanism by which a judge may permissibly seek to exercise enforcement and compliance procedures would turn on the governing law, applicable precedents, and the particular facts of a given case. As a judicial nominee, it would not be appropriate for me to offer an opinion on abstract legal issues or hypotheticals.

4. In your nominations hearing, you stated, “If the Supreme Court issues an order at the end of the appellate review process, that order is to be followed as to the parties in the case.”

a. Does your statement include orders issued to the President of the United States?

Response: Yes; *see also* answer to Question 2.b.

5. In March 2025, you submitted an amicus brief to the Supreme Court of the United States on behalf of the State of Tennessee in *Trump v. CASA*, the case regarding President Trump’s Executive Order in which he tried to unconstitutionally end birthright citizenship. During your nominations hearing, you stated that “The brief did not take an ultimate position with regard to the merits of the executive order.” Yet, on the front page of your amicus brief read the words, “In Support of Applicants.” The applicant in this case is President Trump.

a. How do you square these words on the front page of your amicus brief with your claim to have “not take[n] an ultimate position” in the case?

Response: The brief advanced a number of arguments, including with respect to the permissible scope of judicial relief, that would support the applicants if accepted.

6. In the aforementioned amicus brief, you asserted that the 14th Amendment of the United States Constitution “requires a more meaningful connection than mere presence by happenstance or illegality” in the United States for conferring birthright citizenship. The citizenship clause is the substantive topic addressed in President Trump’s executive order.

a. How do you square this argument with your claim to have “not take[n] an ultimate position” in the case?

Response: The arguments advanced by the brief speak for themselves, and the best way to understand them is by reading the entire brief. The snippet this question presents omits important context, including the remainder of the sentence that certain historical sources “support” that position (Br. 2), the brief’s note that it did not “purport to fully survey the complex historical record” (Br. 8), and the brief’s conclusion that plaintiffs oversell the “open-and-shut” nature of their asserted reading (Br. 3).

7. **Is birthright citizenship guaranteed by the United States Constitution?**

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it.

8. **Does the President have the power to unilaterally alter the Constitution?**

Response: The only permitted process for amending the Constitution is set out in Article V, *see* U.S. Constitution, art. V.

9. In *Tennessee v. EEOC*, you led the State of Tennessee’s effort to challenge the Equal Employment Opportunity Commission’s April 2024 final rule regarding the implementation of the Pregnant Workers Fairness Act.

a. Are pregnant workers entitled to reasonable workplace accommodations for limitations arising out of pregnancy or related medical conditions?

Response: The Pregnant Workers Fairness Act sets out requirements that covered employers provide specified accommodations for certain limitations arising out of an employee’s pregnancy, childbirth, or related medical conditions. In the legal action this question mentions, the State of Tennessee and its co-plaintiff States challenged limited portions of the EEOC’s Pregnant Workers Fairness Act April 2024 Final Rule—namely, those portions that interpreted the phrase “pregnancy, childbirth, or related medical conditions” to require that States, as employers, provide affirmative workplace accommodations for women seeking non-medically related (or “elective”) abortions in contravention of state law. A

district court presiding over a separate lawsuit recently deemed those portions of the April 2024 Final Rule unlawful. *See Louisiana v. EEOC*, No. 2:24-cv-629, 2025 WL 1462583 (W.D. La. May 21, 2025). As Tennessee's litigation is ongoing, it would be improper for me as a judicial nominee to opine further on it.

Nomination of Whitney D. Hermandorfer
Nominee to be U.S. Circuit Judge for the Sixth Circuit
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. If you are confirmed to the federal bench, you would be one of the least experienced federal court of appeals judges in the nation. Having graduated from law school in 2015, you have about 10 years of legal experience; of those 10 years, you have only six years of legal practice experience, excluding judicial clerkships.

a. If you are confirmed, what concrete and affirmative steps do you plan to take to try to overcome the relative experience gap between you and your colleagues?

Response: I am proud of the extensive record of litigation I have built over my years of practice. That record involves serving as counsel, often in lead roles and on behalf of multi-State coalitions, in several dozen federal cases spanning the Nation's federal trial and appellate courts, as well as the U.S. Supreme Court. These cases have often proceeded on fast-paced timelines and involved highly complex and nationally significant matters of federal law. If I am fortunate enough to be confirmed, I would approach the job as I have any other new task or position over the course of my life—while approaching the honor of the judicial office with humility and deference to my colleagues, I would work as hard as needed to carry out the required duties and contribute as quickly as I can to the work of the court. I'd also take advantage of training opportunities, particularly in areas of practice to which I've had less routine exposure in my career, and seek out the guidance and advice of my judicial colleagues on the Sixth Circuit and other federal courts.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

b. How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?

Response: I understand that the ABA “believes that a nominee to the federal bench ordinarily should have at least twelve years’ experience in the practice of law,” and claims that it weighs that view among a number of other factors when assessing the qualifications of nominees.

3. In his Truth Social post announcing your nomination, President Trump wrote, “Whitney is a Fighter who will inspire confidence in our Legal System.”²

a. If you are confirmed to the federal bench, how do you plan to inspire confidence in our legal system?

Response: If confirmed, I would endeavor to faithfully and fully carry out the Article III duties of judges on what the Constitution terms an “inferior” court to the “one [S]upreme Court.” U.S. Const., art. III. Further, I would be bound to follow other oaths and obligations in exercising the Article III “judicial Power,” including the oath of judges set out in 28 U.S.C. § 453 and the Canons of Judicial Conduct. Under those authorities, court of appeals judges are charged with neutrally and impartially applying all precedents of the Supreme Court and governing circuit precedent, as well as any other applicable laws or rules of decision that apply to Article III judges or legal cases and controversies. Judges are bound to apply the law fairly and impartially, even when the result reached in doing so does not align with their policy preferences.

b. Do you currently have confidence in the legal system? Why or why not?

Response: “The U.S. legal system is the envy of the world.” *In re Cattell*, 2025 WL 1319149, at *3 (Lee, J., concurring). If confirmed, I would devote myself to executing my duties consistent with the obligations set out in the preceding answer and in a way that honors the judicial office and our constitutional system.

c. What would inspire confidence in the legal system for you?

Response: Following the judicial process—receiving briefing, hearing oral argument, and engaging in deliberation—is critical to allowing judges to engage in deliberate decision-making and to promoting confidence in the judiciary. I also believe confidence is furthered by judges’ endeavoring to reach and explain their decisions in ways fairly reasoned, grounded in the law and the limits on their authority, and readily accessible to the parties and the public.

² Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 1, 2025, 11:42 PM), <https://truthsocial.com/@realDonaldTrump/posts/114436168298983317>.

4. **Do you agree with President Trump that Leonard Leo of the Federalist Society is “a real ‘sleazebag’” and “a bad person who, in his own way, probably hates America”?³**

Response: Consistent with the Code of Judicial Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy.

5. On March 18, 2024, you testified before the House Financial Services Subcommittee on Oversight and Investigations at a field hearing in Tennessee relating to the impact of the Securities and Exchange Commission’s (SEC) climate disclosure rule.

- a. **During the hearing, you referred multiple times to a “climate agenda.” Please explain what that term means and what you were referring to in the context of that hearing.**

Response: To the best of my recollection, I was referring to climate-related agreements and pledges—like Climate Action 100+ and The Net Zero Asset Managers initiative—signed by various financial-industry participants and other entities, *see, e.g.*, Office of the Tenn. Att’y Gen. & Reporter, *Attorney General Jonathan Skrmetti Announces Landmark Settlement with BlackRock, Inc. Regarding ESG Practices* (Jan. 17, 2025, 10:50 am), <https://tinyurl.com/m4rd9zxy>, as well as other “whole of government” directives regarding the promotion of climate-related priorities across federal agencies.

6. During your nomination hearing, you referred to Alexander Hamilton’s *Federalist* 78, stating that a judge should not substitute his or her passion or policy preference for the will of the people.

- a. **If you are confirmed to the federal bench, how will you determine the will of the people?**

Response: The Supreme Court has referred to the “democratic process” of lawmaking by elected officials as producing laws “embodying the will of the people.” *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 451 (2008).

7. In your Senate Judiciary Questionnaire, you reported that you have been a member of Teneo, or the Teneo Network.

- a. **Please describe what Teneo is.**

³ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 08:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Response: I understand the Teneo Network to be a group of conservative professionals from various sectors who periodically participate in educational, social, and networking events.

b. What is Teneo's mission?

Response: I understand the Teneo Network's mission as facilitating the events listed in my previous answer.

c. How did you become a member of Teneo?

Response: I was invited to join upon the recommendation of colleagues.

d. Have you recruited others to join Teneo? If yes, provide the names of those individuals.

Response: No.

e. Please provide a list of all events you have attended as a member of Teneo. Provide dates and locations for all events listed and describe the purpose of the event.

Response: In mid-April, prior to my nomination, I attended one networking event at a local restaurant.

f. Have you (or, if applicable, your spouse) made financial contributions to Teneo? If yes, please provide the amounts and dates of such contributions.

Response: No.

8. How would you characterize your judicial philosophy?

Response: If confirmed, my philosophy would be to faithfully and fully carry out the Article III duties of judges on what the Constitution terms an "inferior" court to the "one [S]upreme Court." U.S. Const., art. III. Further, I would be bound to follow other oaths and obligations in exercising the Article III "judicial Power," including the oath of judges set out in 28 U.S.C. § 453 and the Canons of Judicial Conduct. Under those authorities, court of appeals judges are charged with neutrally and impartially applying all precedents of the Supreme Court and governing circuit precedent, as well as any other applicable laws or rules of decision that apply to Article III judges or legal cases and controversies. Judges are bound to apply the law fairly and impartially, even when the result reached in doing so does not align with their policy preferences.

9. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Response: I understand originalism to refer to a method of constitutional interpretation that requires a judge to apply his or her best understanding of the original public meaning of a constitutional provision when adjudicating cases and controversies. In interpreting the Constitution if confirmed, I would employ methodologies consistent with the methods of interpretation that the Supreme Court employs when it undertakes to interpret constitutional provisions. The Court has routinely interpreted various constitutional provisions by attempting to discern the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004); *Wilson v. Arkansas*, 514 U.S. 927 (1995).

10. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Response: I understand textualism to call for a judge to interpret the text as it was written, assigning the meaning it had at the time of its enactment. Context surrounding a law's passage can be probative to a textualist to the extent that context sheds light on the original public meaning of the statutory text. In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court. The Supreme Court has often instructed that the best meaning of statutory text, as assessed by the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other relevant instructions.

11. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: Reliance on legislative history is unnecessary when a statute's language is unambiguous. *Mohamad v. Palestinian Authority*, 566 U.S. 449, 458 (2012); *see also Whitfield v. United States*, 543 U.S. 209, 215 (2005) (where the meaning of statutory text "is plain and unambiguous, we need not accept [a party's] invitation to consider the legislative history"). To the extent that legislative history may be properly considered, it "is meant to clear up ambiguity, not create it." *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011). If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Sixth Circuit concerning the use of legislative history.

12. According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs

and 2.5 times more likely to be arrested for possessing drugs than their white peers.⁴ Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.⁵ This disparity still persists. Even though rates of illicit drug use do not substantially differ by race and ethnicity,⁶ a 2023 study reports that one in four people arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.⁷

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.⁸ In my home state of New Jersey, "the rate of imprisonment among Black people is more than nine times" that of white people.⁹

a. To what do you attribute the statistics above?

Response: The sources of those and other troubling disparities, and the best means to address them, continue to be a topic of public debate. It would therefore be inappropriate for me, as a judicial nominee, to comment further, other than to express the belief that it would be incumbent on me as a judge to be aware of the possibility of any and all types of bias and to endeavor to minimize them as consistent with my judicial duties.

- 13. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.¹⁰ What do you attribute this to?**

Response: Please see my answer to Question 12.a.

- 14. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.¹¹ What do you attribute this to?**

⁴ Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>.

⁵ *Id.*

⁶ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

⁷ Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), <https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/>.

⁸ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

⁹ *Id.* at 9.

¹⁰ Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

¹¹ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

Response: Please see my answer to Question 12.a.

15. **What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?**

Response: It is the obligation of all participants in the criminal justice system, especially judges, to be aware of the possibility of any and all types of bias and to endeavor to minimize them as consistent with their judicial duties.

16. **Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.**

Response: Yes, nobody should ever be excluded from the opportunity to serve as a judge based on race, ethnicity, sex, religion, or any other protected characteristic. My experience in law and life has commended the value of sharing experiences with persons of varying backgrounds, life experiences, and viewpoints. Being an effective lawyer depends upon one's ability to effectively intake, understand, and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I would look forward to learning from and building relationships with my colleagues on the Sixth Circuit and other courts.

17. **Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?**

Response: I would treat and interact with all who may appear before me with dignity, respect, and fairness.

18. **Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?**

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the bound party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704

(2011); see Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sanford*). And I am generally aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding. See, e.g., *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the “general rule” is that a non-party “seeking to appeal a discovery order must first disobey the order and suffer a contempt citation.” 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ if confirmed to the federal bench to determine whether that official should be held in contempt?

Response: If confirmed to a position as circuit judge, I would most often be reviewing orders issued by federal district court judges to ensure that they are consistent with the law in both scope and substance. It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress. The Supreme Court, for its part, has cautioned that “the contempt power” is something that “uniquely is ‘liable to abuse,’” *Int’l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994), and that “care is needed to avoid arbitrary or oppressive conclusions.” *Bloom v. Illinois*, 391 U.S. 194, 202 (1968) (citation omitted). I would apply these instructions and any other governing law and precedents to assess whether any allegations of noncompliance were correct or whether any recognized defenses apply.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges?

Response: See previous two responses.

19. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The Constitution gives the President the authority to veto legislation passed by Congress. Art. I, § 7, cl. 2. Additionally, the Take Care Clause in the U.S. Constitution directs that the President “shall take Care that the Laws be faithfully executed.” U.S.

Const., art. II, § 3, cl. 5. The Supreme Court has cited the Take Care Clause as a source of the President’s authority to engage in “enforcement of federal ... laws passed by Congress,” *Trump v. United States*, 603 U.S. 593, 627 (2024), including by “mak[ing] arrests and prosecut[ing] offenses on behalf of the United States,” *United States v. Texas*, 599 U.S. 670, 678–79 (2023). The Supreme Court has further instructed that, under the Take Care Clause and the Vesting Clause, *see* Art. II, § 1, cl. 1, the Executive Branch possesses certain authority and discretion to prioritize enforcement of federal law. *See, e.g., Texas*, 599 U.S. at 679; *Heckler v. Chaney*, 470 U.S. 821, 832 (1985). How these or any other legal principles apply to presidential action implicates issues that could arise before me as a judge; thus, as a judicial nominee, it would be inappropriate for me to provide further comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

20. Does the president have the power to withhold funds appropriated by Congress?

Response: I am generally aware that the issue regarding the Executive Branch’s withholding of authorized funds was addressed by the Supreme Court’s decision in *Train v. City of New York*, 420 U.S. 35 (1975). I am also generally aware of the Impoundment Control Act of 1974, 2 U.S.C. § 681 *et seq.*, which provides various procedures for addressing budget and funding issues. As this question relates to an issue that is the subject of litigation in the courts, I do not think that it would be appropriate for me to opine further. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

21. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supreme Court has interpreted the Clause to establish that principle, as well as provided instruction about what types of federal-state conflicts lead to preemption. *See, e.g., Haaland v. Brackeen*, 599 U.S. 255, 287 (2023) (collecting cases).

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?

Response: The nature and scope of EMTALA’s preemptive effect is a matter subject to ongoing litigation, so it would be improper for me as a judicial nominee to comment on this question.

22. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has stated that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. The question in most cases is less about whether the

doctrine of due process applies and more about how much process is due. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Sixth Circuit in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

23. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The Supreme Court has a body of precedents addressing the constitutional limits on legislative delegation of rulemaking authority. See *Gundy v. United States*, 588 U.S. 128, 135-36 (2019) (op. of Kagan, J.) (collecting cases). A case raising such issues, moreover, is presently before the U.S. Supreme Court. See *FCC v. Consumers' Rsch.* (U.S. No. 24-354) (argued Mar. 26, 2025). As a nominee to a U.S. Court of Appeals, I do not think that it would be appropriate for me to opine further on how these standards may apply, see Code of Conduct of U.S. Judges, Canon 3A(6), other than to commit that I will faithfully apply all applicable precedent of the Supreme Court and the Sixth Circuit on this topic.

24. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: *Brown* is a landmark ruling that promotes racial equality and rejected the manifestly unjust and incorrect separate-but-equal rule of *Plessy v. Ferguson*, 163 U.S. 537 (1896). Consistent with the position of prior judicial nominees, I consider *Brown* to be one of the limited exceptions to the general principle, explained by Justice Kagan and others, that a judicial nominee generally should not “grade” or give a “thumbs-up or thumbs-down” to particular precedents of the Supreme Court. I agree with prior nominees that the underlying premise of the *Brown* decision—i.e., that “separate but equal is inherently unequal”—is beyond dispute, and that judges can express their agreement with that principle without calling into question their ability to apply the law faithfully to cases raising similar issues. Therefore, just as other nominees for judicial office have done, I can confirm that *Brown* was rightly decided consistent with the Code of Conduct.

25. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives. *Griswold* is binding precedent and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a judge on the Sixth Circuit.

26. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: In *Lawrence*, the Supreme Court held that laws that criminalized sexual intimacy between members of the same sex violate the Fourteenth Amendment.

Lawrence is binding precedent and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a judge on the Sixth Circuit.

27. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: In *Obergefell*, the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. *Obergefell* is binding precedent and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a judge on the Sixth Circuit.

28. Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. See Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

29. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”¹²

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: Yes.

b. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: Yes.

c. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: The text of the 22nd Amendment would prohibit any person from being “elected to the office of the President” for a third time. U.S. Const., amend. XXII.

30. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that

¹² U.S. CONST. amend. XXII.

you not opine on whether any past Supreme Court decisions were correctly decided?

Response: No.

- 31. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

- 32. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.**

Response: I have known James Burnham for several years since clerking together. As friends, we have periodically spoken since November 2024. I also once corresponded with him in his capacity at DOGE about a litigation-related matter in which I have involvement in my role at the Office of the Tennessee Attorney General and Reporter. To the best of my recollection, those conversations occurred by phone in March 2025.

- 33. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: I met Stephen Miller in passing while awaiting entry into the Oval Office prior to my meeting with President Trump. Otherwise, no.

- 34. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: In December 2024, I spoke with Chad Mizelle regarding a matter in which I have involvement in my role at the Office of the Tennessee Attorney General and Reporter. To the best of my recollection, I also spoke with him briefly on February 13, 2025, when attending an event at Antonin Scalia Law School.

- 35. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: To the best of my recollection, no.

- 36. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: To the best of my recollection, no.

37. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: To the best of my recollection, no.

38. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: To the best of my recollection, no.

39. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

40. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

- a. Enrique Tarrio
- b. Stewart Rhodes
- c. Kelly Meggs
- d. Kenneth Harrelson
- e. Thomas Caldwell
- f. Jessica Watkins
- g. Roberto Minuta
- h. Edward Vallejo
- i. David Moerschel
- j. Joseph Hackett
- k. Ethan Nordean
- l. Joseph Biggs
- m. Zachary Rehl
- n. Dominic Pezzola
- o. Jeremy Bertino
- p. Julian Khater

Response: No as to all.

41. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

42. **Have you ever been demoted, terminated, or experienced any other adverse employment action?**

Response: No.

- a. **If yes, please describe the events that led to the adverse employment action.**

Response: Not applicable.

- b. **If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.**

Response: Yes.

43. **Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?**

Response: Yes.

44. Article III Project (A3P) “defends constitutionalist judges and the rule of law.” According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹³

- a. **Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: Not to my knowledge.

- b. **Are you currently in contact with anyone associated with A3P? If so, who?**

Response: Not to my knowledge.

- c. **Have you ever been in contact with anyone associated with A3P? If so, who?**

Response: I believe I met Mike Davis several years ago at a function at the U.S. Supreme Court. Otherwise, not to my knowledge or the best of my recollection.

¹³ <https://www.article3project.org/about>

45. According to its Form 990 filed in 2024,¹⁴ the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) “is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends.”

- a. **Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: Not to my knowledge.

- b. **Are you currently in contact with anyone associated with The Concord Fund? If so, who?**

Response: Not to my knowledge.

- c. **Have you ever been in contact with anyone associated with The Concord Fund? If so, who?**

Response: From reviewing the Form 990, I understand that Carrie Severino is associated with The Concord Fund. I believe I may have been introduced to Ms. Severino years ago at a formal dinner event, though I can’t recall precisely. Otherwise, not to my knowledge or the best of my recollection.

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

Response: On February 2, 2025, I was contacted by the White House Counsel’s Office and provided basic biographical information; I then was asked by the White House Counsel’s Office to participate in an interview on approximately February 4, 2025. I interviewed with attorneys from the White House and the Department of Justice on February 11, 2025, in Washington, District of Columbia; that same day, the White House Counsel’s Office requested that I provide additional biographical information, which I provided. On February 13, 2025, I interviewed with Senator Blackburn and a member of her staff. On February 28, 2025, I interviewed with Senator Hagerty, and on February 6, 2025, I interviewed with a member of Senator Hagerty’s staff. On February 14, 2025, the White House Counsel’s Office contacted me to let me know that I was in consideration for the nomination. On April 29, 2025, I met with President Donald Trump concerning my possible nomination. On May 1, 2025, President Trump publicly announced his

¹⁴ The Concord Fund, Form 990 (filed on May 13, 2024), available at <https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full>.

intent to nominate me; I understand the nomination was received in the Senate on May 12, 2025.

47. **Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?**

Response: No.

- a. **Who?**

Response: Not applicable.

- b. **What advice did they give?**

Response: Not applicable.

- c. **Did anyone suggest that you omit or include any particular case or type of case in your SJQ?**

Response: Not applicable.

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

Response: I did not speak with any officials from or anyone directly associated with the Article III Project as part of my selection process, nor, to my knowledge, did anyone do so on my behalf.

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

Response: I did not speak with any officials from or anyone directly associated with the Federalist Society as part of my selection process, nor, to my knowledge, did anyone do so on my behalf.

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

Response: Please see my answer to Question 46. I have since been in contact with officials from the Justice Department's Office of Legal Policy regarding the nomination and the submittal of required paperwork to the Federal Bureau of Investigation and the Senate. Those communications occurred over the course of May 2025. In addition, in

early June 2025, I communicated with the White House Counsel's Office and the Justice Department's Office of Legal Policy in the course of preparing for the hearing before the Judiciary Committee.

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

Response: I drafted my responses to each of these questions. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this Committee. My answers are my own.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

June 11, 2025

Questions for Ms. Hermandorfer:

- 1. Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court’s binding “judgment[]” and its “statements in opinions.” *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sanford*). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

- 2. Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to hypothesize an exhaustive list of fact- and case-specific situations in which it might be legally appropriate to ignore or defy a court order. Nor would dispensing that type of legal advice be a part of my role as a judge; instead, I would be limited to ensuring that any judicial order entered is consistent with governing constitutional, statutory, and equitable limits. I am generally aware, however, that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, which may require a party to act in a manner inconsistent with judicial orders. *See generally* 15B Wright & Miller, Fed. Prac. & Proc. Juris. (2d

ed.) § 3914.23.1 Orders Prior to Trial—Review by Disobedience and Contempt; *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). The Sixth Circuit has explained that the “general rule” is that a non-party “seeking to appeal a discovery order must first disobey the order and suffer a contempt citation.” *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)).

- 3. Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge’s decision or order?**

Response: The First Amendment generally protects the rights of individuals to engage in political speech. To the extent this question asks me to opine on the appropriateness of certain statements of public officials or on the broader political debate regarding the permissible criticism of judicial officials, as a judicial nominee it would be inappropriate to provide further comment.

- 4. In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

Response: In interviewing for the nomination with the White House Counsel’s Office, I discussed my beliefs regarding the designated role of Article III judges in our constitutional system and the importance of judges’ faithfully and neutrally applying the governing laws in the cases that come before them. I did not otherwise discuss policy or personal positions I would have on the bench, or decisions I would make on the bench. It is a fundamental tenet of our federal judicial system that judges are not to decide cases based on their personal views or policy preferences.

**Senator Peter Welch
Senate Judiciary Committee
Written Questions for Whitney Hermandorfer
Hearing on “Nominations”
Wednesday, June 4, 2025**

1. Prior to your nomination, did you meet with President Trump?

a. On what date did you meet?

Response: April 29, 2025.

b. Who was present during the meeting?

Response: President Trump, Vice President Vance, the White House Counsel, and an attorney from the White House Counsel’s Office.

c. Where did you meet?

Response: The Oval Office.

d. What was the purpose of the meeting?

Response: I understood the purpose of the meeting was to discuss my prospective nomination as a judge on the United States Court of Appeals for the Sixth Circuit.

e. What discussion took place during the meeting?

Response: We discussed my background as a Tennessean and former college basketball player, as well as my legal credentials and qualifications for a position as a judge on the United States Court of Appeals for the Sixth Circuit.

f. Did President Trump, or any other person present at the meeting, make any requests, promises, or other communication about your judicial philosophy, how you would rule in certain cases, or about current events? If so, please explain in detail.

Response: No.

2. Did you sign a letter dated January 16, 2025, regarding Attorney General Pam Bondi’s nomination?

a. Did you sign the letter in your personal or professional capacity?

Response: I signed the letter in my role as Director of Strategic Litigation within the Office of the Tennessee Attorney General and Reporter.

b. Did you read the letter prior to signing it?

Response: Yes.

Questions for the Record

Sen. Adam Schiff (CA)

Whitney Downs Hermandorfer, Nominee to the United States Court of Appeals for the Sixth Circuit

1. During your testimony, you described the Federalist Society, which you have been a member of since 2016, as “wonderful.” Additionally, you clerked for three Supreme Court Justices who are current or former members of the Federalist Society. President Trump recently decried the organization for its “bad advice” on judicial nominations and called Leonard Leo, its Co-Chairman, a “real sleazebag.”

- a. **Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States Court of Appeals for the Sixth Circuit?**

Response: The above question could be read to mistakenly imply that I offered opinions on the Federalist Society as it relates to matters currently subject to political controversy. Respectfully, I did not do so, as the full content of my testimony makes clear and as consistent with my obligations as a judicial nominee. I am unaware of the substance of any conversations that my former employers or any other persons may have had regarding my nomination, qualifications, or background with officials in the White House.

- b. **Do you believe the Federalist Society provided “bad advice” to President Trump on judicial nominations?**

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy.

2. During the Senate Judiciary Subcommittee hearing titled “The Supposedly ‘Least Dangerous Branch’: District Judges v. Trump,” which you referenced during your testimony before the full Committee, my Republican colleagues suggested that case assignment procedures in multi-judge judicial districts are rigged against the Trump administration.

- a. **At any point during your career as an attorney, have you encountered any evidence that case assignment in multi-judge federal judicial districts or circuits is not random?**

Response: I am aware that certain judicial districts maintain case-management orders that specify the handling of cases filed within particular

divisions of the district, and that certain categories of administrative-agency orders are subject to particularized venue limits set out in federal statutes. Otherwise, as this question expressly seeks a response to statements of political figures on a subject of political controversy, it would be inappropriate for me, as a pending judicial nominee, to opine on these issues.

b. Do you personally believe that federal judges are conspiring against the Trump administration by manipulating case assignment procedures?

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure, to characterize actions of jurists, or to opine on any subject of political controversy.

3. During your testimony before the Committee, specifically in response to Senator Kennedy and my questions about lower court orders, you suggested or refused to rule out, that there could be some instances in which a party may be justified in ignoring or violating a court order. Please list any instances in which you believe a party may justifiably ignore or violate a court order in detail below.

Response: I have not had occasion to study these questions exhaustively; my general understanding of the relevant legal considerations is as follows. If there is a lower court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome; if the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed. With respect to potential exceptions to that rule, I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.,* William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error “so clear that it is not open to rational question”); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses). I am also aware of the legal distinction that parties and jurists have drawn between a court’s binding “judgment[]” and its “statements in opinions.” *Camreta v. Greene*, 563 U.S. 692, 704 (2011); *see* Abraham Lincoln, First Inaugural Address (Mar. 4, 1861) (discussing *Dred Scott v. Sandford*). And I am generally aware that certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) (“Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.”). In *U.S. ex rel. Pogue v. Diabetes Treatment Centers of Am., Inc.*, the Sixth Circuit explained that the “general rule” is that a non-party “seeking to appeal a discovery

order must first disobey the order and suffer a contempt citation.” 444 F.3d 462, 471 (6th Cir. 2006) (citing *Alexander v. United States*, 201 U.S. 117, 121-22 (1906)). Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.

4. Some of your former colleagues at Williams & Connolly were involved in defending the law firm Perkins Coie against a Trump administration Executive Order which was ruled unconstitutional. In its motion for summary judgment, the Williams & Connolly team explained the integral role of lawyers in our society:

Just as John Adams defended British soldiers after the Boston Massacre, lawyers today have a professional responsibility to defend unpopular clients and the rule of law. To protect the rights of all Americans, lawyers must be free to do their jobs without fear of government retribution. Otherwise, lawyers would “become nothing more than parrots of the views of whatever group wields government power at the moment.” *Cohen v. Hurley*, 366 U.S. 117, 138 (1961) (Black, J., dissenting).

Without addressing the merits of the litigation, do you agree with your former colleagues at Williams & Connolly regarding the role of lawyers in our Republic?

Response: Under professional rules of practice, attorneys are ethically charged to zealously represent their clients even if politically unpopular. *See, e.g.*, Tenn. Rules of Professional Conduct, cmt. 1 to Rule 1.3. In my current role, I have undertaken that obligation to represent my clients even when doing so has exposed me to public criticism, harassment, and threats. At the same time, there are of course laws, rules, and ethical obligations that apply to attorneys when they are practicing or pursuing the course of a representation. How these rules and obligations interact implicates matters that are the subject of ongoing litigation, so it would be improper for me as a judicial nominee to opine further on the issue.

5. **The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: “No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued.” In your estimation, would this provision, if enacted, impede the ability of United States District Judges in Kentucky, Michigan, Ohio, and Tennessee to enforce contempt orders against the government or government officials?**

Response: Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the potential import or effect of proposed legislation in hypothetical future cases or to opine on any subject of political controversy.

6. The governing statute of the United States Marshals Service requires: “the United States Marshals Service *shall* execute *all lawful writs, process, and orders* issued under the authority of the United States.” Additionally, the “primary . . . mission” of the Service is to “provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.]” 28 U.S.C. § 566.

a. Based on the Service’s governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any “writ[], process [or] order[]” issued by a United States District Judge?

Response: “Ordinarily, the marshals and the federal courts which they serve have a close and harmonious relationship,” and any disputes between them are “rare, and appropriately so.” *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43-44 (1985) (Stevens, J., dissenting). But sometimes “administrative problems” come up. *Id.* “Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches.” *Id.* at 44. I have not had occasion to study these questions exhaustively. I am aware that the Supreme Court described *Pennsylvania Bureau of Correction v. U.S. Marshals Service* as “an exceptional case” because it “involve[d] a dispute between the Marshals Service and a Federal District Court.” *Id.* at 43. In resolving that dispute, the Supreme Court held that, “at least in the absence of an express finding of exceptional circumstances, that neither a magistrate nor a district court has authority to order the Marshals to transport state prisoners to the federal courthouse to testify in an action brought by a state prisoner under 42 U.S.C. § 1983 against county officials.” *Id.* at 34.

Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to opine on how the cited statute or caselaw might apply to a hypothetical set of facts. If any such issues came before me as a judge, I would commit to resolving them through the judicial process through careful consideration and application of the parties’ arguments and the governing law and precedents.



May 19, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: Letter of support for Whitney Hermandorfer to be a Circuit Judge on the United States Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

I am pleased to support President Trump's nominee Whitney Hermandorfer for the United States Court of Appeals for the Sixth Circuit. Tennesseans are proud to call Whitney one of our own, not only as a Tennessee native, but also as a champion for Tennessee's values.

In her work on behalf of Tennessee, Whitney has demonstrated her commitment to federalism, which remains as important today as it was at our nation's founding. States like Tennessee continue to lead the nation by example in policy areas of all sorts. Whitney understands that our democracy is stronger when federalism is preserved, because when States flourish, America does, too.

Whitney's effectiveness stems from her ability to balance fundamental legal principles with practical solutions. Her multi-faceted approach to the legal challenges of our time has enabled her to bring together diverse stakeholders to defend Tennessee's priorities like State autonomy and pro-family initiatives.

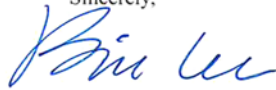
Whitney understands how state government works. Her hands-on experience with the Executive Branch will benefit her judicial analyses and provide meaningful insights to her colleagues. Whitney's practical knowledge about state government will help her discern the

appropriate role of government in any given case: accomplishing the will of the people, while guarding against overreach.

Finally, Whitney's work for Tennessee is made possible by her heart for public service. You and I understand what it takes to devote ourselves to representing our communities, and I see in Whitney that same passion for using her gifts to serve her fellow Americans.

Tennessee is proud to send one of our finest to you for consideration, and I encourage the Senate to promptly confirm Whitney to the Sixth Circuit bench.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Lee", with a stylized flourish at the end.

Bill Lee
Governor

May 28, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

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

Re: Nomination of Whitney Hermandorfer for the U.S. Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

We write in unequivocal support of Whitney Hermandorfer's nomination to the United States Court of Appeals for the Sixth Circuit. Because she is well qualified and widely respected, this is only one of many letters that you will receive in support of Whitney's nomination. We hope that our perspectives—*i.e.*, as Whitney's former co-clerks for the Hon. Samuel A. Alito, Jr., and the Hon. Amy Coney Barrett—provide additional, unique insight into Whitney's exceptional character and qualifications.

During the two years that we collectively spent with Whitney at the Supreme Court, she unfailingly demonstrated the highest legal aptitude, the strongest work ethic, and the deepest commitment to excellence. She put in endless hours of work—underlining every word in draft memos and opinions as she checked for accuracy, mastering thousands of pages of record evidence, and writing extraordinarily sourced memos. Some of the brightest moments in our days were when Whitney would drop in to talk through the latest legal knot that she was trying to untangle. There was no legal question that she would let go unanswered, and there was no error that she would let go uncorrected. Through each challenge, she was committed to finding the right answer, no matter the time and effort required.

On top of her extraordinary legal acumen, Whitney also unfailingly demonstrated the impeccable character, integrity, and temperament that are the hallmarks of a great judge. She approached every case in an honest and impartial manner, demonstrating her commitment to following the law wherever it leads—regardless of any personal feelings or beliefs she may hold. For Whitney, upholding the rule of law is nonnegotiable.

Some luminaries are respected because they demand respect; Whitney is respected because she deserves respect. We urge the Senate to swiftly confirm Whitney.

Sincerely,

J. Benjamin Aguiñaga (Hon. Samuel A. Alito, Jr., Supreme Court of the United States)

Aimee Brown (Hon. Samuel A. Alito, Jr., Supreme Court of the United States)

David W. Casazza (Hon. Samuel A. Alito, Jr., Supreme Court of the United States)

Madeline Ward Clark (Hon. Amy Coney Barrett, Supreme Court of the United States)

Brendan Duffy (Hon. Amy Coney Barrett, Supreme Court of the United States)

Sherif Girgis (Hon. Samuel A. Alito, Jr., Supreme Court of the United States)

Nick Harper (Hon. Amy Coney Barrett, Supreme Court of the United States)

STATE OF TENNESSEE

Office of the Attorney General



JONATHAN SKRMETTI
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3491
FACSIMILE (615)741-2009

May 28, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

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

Re: Nomination of Whitney Hermandorfer for the United States Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

It is my joy and privilege to recommend Whitney Hermandorfer for appointment to the United States Court of Appeals for the Sixth Circuit. When my office recruited Whitney to come back home to Tennessee and stand up our new Strategic Litigation Unit, I knew she was extremely talented. But I have since come to appreciate that she is truly one of the very best attorneys in America.

I trust that you are familiar with her many accolades, some of which are unprecedented among her peers, but I would like to highlight a few for your specific attention. Whitney has built a career practicing law at the highest level in both public service and private practice. Immediately prior to joining my office, Whitney was an appellate and regulatory litigator at Williams & Connolly LLP, one of our nation's apex litigation firms. She earned respect from colleagues and opponents alike as she represented major clients in high-stakes cases.

Perhaps the most striking and unique credential on Whitney's resume is that she clerked for *three* current Supreme Court Justices. She worked for Justice Kavanaugh when he served on the D.C. Circuit and then moved up to One First Street to clerk under Justice Alito and then again under Justice Barrett. As you are aware, securing any one of these clerkships only comes at the end of

Page 2

an extraordinarily competitive process. To my knowledge, she may be the only lawyer of her generation with such a distinguished clerkship pedigree.

In her role as Director of the Strategic Litigation Unit in our office, Whitney spearheaded some of the most sophisticated and impactful litigation in the nation. She led teams of lawyers from Tennessee and across the country and specialized in blockbuster constitutional and regulatory litigation against federal agencies. Due in significant part to her outstanding leadership, writing, and argumentation, Tennessee scored one major victory after another, including, most recently, against the Biden administration's unlawful and unconstitutional Title IX rule. Whitney has also defended our State in complicated constitutional cases. She has litigated in state and federal court, first-chaired proceedings in trial and appellate court, and won victories all the way up to the Supreme Court of the United States.

Beneath her dazzling resume and the litany of momentous cases, Whitney is a lawyer's lawyer. She is careful and thoughtful and cares deeply about the law as the reservoir of our nation's fundamental aspirations as expressed by the American people through time-tested institutions. She consistently delivers analytical rigor, a keen wit, sound judgment, and a relentless work ethic. One of my favorite qualities of Whitney's is her golden pen; she is an exceptional writer of punchy, intelligent, deft, and memorable prose. While she has spent years honing this talent, she comes by it honestly and in true Tennessee fashion: Whitney is the daughter of an accomplished Nashville songwriter.

Permit me also to share with you the person Whitney is. Her incomparable legal acumen and resume aside, she is, more importantly, a woman of impeccable integrity, a patriot with a deep loyalty to our nation and its laws, a loving and devoted mother and wife, a servant leader in her community, an indefatigable optimist, and a humble and kind friend. I know she is precisely the person America needs for this crucial office. She will elevate the Court's already renowned analysis and reasoning, mentor clerks to lead the next generation of dedicated attorneys, and model for the entire nation true fidelity to the Constitution and the rule of law.

I have treasured working with Whitney these past few years. My team and I will miss her in her role as an attorney, as will the people of Tennessee, whom she served with brilliance, constancy, and distinction. But her nomination fills us all with hope—hope that the elevation of Whitney, the best of Tennessee and the best of America, will sustain and strengthen the Court of Appeals and our very system of constitutional self-government for many years to come.

Thank you for your consideration of this letter, and please let me know if you need any further information or if I may otherwise assist you in connection with Whitney's nomination.

Sincerely,



Jonathan Skrmetti
Attorney General and Reporter
State of Tennessee



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KY 40601
(502) 696-5300
FAX: (502) 564-2894

May 20, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Richard Durbin
Ranking Member, Committee on the Judiciary
United States Senate
Washington, DC 20510

**Re: Letter of support for Whitney Hermandorfer to be a Circuit Judge on
the United States Court of Appeals for the Sixth Circuit**

Dear Chairman Grassley and Ranking Member Durbin:

We the undersigned 24 Attorneys General write in strong support of President Trump's nomination of Whitney Hermandorfer to be a Circuit Judge on the United States Court of Appeals for the Sixth Circuit.

Whitney currently serves as the Director of Strategic Litigation for our colleague, Tennessee Attorney General Jonathan Skrmetti. Our offices have worked closely with Whitney, and we can attest to her brilliance, work ethic, and unwavering commitment to the rule of law.

We witnessed these qualities firsthand when litigating with Whitney against the Biden Administration. Whitney led many of these cases of national significance and provided much of the intellectual firepower that allowed us to protect the people we serve. For example, Whitney was one of the lead attorneys to challenge President Biden's rewrite of Title IX, which would have allowed biological boys into girls' sports, bathrooms, and locker rooms. In that fast-moving case, Whitney filed a brief in the district court, a brief in the Sixth Circuit, and a brief in the United States Supreme Court in less than two weeks. Her tireless efforts paid off. Along with attorneys from our offices, Whitney convinced the Supreme Court to unanimously hold that the key

parts of that rule could not be enforced.¹ And she led a successful effort before a Kentucky district court to vacate the rule once and for all²—a decision that President Trump decided not to appeal after taking office.

Whitney's many successes in court are unsurprising given her singularly impressive background. After graduating first in her law school class, she clerked for a third of the Supreme Court—first for then-Judge Kavanaugh on the D.C. Circuit and then for Justices Alito and Barrett. With those three Justices as her model, we have no doubt that Whitney will be an outstanding Circuit Judge on the Sixth Circuit. Beyond her many accomplishments, Whitney's humility and good nature will serve her well on the bench as a predictor of judicial temperament—just as those traits have made her a treasured colleague to many in our offices.

Although our offices will miss working with Whitney, our loss is the nation's gain. We urge the Senate to swiftly confirm Whitney.

Sincerely,



Russell Coleman
Attorney General of Kentucky



Steve Marshall
Attorney General of Alabama



Tim Griffin
Attorney General of Arkansas



James Uthmeier
Attorney General of Florida



Chris Carr
Attorney General of Georgia



Raúl R. Labrador
Attorney General of Idaho



Theodore E. Rokita
Attorney General of Indiana



Brenna Bird
Attorney General of Iowa

¹ *Dep't of Educ. v. Louisiana*, 603 U.S. 866 (2024) (per curiam).

² *Tennessee v. Cardona*, 762 F. Supp. 3d 615 (E.D. Ky. 2025).



Kris Kobach
Attorney General of Kansas



Lynn Fitch
Attorney General of Mississippi



Austin Knudsen
Attorney General of Montana



John Formella
Attorney General of New Hampshire



Gentner Drummond
Attorney General of Oklahoma



Marty Jackley
Attorney General of South Dakota



Derek E. Brown
Attorney General of Utah



Liz Murrill
Attorney General of Louisiana



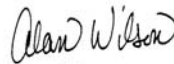
Andrew Bailey
Attorney General of Missouri



Michael T. Hilgers
Attorney General of Nebraska



Dave Yost
Attorney General of Ohio



Alan Wilson
Attorney General of South Carolina



Ken Paxton
Attorney General of Texas



Jason S. Miyares
Attorney General of Virginia

A handwritten signature in black ink, reading "John B. McCuskey". The signature is written in a cursive style with a large, stylized "J" and "M".

John B. McCuskey
Attorney General of West Virginia

A handwritten signature in blue ink, reading "Bridget Hill". The signature is written in a cursive style with a large, stylized "B" and "H".

Bridget Hill
Attorney General of Wyoming



May 28, 2025

The Honorable Charles E. Grassley
Chairman, Committee on the Judiciary
United States Senate
Washington, DC 20510

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

(via email and USPS)

Re: Nomination of Whitney Downs Hermandorfer to the Sixth Circuit

Dear Senators Grassley and Durbin:

We are members of the George Washington University Law School faculty and are writing to express our support of Whitney Downs Hermandorfer's nomination to the United States Court of Appeals for the Sixth Circuit. Ms. Hermandorfer is a distinguished lawyer with excellent credentials. In addition to teaching law, many of us have substantial professional experience in private practice, government, and non-profit organizations where we regularly advocated for clients before the judiciary. Thus, we understand the importance of appointing highly qualified individuals to the bench. Ms. Hermandorfer has consistently performed at the highest level and demonstrated remarkable intellect, leadership, and humility. We do not all share the same judicial philosophy, and no doubt some of us disagree with aspects of hers, but we have no doubt that she possesses the requisite qualifications, judicial temperament, and impartiality to be an outstanding judge.

Ms. Hermandorfer attended GW Law School after obtaining her undergraduate degree from Princeton University, where she graduated magna cum laude and was Co-Captain of the Princeton Women's Varsity Basketball Team. After working for several years, she began law school where she quickly proved to be an exceptional student, earning over a 4.0 G.P.A. in her first year. In her second year, she earned an astounding G.P.A. of over 4.2. In her third year, she achieved a perfect 4.33 G.P.A. by earning all A+s in graded courses—a feat virtually unheard of in school history. Not surprisingly, Ms. Hermandorfer graduated first (out of 419 students) in the Class of 2015, collecting almost all of the top academic awards given out at graduation. In addition, due to her remarkable kindness and professionalism, she was, in our recollection, universally liked and respected by her peers from across the ideological spectrum.

Ms. Hermandorfer's incredible academic achievement was all the more remarkable because she served as the Editor-in-Chief of the GW Law Review during her third year in law

The Honorable Charles E. Grassley
 The Honorable Richard J. Durbin
 Page 2

school. The Review is a student-run journal, and the Editor-in-Chief is responsible for overseeing all aspects of the selection and production process—a job that takes at least 40 hours a week. Ms. Hermandorfer performed this role flawlessly, leading the journal by example and producing six issues of the highest quality legal scholarship on time. She was selected for this role by her student peers and their faith in her was fully vindicated by her outstanding performance.

Ms. Hermandorfer's post-graduation experiences are as impressive as her achievements in law school. She worked for several years at one of the top law firms in Washington, DC (Williams & Connolly) and clerked for four different judges at all three levels of the federal judiciary: Judge Richard Leon on the United States District Court for the District of Columbia, Judge Brett Kavanaugh on the United States Court of Appeals for the District of Columbia Circuit, Justice Samuel Alito on the Supreme Court of the United States, and Justice Amy Coney Barrett on the Supreme Court of the United States. In addition, she has served in state government as the Director of the Strategic Litigation Unit in the Tennessee Attorney General's office.

To say the least, it is an extraordinary honor and accomplishment to clerk for a single member of the Supreme Court, and very few graduates have the privilege of clerking for more than one Justice. With Judge Kavanaugh's elevation to the high Court, Ms. Hermandorfer has clerked for one third of the Supreme Court's current members.

In sum, Whitney Hermandorfer is one of the finest graduates in the history of GW Law School and is well qualified to serve as a judge on the United States Court of Appeals for the Sixth Circuit. We urge your Committee to approve her nomination.

Sincerely,

Michael Abramowicz
 Oppenheim Professor of Law

Paul Schiff Berman
 Walter S. Cox Professor of Law

Robert Brauneis
 Michael J. McKeon Professor of Intellectual Property Law

Arturo J. Carrillo
 Professor of Clinical Law

W. Burlette Carter
 Professor Emerita of Law

Bradford R. Clark
 William Cranch Research Professor of Law

Thomas Colby
John Theodore Fey Research Professor

Robert J. Cottrol
Harold Paul Green Research Professor of Law

Lawrence A. Cunningham
Henry St. George Tucker III Research Professor of Law Emeritus

Laura A. Dickinson
Lyle T. Alverson Professor of Law

Jack Harlan Friedenthal
Howrey Professor Emeritus of Trial Advocacy, Litigation, and Professional Responsibility

Theresa A. Gabaldon
Lyle T. Alverson Professor of Law

Aram A. Gavoort
Associate Dean for Academic Affairs

David M. Johnson
Assistant Dean for Advocacy Programs; Professorial Lecturer in Law

Robin L. Juni
Associate Professor of Fundamentals of Lawyering

F. Scott Kieff
Stevenson Bernard Professor of Law

Laird Kirkpatrick
Louis Harkey Mayo Research Professor Emeritus of Law

Laurie S. Kohn
Jacob Burns Foundation Associate Dean for Clinical Affairs; Associate Professor of Clinical Law

William E. Kovacic
Global Competition Professor of Law and Policy

Renée Lettow Lerner
Donald Phillip Rothchild Research Professor

Dayna Bowen Matthew
Dean and Harold H. Greene Professor of Law

Brooke Ellinwood McDonough
Acting Coordinator of Scholarly Writing; Associate Professor of Fundamentals of Lawyering

Thomas D. Morgan
Oppenheim Professor Emeritus of Antitrust and Trade Regulation Law

Sean D. Murphy
Manatt/Ahn Professor of International Law

Dawn C. Nunziato
The Pedas Family Endowed Professorship; William Wallace Kirkpatrick Research Professor

Anne K. Olesen
Professor Emerita of Clinical Law

Spencer Overton
The Patricia Roberts Harris Research Professor of Law

Todd D. Peterson
Carville Dickinson Benson Research Professor

Richard J. Pierce
Lyle T. Alverson Professor of Law

Jennifer Wimsatt Pusateri
Associate Professor of Fundamentals of Lawyering

Stephen A. Saltzburg
Wallace and Beverley Woodbury University Professor of Law

Steven L. Schooner
Nash & Cibinic Professor of Government Procurement Law

Joshua I. Schwartz
E.K. Gubin Professor of Government Contracts Law

Omari Scott Simmons
Lyle T. Alverson Professor of Law

Roger H. Trangsrud
James F. Humphreys Professor of Complex Litigation and Civil Procedure

The Honorable Charles E. Grassley
The Honorable Richard J. Durbin
Page 5

Jonathan Turley
J.B. and Maurice C. Shapiro Professor of Public Interest Law

Robert W. Tuttle
David R. and Sherry Kirschner Berz Research Professor of Law and Religion

Arthur E. Wilmarth
Professor Emeritus of Law

May 23, 2025

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

The Honorable Richard J. Durbin, Ranking Member
Committee on the Judiciary
United States Senate
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Durbin:

We write to express our strong support for the nomination of Whitney Hermandorfer to the United States Court of Appeals for the Sixth Circuit. Each of us has had an active practice in appellate courts throughout the country. We hold a broad range of political, policy, and jurisprudential views, but we speak as one in supporting Ms. Hermandorfer's nomination.

Ms. Hermandorfer has a brilliant legal mind, an outstanding work ethic, a strong sense of fairness and justice, a collegial manner, and an extraordinary record of academic and legal achievement. She has the rare distinction of having clerked for three Supreme Court Justices (one during his time on the D.C. Circuit) and on a respected federal district court. And she has had a remarkable range of private and public sector experience since her clerkships. Her work product as a litigator—spanning dozens of cases on behalf of a diverse set of clients—is widely regarded as representing the highest quality.

Based on our experience with Ms. Hermandorfer and her distinguished career in private practice and public service, we are confident that she possesses the character, temperament, and intellect to make her an asset to our Nation's judiciary. We hope this information will be of assistance to the Committee in its consideration of Ms. Hermandorfer's nomination. We thank you for your time and attention, and we urge you to support her confirmation.

Very truly yours,

Lisa S. Blatt
Christopher G. Michel
K. Winn Allen
Libby Baird
Russell Balikian
John F. Bash
Jeremy J. Broggi
H. Hunter Bruton
Jeffrey S. Bucholtz

John J. Bursch
Megan McGlynn Butler
Alex Carver
John W. Cerreta
Madeline Ward Clark
Richard S. Cleary, Jr.
Paul D. Clement
Michael Clemente
Rascoe Dean

Shannon G. Denmark
Anthony J. Dick
Gilbert Dickey
Jennifer B. Dickey
Gregory J. Dubinsky
Kolya D. Glick
Harry S. Graver
Tyler Green
Nick Harper
Jeffrey M. Harris
Sarah M. Harris
Kyle D. Hawkins
Erin M. Hawley
Clark L. Hildabrand
Benjamin J. Horwich
Zoe Jacoby
Alexander Kazam
Scott Keller
William R. Levi
Elbert Lin
Brinton Lucas
William T. Marks

Roman Martinez
Michael H. McGinley
Taylor Meehan
Christopher E. Mills
Kasdin M. Mitchell
David M. Morrell
Michael F. Murray
Kevin M. Neylan, Jr.
Matthew B. Nicholson
Cameron T. Norris
Morgan L. Ratner
Paul J. Ray
Aaron Z. Roper
Maureen B. Soles
Aaron Streett
Gordon D. Todd
Andrew Tutt
Jeffrey B. Wall
Ryan J. Watson
Katie Wellington
James Y. Xi



June 3, 2025

The Honorable Chuck Grassley, Chairman
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Dick Durbin, Ranking Member
Senate Committee on the Judiciary
United States Senate
Washington, DC 20510

RE: Concerns over the Nomination of Whitney D. Hermandorfer to United States Court of Appeals for the Sixth Circuit and the importance of the committee's "advice and consent" role

Dear Chairman Grassley and Ranking Member Durbin:

In advance of the first judicial nominations hearing of the 119th Congress before the Senate Judiciary Committee on June 4th, 2025, Earthjustice Action writes to urge all Senators on the committee to carefully examine each of the five nominees in tomorrow's hearing. The Senate Judiciary Committee, and the U.S. Senate are entrusted with a critical constitutional duty under Article II of the U.S. Constitution to provide "advice and consent" on the judicial nominations of the executive branch. Senators should reject any nominee that does not meet the highest standards of fairness, independence, legal expertise, and ethical behavior. To that end, and as detailed further below, we also write to express deep concerns about the nomination of Whitney D. Hermandorfer for the Sixth Circuit.

Our courts are critical to a functional democracy that honors the rule of law, and not the rule of might. All people in America, no matter who they are, where they live, or how much money they make, deserve to have their rights respected. In courthouses across our country, federal judges decide cases affecting our rights and ability to live in a thriving, multiracial democracy. That is why we need judges who recognize that the government has a responsibility to protect the environment, public health, and public lands for all people. We need judges who can tell the difference between science and politics. We need judges who know that individuals need access to courts to hold government and industry accountable. And finally, we need judges that will be a bulwark against tyranny and overreach that may manifest from the more political branches of our federal government.

Each judicial nominee should be examined on their views and legal philosophies on a century of laws that provide foundational protection for our environment and all our communities' public health in the face of ever more powerful polluting industries. Nominees must also express a commitment to hold this administration, or any future administration, accountable for any failure to enact and support the laws passed by Congress.

Turning to the nominees before the committee this week, we are deeply concerned that Whitney D. Hermandorfer, nominee for the Sixth Circuit, fails to meet the above test. Should that be further substantiated through detailed examination in tomorrow's hearing, and her subsequent written answers to senators' questions, we urge you to oppose her nomination. In her Senate Judiciary Questionnaire ("SJQ") (pg.6), Ms. Hermandorfer reveals that she is a 13-year member of the Federalist Society. Going far beyond a mere member of this radically conservative organization, she has in fact been a travelling spokesperson for it. In the last year and a half, she has been a prolific speaker at approximately a dozen conservative forums, including at least ten Federalist Society events that overlap with her time at the Tennessee state AG's solicitors' office (SJQ pgs. 9-12). Many of these events were not only out of town, but out of state, though little in her SJQ identifies what she spoke on, and nothing in her SJQ identifies whether she travelled and attended these events at public taxpayer expense or paid for by the Federalist Society. This is something the Committee should seek

clarity on for ethical purposes as she was a state employee at the time and certainly had approval and reporting requirements to her public employer, the State of Tennessee.ⁱ

What we do know is that the Federalist Society members generally hold extreme (and dim) views on the power of Congress to pass complicated statutes such as the Clean Air Act, and to delegate to expert agencies the responsibility to implement those statutes. As just one of many representative examples of Federalist Society members currently serving as federal judges, Fifth Circuit judge, Andrew Oldham, said publicly two years before being nominated to the federal bench in 2018 that, “*the entire existence... of administrative law is constitutionally suspect*” and that “the reason why the administrative state is enraging is not that we disagree with what the EPA does, it’s the illegitimacy of it.”ⁱⁱ These kinds of legal views are extremely concerning. It is critical that our federal judges uphold the nearly 100 years of administrative law precedence that protects the American public from large corporations and polluters, and Ms. Hermandorfer should be asked about her judicial philosophy along these lines.

Finally, Ms. Hermandorfer testified just last year before the House Financial Services Committee on the SEC’s “climate disclosure rule”ⁱⁱⁱ In that hearing, she asserted that the SEC lacks statutory power to promulgate climate-disclosure obligations, and that there are a “bevy of aggressive and unlawful agency mandates raining down” on the public. She should be asked to clarify her statements about the seriousness and existential nature of the human-caused climate crisis facing society, which she repeatedly seemed to ridicule, calling it “climate puffery,” “greenwashing,” and a “climate agenda.” As we expressed above, we need judges who can tell the difference between science and politics and these answers appear to fail that test.

We will continue to call for a judiciary comprised of impartial, highly qualified judges who understand the distinction between facts and politics and will uphold our environmental laws. We urge you to carefully consider the qualifications of each nominee that comes before the Committee and do not simply act as a rubber stamp for the executive branch. Our courts, and the judges that serve there, are critical to the power of our democracy to work equitably for all and to protect our air, water, and public health.

Sincerely,

Coby Dolan

Coby Dolan
Legislative Director, Access to Justice
Earthjustice
1001 G St NW Suite 1000
Washington, DC 20001

ⁱ see https://www.tn.gov/content/dam/tn/finance/documents/fa_policies/policy8.pdf

ⁱⁱ Andrew Oldham, Speaker, “Article V and a Convention of States,” Federalist Society, University of Chicago Student Chapter, Recording at 10:25 & 57:30, available at <https://www.law.uchicago.edu/recordings/andy-oldham-texas-plan-amending-constitution-and-restoring-rule-law> (May 9, 2016).

ⁱⁱⁱ Whitney Hermandorfer witness testimony - <https://www.c-span.org/program/public-affairs-event/house-financial-services-subcommittee-field-hearing-on-sec-climate-disclosure-rule/639868> (March 18, 2024).

The Leadership Conference
on Civil and Human Rights

1620 L Street, NW
Suite 1100
Washington, DC
20036
202.466.3311 voice
202.466.3435 fax
www.civilrights.org



June 3, 2025

OPPOSE THE CONFIRMATION OF WHITNEY HERMANDORFER TO THE U.S. COURT OF APPEALS FOR THE SIXTH CIRCUIT

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the rights of all persons in the United States, we write to express our strong opposition to the nomination of Whitney Hermandorfer to the U.S. Court of Appeals for the Sixth Circuit. The Leadership Conference intends to include your position on the nomination of Ms. Hermandorfer in our voting record for the 119th Congress.

Throughout her limited legal career, Ms. Hermandorfer has been involved in organizations and workplaces that are architects in the rolling back of our civil and human rights. She is an active member in the Federalist Society who has served on their Executive Committee for the Administrative Law & Regulation Practice Group.¹ This out-of-the-mainstream legal organization represents a sliver of America's legal profession, and it has played a large role in shaping the judiciary to produce results that limit the recognition and advancement of civil rights laws and protections for all people.² She is also a member of the Teneo Network, a confidential network that is open only to members in their 40s or younger.³ Leonard Leo, one of the main drivers of the Federalist Society and its attempted judicial takeover, has emboldened the Teneo Network's endeavor to "crush liberal dominance" in many areas of society, including but not limited to the legal profession.⁴ Astonishingly, he describes their mission as "fighting a battle for the heart and soul of our culture."⁵ Ms. Hermandorfer demonstrates through her work as well that she is in this battle and actively working to restrict our rights. In her role as director of strategic litigation in the Tennessee attorney general's office, she not only defends the state in certain cases, but she also leads the state's affirmative litigation strategy and selects particular cases for the state to pursue. It is disturbing that she often chooses to challenge civil rights protections, and in particular she has attacked reproductive rights, LGBTQ equality, birthright citizenship, the labor community, and more.

Reproductive Rights

Throughout Ms. Hermandorfer's legal career, she has worked to strip away crucial reproductive health care rights. For example, pregnant people who were denied medically necessary abortion care and physicians who were prohibited from offering medically indicated treatment to patients in emergencies

¹ *Questionnaire for Judicial Nominees*, U.S. Senate Committee on the Judiciary (accessed May 28, 2025).

² See Emma Green, *How the Federalist Society Won*, THE NEW YORKER (July 24, 2022); Robert O'Harrow Jr. & Shawn Boburg, *A Conservative Activist's Behind-the-Scenes Campaign to Remake the Nation's Courts*, THE WASHINGTON POST (May 21, 2019).

³ Andy Kroll and Andrea Bernstein, *Inside the "Private and Confidential" Conservative Group That Promises to "Crush Liberal Dominance"*, PROPUBLICA (March 9, 2023).

⁴ *Id.*

⁵ *Teneo Community Vision*, The Teneo Network (accessed June 2, 2025).



challenged the application of Tennessee's criminal abortion ban.⁶ The law's incredibly narrow and confusing medical exception made it difficult for doctors to provide critical life-saving care with confidence that they would not be held criminally liable.⁷ Ms. Hermandorfer minimized the pain that the pregnant people experienced and claimed that the law was clear enough, and she dismissed these as "edge cases."⁸ The court disagreed with Ms. Hermandorfer, however, stating that exceptions outlined in the ban were vague and unclear, and it issued a preliminary injunction for medically necessary abortion care.⁹

In another case, 17 states led by Tennessee and Ms. Hermandorfer sued to invalidate an Equal Employment Opportunity Commission (EEOC) rule that would have guaranteed workplace protections against discrimination and required reasonable accommodations be made for people seeking abortion care as a related medical condition under the Pregnant Workers Fairness Act.¹⁰ As with other related pregnancy conditions, people accessing abortion care should be entitled to the same accommodations, such as adjustments in their schedules for doctor appointments or recovery time.

Ms. Hermandorfer also unsuccessfully led litigation against the U.S. Department of Health and Human Services (HHS) after Tennessee's Title X funding was cut when the state failed to comply with the requirement that state-run clinics receiving Title X funds offer patients abortion counseling and referrals upon request.¹¹ Both the district court and the Sixth Circuit held that Tennessee was required to comply with the necessary requirements under Title X — including offering such services upon request — to receive funding and, if they failed to do so, they would not receive their funding.¹² Title X was created to provide sexual and reproductive health care to those who otherwise would not be able to access it, especially in low-income communities.¹³ These patients deserve to know all of their options when it comes to making the best decision about their families, and Ms. Hermandorfer's efforts to restrict access to crucial information is troubling. These cases taking aim at the health and safety of pregnant people demonstrate Ms. Hermandorfer's alarming bias against reproductive rights. Ms. Hermandorfer has not shown that she would impartially rule on cases involving reproductive health care.

LGBTQ Equality

Ms. Hermandorfer also leads efforts to weaken civil rights protections for the LGBTQ community, especially transgender and nonbinary people. She is heavily involved in the litigation strategy, even sitting second chair at the U.S. Supreme Court for oral arguments in *U.S. v. Skrmetti*, a case that will decide the legality of a Tennessee law that prohibits access to gender-affirming hormonal therapies for

⁶ Phillips, et al., v. State of Tennessee, et al. (formerly *Blackmon v. Tennessee*), 23-1196-1 (Tenn. Ch. Ct. 2024).

⁷ *Id.*

⁸ Nadine El-Bawab, [Court hears arguments to throw out Tennessee abortion lawsuit, block ban in part](#), ABC NEWS (April 4, 2024).

⁹ Phillips, et al., v. State of Tennessee, et al. (formerly *Blackmon v. Tennessee*), 23-1196-1 (Tenn. Ch. Ct. 2024).

¹⁰ *Tennessee v. Equal Emp. Opportunity Comm'n*, 737 F. Supp. 3d 685 (E.D. Ark. 2024), *rev'd and remanded*, 129 F.4th 452 (8th Cir. 2025).

¹¹ *Tennessee v. Becerra*, 131 F.4th 350 (6th Cir. 2025).

¹² *Id.*

¹³ [Title X: The Nation's Program for Affordable Birth Control and Reproductive Health Care](#), Planned Parenthood Action Fund (accessed June 2, 2025).



transgender youth.¹⁴ This discriminatory law threatens people's well-being and prohibits families and doctors from making important medical decisions about their bodies free from political interference.

In other cases, Ms. Hermandorfer attempts to dismantle gender identity protections. For example, she challenged an HHS rule that would require the Affordable Care Act's (ACA) prohibition on sex discrimination to include discrimination based on gender identity.¹⁵ This rule protects transgender and nonbinary patients from health care discrimination, a right that should be afforded to all of us. Rather than protecting vulnerable populations in her state, Ms. Hermandorfer spread disinformation, calling this medically necessary care "unproven" in briefs submitted to the court, which ignores the prevailing opinion of the medical community.¹⁶ Every major medical association and health authority worldwide supports gender-affirming care, going so far as to call it life-saving.¹⁷ Instead of deferring to medical experts, Ms. Hermandorfer worked to make health care less safe for transgender and nonbinary people.

In a similar case, she challenged 2024 Title IX guidance issued by the U.S. Department of Education that included gender identity discrimination as a form of sex discrimination.¹⁸ She erroneously claimed that extending Title IX protections would make women's sports less safe, an unproven claim frequently used to villainize transgender youth.¹⁹ With attacks on LGBTQ rights steadily on the rise, our courts must be staffed with fair arbiters who will protect the rights of all people, and Ms. Hermandorfer's anti-LGBTQ record demonstrates she would be biased.

Birthright Citizenship

Ms. Hermandorfer wrote amicus briefs in several cases after the Trump administration issued a patently unconstitutional executive order attempting to end birthright citizenship and to strip citizenship away from millions of Americans.²⁰ This includes *Trump v. CASA*, a case that made its way to the Supreme Court after lower courts issued preliminary injunctions blocking the executive order from implementation.²¹ Since the 14th Amendment's ratification, courts have continually upheld the meaning of the Citizenship Clause to guarantee citizenship to anyone born in the United States with only extremely limited, minor exceptions.²² Indeed, this is a right rooted in the Reconstruction Amendments' purpose, which intends to recognize and protect the full personhood and civil rights of Black Americans and other

¹⁴ *United States v. Skrametti*, 144 S. Ct. 2679, 219 L. Ed. 2d 1297 (2024).

¹⁵ *Tennessee v. Kennedy*, 24-60462 (5th Cir. 2025).

¹⁶ [Brief for Petitioners at 2](#), *Tennessee v. Kennedy*, 24-60462 (5th Cir. 2025).

¹⁷ [Medical Association Statements in Support of Health Care for Transgender People and Youth](#), GLAAD (June 26, 2024).

¹⁸ *Tennessee v. Cardona*, No. 24-5588, 2024 WL 3453880 (6th Cir. July 17, 2024).

¹⁹ [Brief for Petitioner at 11](#), *Tennessee v. Cardona*, No. 24-5588, 2024 WL 3453880 (6th Cir. July 17, 2024).

²⁰ See [Brief of the State of Tennessee as Amicus Curiae Supporting Defendants](#), *Doe v. Trump*, 766 F. Supp. 3d 266 (D. Mass. 2025); [Brief of the State of Tennessee as Amicus Curiae Supporting Applicants](#), *New Jersey v. Trump*, 131 F.4th 27 (1st Cir. 2025); [Brief of the State of Tennessee as Amicus Curiae Supporting Applicants](#), *Trump v. CASA, Inc.*, No. 24A884, 2025 WL 1132004 (U.S. Apr. 17, 2025).

²¹ [Brief of the State of Tennessee as Amicus Curiae Supporting Applicants](#), *Trump v. CASA, Inc.*, No. 24A884, 2025 WL 1132004 (U.S. Apr. 17, 2025).

²² Statement of The Leadership Conference on Civil and Human Rights to the House Committee on the Judiciary, [Subject To The Jurisdiction Thereof: Birthright Citizenship And The Fourteenth Amendment](#) (February 25, 2025).



historically excluded communities.²³ The Supreme Court has even ruled that the right is so absolute that Congress could not limit its meaning by statute.²⁴ Ms. Hermandorfer's continued efforts to support a reading of the Citizenship Clause in a way that no court has ever interpreted it shows an astounding lack of legal judgement. Further, it demonstrates a loyalty to the current administration that is pursuing such appalling policies. This is a case that could have far-reaching implications for millions of citizens, particularly Black and Brown citizens, as well as for the ways in which courts can issue preliminary injunctions.

Labor and Employment

Even before she was an attorney, Ms. Hermandorfer was undermining union and labor protections. As a researcher for the conservative think tank American Enterprise Institute, she frequently wrote about supporting the corporatization of public education and busting teachers unions as a way for principals and superintendents to make "necessary" changes.²⁵ She calls union contracts "prescriptive" and claims that they hinder school officials from hiring talented staff.²⁶ Her advice to these school officials is that with "enough persistence, knowledge, or ingenuity" these "smart leaders can frequently find ways to bust them."²⁷ Teachers unions work to guard the workplace protections of our country's educators, a population that is dwindling as the teacher shortage in the United States grows ever higher.²⁸ Disparaging teachers and the crucial work they do, as well as the unions that support them, is unacceptable.

Ms. Hermandorfer has submitted amicus briefs in many cases that undermine fair labor practices and the right of workers to unionize. She submitted a brief on behalf of Tennessee to the U.S. Supreme Court in *Starbucks Corp. v. McKinney*, a case brought in 2024 after several employees at Starbucks were fired after attempting to unionize.²⁹ This is one of many briefs in which she broadly attacks administrative law and agency deference, arguing that National Labor Relations Board (NLRB) members should not be protected from executive oversight and lamenting that the president can only remove board members for "for neglect of duty or malfeasance in office, but for no other cause — including policy disagreements with the Board's approach."³⁰ The NLRB was created as an independent agency to enforce labor rights without the interference of partisan politics, yet if Ms. Hermandorfer's arguments stand, the president would be able to remove any board member with whom they disagree.³¹ Already, the president has fired one NLRB member, Gwynne Wilcox,³² in addition to firing board member Cathy Harris with the Merit Systems Protection Board (MSPB), an agency that studies the federal merit system and reviews the actions taken by the Office of Personnel Management (OPM) to protect the rights of federal employees.³³

²³ [Brief](#) of National Association for the Advancement of Colored People et al as Amici Curiae Supporting Appellees, *Washington v. Trump*, 764 F. Supp. 3d 1050 (W.D. Wash. 2025).

²⁴ *United States v. Wong Kim Ark*, 169 U.S. 649, 18 S. Ct. 456, 42 L. Ed. 890 (1898).

²⁵ Whitney Downs and Frederick Hess, [Combating the "Culture of Can't."](#) EDUCATION NEXT (January 23, 2025).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Scott White, [Teacher Funding Cut As National Shortage Reaches Breaking Point](#), FORBES (March 7, 2025).

²⁹ [Brief](#) For the State of Tennessee and Twenty Other States as Amici Curiae Supporting Petitioner, *Starbucks Corp. v. McKinney*, U.S. No. 23-367, 602 U.S. 339 (2024).

³⁰ *Id.*

³¹ [Why the attacks on the NLRB attack should alarm you](#), AFSCME (April 15, 2025).

³² Emily Peck, [Former NLRB board member sues Trump over firing](#), AXIOS (February 5, 2025).

³³ [About MSPB](#), U.S. Merit Systems Protection Board (accessed May 29, 2025).



This left the NLRB and the MSPB unable to meet quorum requirements needed to continue their work.³⁴ Ms. Hermandorfer filed amicus briefs in both of these cases,³⁵ arguing that the president should be able to fire board members for differences in policy opinions, in direct defiance of a longstanding Supreme Court precedent set in *Humphrey's Executor*.³⁶ Ms. Hermandorfer's extreme legal arguments are in direct contrast to the current precedent and demonstrate the lengths to which she is willing to go to not only defy longstanding precedent but to advance the president's regressive agenda.

Expanding Executive Power

Ms. Hermandorfer's belief that the president should be able to fire anyone he chooses without oversight is not specific to the boards. She also filed an amicus brief on behalf of Tennessee in *Storch v. Hegseth*, a U.S. Supreme Court case that was filed after President Trump fired more than a dozen inspectors general at various independent government agencies.³⁷ These firings are extremely concerning, as the inspectors general offices exist independently within an agency to root out fraud and corruption by investigating suspected ethics or conflict violations.³⁸ Ms. Hermandorfer applauds this effort in her brief, stating that Tennessee has an interest in "pushing against positions that further enable a 'headless fourth branch of government.'"³⁹ Oversight investigations are one way to hold our government accountable, and this is especially critical at a time when we have an administration that favors unwavering loyalty to the president and not to the American people. Ms. Hermandorfer's constant attacks on administrative and agency power shows that she has already chosen a side in these cases.

Environmental Protections

Ms. Hermandorfer also supported efforts to roll back important environmental protections, particularly those that protect clean air. In a House Financial Services Committee hearing, Ms. Hermandorfer called the U.S. Securities and Exchange Commission's (SEC) climate disclosure rule — which required companies to disclose their climate risk and greenhouse gas emissions — "climate puffery" and said that the "greenwashing" was misguided.⁴⁰ Ms. Hermandorfer ignored the prevailing opinion of the scientific experts, choosing instead to make this a screed against the SEC rather than about limiting the amount of hazardous emissions that are in the air we breathe.⁴¹

³⁴ Emily Peck, [Former NLRB board member sues Trump over firing](#), AXIOS (February 5, 2025); Jacob Knutson, [Supreme Court Halts Court Order Reinstating Federal Board Members Fired By Trump](#), DEMOCRACY DOCKET (April 9, 2015).

³⁵ [Brief of Tennessee as Amicus Curiae State Supporting Defendants, Wilcox v. Trump](#), 1:25-cv-00334 (D.D.C. 2025); [Brief of Tennessee as Amicus Curiae Supporting Defendants, Harris v. Bessent](#), 1:25-cv-00412 (D.D.C. 2025).

³⁶ *Humphrey's Executor v. United States*, 295 US 602 (1935).

³⁷ [Brief of Tennessee as Amicus Curiae Supporting Defendants, Storch v. Hegseth](#), 1:25-cv-00415 (D.D.C. February 24, 2025).

³⁸ Danielle Caputo, [The Significance of Firing Inspectors General: Explained](#), Campaign Legal Center (January 31, 2025).

³⁹ *Supra* note 37, at 5.

⁴⁰ Testimony of Whitney Hermandorfer to U.S. House Financial Services Committee, [SEC Overreach and States' Role in Safeguarding the Separation of Powers](#) (March 18, 2024).

⁴¹ See e.g., Center for Global Sustainability, [Leading U.S. Energy Modeling Teams Find that EPA Power Plant Rules Could Reduce Emissions, Speed Up Coal Plant Retirements](#), University of Maryland (January 9, 2025); Elliot Negin, [Ask a Scientist: Gas Power Plants Disproportionately Harm Marginalized Communities](#), Union of

June 3, 2025
Page 6 of 6



Further, she unsuccessfully challenged an Environmental Protection Agency (EPA) rule that sought to limit an excess of greenhouse gas emissions produced by fossil fuel plants⁴² and a similar EPA rule that sought to cut down on hazardous air emissions from coal-fired power plants.⁴³ While the U.S. Supreme Court allowed both of these rules to take effect,⁴⁴ Ms. Hermandorfer again used her position to voice disdain for administrative agencies and environmental protections. These repeated efforts show that she has an agenda and therefore would not be able to administer unbiased equal justice.

Conclusion

At a time when so many of our fundamental civil rights are under attack, we need to trust that our judges will impartially and fairly rule on cases without bias or animus. Unfortunately, a careful review of Ms. Hermandorfer's record shows a demonstrated hostility towards our civil and human rights that is disqualifying for a judicial nominee. We strongly urge the Senate to oppose her nomination to the Sixth Circuit. If you would like to discuss this matter further, please contact Lena Zwarensteyn, senior director of the fair courts program and advisor, at (202) 466-3311. Thank you for your consideration.

Sincerely,

Maya Wiley
President & CEO

Jesselyn McCurdy
Executive Vice President of Government Affairs

Concerned Scientists (February 9, 2024); Mary Marshall, [The insidious impact of coal power plant pollution on kids' performance in schools](#), YALE ENVIRONMENT REVIEW (July 26, 2023).

⁴² *West Virginia v. EPA*, U.S. No. 24A95 (October 2024).

⁴³ *North Dakota v. EPA*, U.S. No. 24A180 (October 2024).

⁴⁴ Amy Howe, [Supreme Court declines to block EPA methane, mercury rules](#), SCOTUSBLOG (October 4, 2024).



1350 I STREET NW
SUITE 700
WASHINGTON, DC 20005
202-588-5180
NWLC.ORG

June 3, 2025

VIA EMAIL

The Honorable Chuck Grassley
Chair
U.S. Senate Committee on the Judiciary
135 Hart Senate Office Building
Washington, DC 20510

The Honorable Dick Durbin
Ranking Member
U.S. Senate Committee on the Judiciary
711 Hart Senate Office Building
Washington, DC 20510

Re: Nomination of Whitney Hermandorfer for the U.S. Court of Appeals for the Sixth Circuit

Dear Senators Grassley and Durbin:

On behalf of the National Women's Law Center (the "Law Center"), an organization that has advocated on behalf of women and girls for over fifty years, we write in strong opposition to the nomination of Ms. Whitney Hermandorfer to the U.S. Court of Appeals for the Sixth Circuit.

Ms. Hermandorfer has been nominated for a circuit court judgeship, a high-level role with appellate authority to review district court decisions, for which the American Bar Association (ABA) generally recommends at least twelve years of experience in the practice of law, with most nominees having considerably more.¹ Ms. Hermandorfer does not meet this basic level of experience. Similarly, the ABA stresses that appellate court nominees "should possess an especially high degree of legal scholarship,"² and yet Ms. Hermandorfer has virtually none.

Ms. Hermandorfer's legal record also demonstrates her narrow view of agencies' ability to regulate for the benefit of the public and her aggressive litigation to seek to restrict the rights of women and trans people. On behalf of Tennessee, Ms. Hermandorfer led several multi-state challenges to federal regulations implementing and interpreting laws that protect access to abortion and trans rights. In her words, her practice at the Tennessee Attorney General's Office "center[ed] around pushing back on the bevy of aggressive and unlawful agency mandates raining down from unelected officials in Washington," reflecting her antagonism not only to

¹ Standing Committee on the Federal Judiciary: What It Is and How It Works, American Bar Association (2017), https://www.americanbar.org/content/dam/aba/administrative/federal_judiciary/2024-background.pdf.

² *Id.*

these legal rights, but to agency expertise and enforcement.³ She also defended Tennessee's near total abortion ban and multiple state laws banning necessary health care for trans youth. In her legal arguments in these cases, she asserted fringe legal theories about agency power, sex discrimination, and birthright citizenship and demonstrated a gross disregard for the lives of women who were denied medically necessary abortion care. Ms. Hermandorfer's legal record on the issues paramount to women, girls, and LGBTQ people calls into question whether she will be a fair and impartial judge and uphold the rights of *all people* if confirmed.

Ms. Hermandorfer has aggressively contested federal efforts to protect reproductive rights and ensure patients are free from discrimination.

As the Director of Strategic Litigation at the Tennessee Attorney General's Office, Ms. Hermandorfer was instrumental in challenging federal agency rules on abortion access, often attempting to raise extreme legal arguments running directly counter to established precedent. After its near total abortion law went into effect, Tennessee refused to abide by the U.S. Department of Health and Human Services (HHS) Title X rule requiring grant recipients of federal family planning funding to provide "nondirective counseling and refer their patients for all services desired by the client, including abortion services."⁴ Tennessee was subsequently denied Title X funding, and Ms. Hermandorfer, representing the state, sued HHS arguing that the rule denying funding exceeded statutory authority.⁵ Neither the district nor circuit court found Ms. Hermandorfer's narrow view of agency power persuasive, particularly when the state had voluntarily and knowingly agreed to the longstanding grant restrictions as a condition of receiving Title X funding. Further, she argued that because the *Chevron* doctrine requiring deference to agency interpretations of law had been overturned,⁶ precedent supporting HHS's rules should be disregarded, a conclusion that the *Loper Bright* decision overturning *Chevron* itself rejected.⁷ As the Sixth Circuit made clear, Tennessee could have simply foregone the relevant federal grant funding if its state laws conflicted with federal requirements,⁸ but instead, represented by Ms. Hermandorfer, the state attempted to use this litigation to manufacture

³ U.S. House Financial Services Committee, "SEC Overreach and the States Role in the Separation of Power; Testimony Provided by Whitney Hermandorfer," March 18, 2024, <https://www.congress.gov/118/meeting/house/116965/witnesses/HHRG-118-BA09-Wstate-HermandorferW-20240318.pdf>.

⁴ Department of Health and Human Services, Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services, 86 Fed. Reg. 45144 (Oct. 7, 2021), RIN 09370AA11, <https://www.federalregister.gov/documents/2021/10/07/2021-21542/ensuring-access-to-equitable-affordable-client-centered-quality-family-planning-services>.

⁵ *State of Tennessee v. Becerra*, No. 3:23-cv-384 (E.D. Tenn. 2024), <https://law.justia.com/cases/federal/district-courts/tennessee/tnedce/3:2023cv00384/111658/30/>; *aff'd* *State of Tennessee v. Becerra*, No. 24-5220 (6th Cir. 2024), <https://www.opn.ca6.uscourts.gov/opinions.pdf/24a0199p-06.pdf>.

⁶ *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024).

⁷ *Id.* at 2273.

⁸ The average grant under Title X is \$3 million.

precedent to allow states to accept federal funding while ignoring the law conditioning receipt of that funding on states taking steps to enable health care access for patients.

In a similar case, *State of Tennessee et al. v. EEOC*, Ms. Hermandorfer led a multi-state lawsuit challenging a rule implementing the Pregnant Workers Fairness Act of 2022 that required employers to make accommodations for individuals with limitations in their ability to work related to abortion.⁹ The rule was consistent with the legislative history of the Pregnant Workers Fairness Act and with longstanding precedent finding that the Pregnancy Discrimination Act protects workers seeking abortion from discrimination. Here again, the district court rejected Ms. Hermandorfer's stilted and narrow interpretation of agency rulemaking power despite a clear grant of statutory authority.¹⁰

In addition to challenging agency rules on abortion access, Ms. Hermandorfer has vigorously opposed federal nondiscrimination protections for trans people. For example, in *State of Tennessee v. Cardona*, she led multi-state litigation against the Department of Education to challenge a rule that, among many other provisions, clarified Title IX protections pertaining to gender identity in federally funded education settings,¹¹ consistent with Supreme Court precedent finding that discrimination against trans people is a form of sex discrimination.¹² She successfully sought a nationwide preliminary injunction of not only the provisions of the rule protecting trans students, but of a wide array of unrelated requirements providing critical protections for all women and girls, such as strengthened protections against sexual assault and other forms of sex harassment in schools, requirements of lactation spaces for breastfeeding students, pregnancy accommodation requirements for students, and protections against discrimination on the basis of sexual orientation.¹³

In a separate case, Ms. Hermandorfer led a multi-state challenge against an HHS rule that clarified the Affordable Care Act's health care nondiscrimination protections for trans people,¹⁴ as part of a wave of politically motivated attacks on health care access for trans youth.¹⁵

These relentless, ideologically motivated efforts to undermine the federal government's ability to implement and enforce nondiscrimination protections and protect abortion access casts

⁹ *State of Tennessee v. EEOC*, No. 2:24-cv-00084 (E.D. Ark. 2024), <https://law.justia.com/cases/federal/district-courts/arkansas/aredece/2:2024cv00084/143160/63/>; but see *State of Tennessee v. EEOC*, No. 24-2249 (8th Cir. 2025) (rev'd on other grounds), <https://ecf.ca8.uscourts.gov/opndir/25/02/242249P.pdf>.

¹⁰ *Id.*; but see *State of Louisiana v. EEOC*, 2:24-cv-00629 (W.D. La. 2025).

¹¹ *State of Tennessee et al v. Cardona*, No. 2:24-cv-00072 – Memorandum Opinion and Order (E.D. Ky. Jun. 17, 2024), <https://clearinghouse.net/doc/151661/>.

¹² *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020).

¹³ *State of Tennessee et al v. Cardona*, No. 2:24-cv-00072 – Memorandum Opinion and Order (E.D. Ky. Jul. 10, 2024), <https://clearinghouse.net/doc/151666/>.

¹⁴ *State of Tennessee v. Becerra*, 1:24-cv-00161 (S.D. Miss. 2024),

<https://clearinghouse.net/case/45688/#:~:text=Case%20Summary,effect%20on%20July%205%2C%202022>.

¹⁵ Koko Nakajima and Connie Hanzhang Jin, "Bills targeting trans youth are growing more common –and radically reshaping lives," NPR (Nov. 28, 2022), <https://www.npr.org/2022/11/28/1138396067/transgender-youth-bills-trans-sports>.

significant doubt on whether Ms. Hermandorfer can be a fair and impartial jurist regarding rights and protections that are critical to women, girls, and LGBTQ people.

Ms. Hermandorfer dismissed women with life-threatening medical conditions who were denied medically necessary abortion care as mere “edge cases.”

While defending Tennessee’s near-total abortion ban in court, Ms. Hermandorfer demonstrated blatant disregard for the lives of pregnant women who were faced with severe and life-threatening medical conditions. The Center for Reproductive Rights (CRR) brought *Phillips v. Tennessee* (formerly *Blackmon v. Tennessee*) on behalf of women who faced severe and dangerous pregnancy complications because Tennessee’s abortion ban failed to provide adequate medical exceptions to protect the health and lives of pregnant people.¹⁶ Ms. Hermandorfer defended Tennessee’s abortion ban, arguing that these women – who faced severe health risks from pregnancy as a result of their medical conditions – were merely “edge cases” and not an indication of a problem with Tennessee’s ban.

Ms. Hermandorfer argued that, because the U.S. Supreme Court allowed states to permissively ban most abortions, it implicitly gave state legislators authority to draw lines regarding “abortions that are not sufficiently justified by maternal health risks to warrant terminating [a pregnancy],” and that such lines should be allowable even if some “hypothesize[d] edge cases” (i.e., the women suing) would suffer.¹⁷ In other words, she argued that the state must have the authority to sacrifice the health and potentially the lives of these pregnant women in order to achieve its extreme anti-abortion agenda.

Were Ms. Hermandorfer a circuit court judge, women and girls would depend on her to recognize their humanity and provide them equal justice. However, her record shows that she is more than willing to countenance the needless suffering of pregnant people to pursue her political agenda.

Ms. Hermandorfer defended laws banning necessary health care for trans youth.

On behalf of Tennessee, Ms. Hermandorfer worked to undermine the ability of trans youth to access necessary health care by defending state laws banning gender-affirming care. For example, in *United States v. Skrametti*, she helped to defend Tennessee’s trans youth health care ban by arguing that the law does not discriminate on the basis of sex, but instead that it prohibits certain practices (gender-affirming care) for both sexes on the basis of age.¹⁸ However, this argument that discriminatory treatment is permissible if it is applied to both sexes disregards precedent, and, if adopted, it would undermine core protections against sex discrimination, particularly when based on sex stereotypes. For example, a law requiring “all employees to

¹⁶ *Blackmon v. Tennessee*, No. 23-11-96-I (Tenn. Ch. Ct., Davidson Cnty. Apr. 4, 2024).

¹⁷ *Blackmon v. Tennessee*, Transcript of Proceedings (Apr. 4, 2024) at 46-47.

¹⁸ *Brief for Respondents, United States v. Skrametti*, No. 23-477 (U.S. Oct. 8, 2024), <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-477.html>.

conform with the traditional roles for their sexes,” treats each sex equally on its face, but it certainly classifies – and imposes stereotypes – based on sex.¹⁹ Ms. Hermandorfer also worked to defend other states’ trans youth health care bans, for example filing an amicus brief in support of Oklahoma in *Peter Poe v. Genter Drummond*.²⁰ Seeking to discredit leading medical organizations such as the American Academy of Pediatrics and the American Medical Association, who have shown support for gender affirming care for youth experiencing gender dysphoria,²¹ the amicus equated gender affirming care to “eugenics, lobotomies, and opioids.”²²

Conclusion

Ms. Hermandorfer has little legal experience and a history of advancing extreme, ideologically driven legal positions motivated by her politics.²³ She has shown a willingness to apply double standards based on how laws align with her ideological biases.²⁴ Her record of attacking the rights of pregnant and trans people call into question her ability to make fair, impartial, and unbiased judgements.

Moreover, Ms. Hermandorfer has shown a disturbing tendency to place political outcomes above the lives and well-being of others. From her trivialization of the pregnant women with severe medical conditions seeking abortion care in Tennessee, to her dismissal of the medical judgement of every major medical association regarding the benefits of appropriate treatment for trans youth, Ms. Hermandorfer has disregarded factors like risk of harm and medical expertise when they stand in the way of her preferred legal outcome.

¹⁹ See *Brief Amici Curiae of Legal Scholars and the National Women's Law Center in Support of Petitioner, United States v. Skrmetti*, No. 23-477 (U.S. Aug. 30, 2024), <https://nwlc.org/resource/nwlc-files-supreme-court-amicus-brief-supporting-trans-youth-peoples-access-to-care/>.

²⁰ Brief of Alabama, Arkansas, Missouri, Tennessee, and 19 Other States as Amici Curiae Supporting Appellees and Affirmance, *Peter Poe v. Genter Drummond*, No. 23-5110, (10th Cir. 2023), <https://clearinghouse.net/doc/146354/>.

²¹ American Academy of Pediatrics, “Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents; This Policy Statement was reaffirmed August 2023,” October 01, 2018, <https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for-Transgender-and-Gender-Diverse-Children-and-Adolescents>; James L. Madera, “National Governors Association Letter,” American Medical Association, April 26, 2021, <https://searchlf.ama-assn.org/letter/documentDownload?uri=%2Fstructured%2Fbinary%2Fletter%2FLETTERS%2F2021-4-26-Bill-McBride-opposing-anti-trans-bills-Final.pdf>.

²² Brief of Alabama, Arkansas, Missouri, Tennessee, and 19 Other States as Amici Curiae Supporting Appellees and Affirmance, *Peter Poe v. Genter Drummond*, at 10.

²³ See, e.g., *Amicus Brief of the State of Tennessee in Support of Applicants, Trump v. Casa, Inc., et al.*, Nos. 24A884, 24A885, 24A886 (U.S. 2025),

<https://www.tn.gov/content/dam/tn/attorneygeneral/documents/pr/2025/2025-3-amicus.pdf> (challenging birthright citizenship despite its long history and constitutional underpinnings).

²⁴ Compare application of legal vagueness in *State of Tennessee v. Cardona*, 2:24-cv-00072- DCR (E.D. Ky. Jun. 17, 2024), where the plaintiffs argued that “gender identity” and “severe or pervasive” in terms of harassment are vague despite their well-established legal meanings, and *Blackmon v. Tennessee*, No. 23-11-96-I, Transcript of Proceedings at 46-47 (Tenn. Ch. Ct., Davidson Cnty. Apr. 4, 2024), where the state’s medical exception was so unclear that it already resulted in some patients with severe conditions being denied abortion care.

As a Sixth Circuit judge, Ms. Hermandorfer will certainly be called upon in some context to assess challenges to the Trump administration's expansive and aggressive agency actions, where her record suggests she will once again shape the relevant legal standard to reach her preferred conclusion. While Ms. Hermandorfer has portrayed herself as an opponent of executive overreach in challenging federal rules protecting trans people and pregnant people, her support for the current administration's unconstitutional efforts to end birthright citizenship do not inspire confidence that she will apply her narrow view of executive power equally to the Trump administration.

For these reasons, National Women's Law Center strongly opposes the confirmation of Ms. Whitney Hermandorfer to the U.S. Court of Appeals for the Sixth Circuit and urges the U.S. Senate Committee on the Judiciary to reject her nomination. If you have questions about the Law Center's opposition to Ms. Hermandorfer's nomination, please contact me, or Alison Gill, Director of Nominations & Democracy, at agill@nwlc.org.

Sincerely,

A handwritten signature in blue ink that reads "Fatima Goss Graves". The signature is fluid and cursive, with the first name "Fatima" being the most prominent.

Fatima Goss Graves
President and CEO

Cc: Senate Judiciary Committee

June 2, 2025

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

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

Dear Chairman Grassley and Ranking Member Durbin,

We, the undersigned administrative-law practitioners, write to express our strong support for the confirmation of Whitney Hermandorfer to serve as a Judge on the United States Court of Appeals for the Sixth Circuit.

In addition to her stellar credentials, temperament, and judgment, Ms. Hermandorfer's extensive experience in the realm of administrative law will suit her well for the position of federal appellate judge.

Even when litigated in district court, cases involving challenges to agency actions and regulations turn almost exclusively on the interpretation of legal texts (*e.g.*, relevant statutes and regulations) and a limited administrative record reviewed deferentially. Trials and evidentiary hearings are extraordinarily rare. That mimics the task of an appellate judge: determine difficult questions of law *de novo* and deferentially review a limited, pre-existing record.

Courts have long recognized that administrative-law cases are, at heart, appellate in nature. "[W]hen a party seeks review of agency action under the [Administrative Procedure Act], the district judge sits as an appellate tribunal. The 'entire case' on review is a question of law." *Am. Bioscience, Inc. v. Thompson*, 269 F.3d 1077, 1083 (D.C. Cir. 2001).

Ms. Hermandorfer has deep experience in this field, working on cutting-edge issues of administrative law that involve not just technical and complex statutes but also novel uses of agency authority. Taking just a few examples from her years of work: she led teams that secured injunctions against a Department of Education rule that was inconsistent with Title IX and against a Department of Health and Human Services rule that was contrary to the Affordable Care Act. She has also spearheaded

litigation challenging the Department of Health and Human Services' discontinuation of grants to Tennessee under Title X.

These sorts of cases provide an excellent background for a federal appellate judge, and expertise in this area is especially pertinent because executive agencies now “wield[] vast power and touch[] almost every aspect of daily life.” *Free Enter. Fund v. Pub. Co. Acct. Oversight Bd.*, 561 U.S. 477, 499 (2010). The Supreme Court’s docket in recent years reveals numerous matters of intense public interest that arose through administrative-law challenges, ranging from mass loan forgiveness in *Biden v. Nebraska*, to OSHA’s vaccine mandate in *NFIB v. Department of Labor*.

If confirmed, Ms. Hermandorfer will bring her valuable administrative-law experience to the Sixth Circuit, where she will be a thought leader for years to come. We respectfully urge the Senate Judiciary Committee and the full Senate to move expeditiously to process and confirm her nomination.

Sincerely,

R. Trent McCotter

Eileen J. O'Connor

William R. Levi

John V. Coghlan

Jeffrey S. Beelaert

Daniel Z. Epstein

Aram Gavoor

Douglas Rathbun

James Burnham

Donald L. Crowell III

Gregory Dolin, M.D.

Atticus DeProspo



The Honorable Chuck Grassley, Chairman
 The Honorable Dick Durbin, Ranking Member
 Senate Committee on the Judiciary
 224 Dirksen Senate Office Building
 Washington, DC 20510

RE: Letter of Recommendation for Whitney Hermandorfer, Nominee to the United States Court of Appeals for the Sixth Circuit

Dear Chairman Grassley, Ranking Member Durbin, and Distinguished Members of the Committee:

I am writing to offer my strong and unequivocal support for the confirmation of **Whitney Hermandorfer** to the United States Court of Appeals for the **Sixth Circuit**. I have had the privilege of working with Ms. Hermandorfer and have consistently been impressed by her intellectual rigor, deep respect for the law, and exemplary professional judgment.

Ms. Hermandorfer brings to the bench a formidable combination of appellate experience, analytical precision, and judicial temperament. During her time at Williams & Connolly LLP, she represented clients in high-stakes and complex litigation, including her work representing the American Home Furnishings Alliance in a significant challenge against the Consumer Product Safety Commission before the U.S. Court of Appeals for the Fifth Circuit. That case demonstrated her ability to handle complex regulatory issues with sophistication and skill, and to advocate persuasively at the highest levels of the federal judiciary.

What distinguishes Ms. Hermandorfer is not only her legal acumen but also her humility, empathy, and commitment to justice. She approaches every legal issue with an open mind, a deep respect for precedent, and an appreciation for the real-world impact of appellate decisions. Her work ethic is unparalleled, and her demeanor—calm, respectful, and principled—will serve her and the Sixth Circuit well.

At a time when public trust in our judiciary is of utmost importance, Whitney Hermandorfer's nomination offers the opportunity to confirm a jurist of rare caliber who will strengthen the integrity of the federal bench. I urge the Committee to give her nomination your fullest consideration and to advance her confirmation without reservation.

Please do not hesitate to contact me should you require further information or insight into Ms. Hermandorfer's qualifications and character. I am confident that her service on the Sixth Circuit will reflect the highest ideals of our judiciary.

Respectfully,

Andy S. Counts
 Chief Executive Officer

OFFICE: 1912 Eastchester Drive, Suite 100 • High Point, North Carolina 27265 • Phone: 336.884.5000 • Fax: 336.884.5303
 MAILING ADDRESS: Post Office Box HP-7 • High Point, North Carolina 27261

LAW OFFICES
WILLIAMS & CONNOLLY^{LLP}
 680 MAINE AVENUE SW
 WASHINGTON, DC 20024
 (202) 434-5000
 WWW.WC.COM

May 23, 2025

The Honorable Charles E. Grassley
 Chairman
 Committee on the Judiciary
 U.S. Senate
 135 Hart Senate Building
 Washington, DC 20510

The Honorable Richard J. Durbin
 Ranking Member
 Committee on the Judiciary
 U.S. Senate
 711 Hart Senate Building
 Washington, DC 20510

Dear Chairman Grassley and Ranking Member Durbin:

We write to express our enthusiastic support for Whitney Hermendorfer, who has been nominated to serve as a judge on the United States Court of Appeals for the Sixth Circuit.

We are partners at Williams & Connolly LLP. We were privileged to call Whitney our colleague before she chose to return to her home state of Tennessee to live near family and pursue public service. Most of us have also served as law clerks at different levels of the federal judiciary and many of us have appeared before the Sixth Circuit and district courts within the Circuit. To put it mildly, we have a diverse range of political viewpoints. Yet we are in unanimous agreement on one thing: Whitney will be a superb member of the federal judiciary.

Whitney was a cherished member of the firm, with experience and judgment well beyond her years. All who worked with Whitney found her to be brilliant, hard-working, and exceptionally collegial. Whitney modeled what it means to represent clients zealously and ethically. Whitney was also a great listener who not only respected diverse views, but constantly sought them out. And Whitney extended unflagging respect and courtesy to all of her colleagues and adversaries—regardless of their beliefs.

At Williams & Connolly, we pride ourselves on giving attorneys significant practice opportunities from the start, and Whitney was no exception. Whitney's practice at the firm focused on appellate litigation, and she served a critical role in building our Supreme Court and appellate practice into one of the nation's finest. She was trusted by clients and colleagues alike to spearhead briefing in numerous complex matters involving wide-ranging issues. Few lawyers of Whitney's generation have the appellate experience that Whitney does.

Whitney also demonstrated a deep commitment to pro bono work, in the finest traditions of the profession and of the firm. Of particular note, she was appointed by the U.S. Court of Appeals for the Third Circuit to argue on behalf of an indigent person challenging an unlawful administrative agency action. She persuaded the court of appeals to unanimously vacate the

agency's decision. The panel expressly acknowledged its gratitude to Whitney and her co-counsel and "commend[ed] the quality of their briefing and argument."¹

Although Whitney left the firm almost two years ago, from junior associates to senior partners, the impression she left behind is indelible. Whitney served as a tremendous leader to our younger lawyers: Associates of all political stripes who worked under Whitney continue to rave about her mentorship, kindness, and selflessness, and continue to go to her for career and life advice. And Lisa Blatt, the leader of our Supreme Court and appellate practice and a former Ruth Bader Ginsburg clerk, describes Whitney as a "once-in-a-lifetime combination of legal talent, kindness, and positivity."

We are proud to count Whitney as an alumna of our firm. She is exceptionally qualified, and we strongly and unanimously support her confirmation to the U.S. Court of Appeals for the Sixth Circuit.

Yours sincerely,

Stephen D. Andrews
William P. Ashworth
Robert B. Barnett
Edward C. Barnidge
Edward J. Bennett
David I. Berl
David S. Blatt
Lisa S. Blatt
Paul E. Boehm
George A. Borden
F. Greg Bowman
Kenneth J. Brown
William T. Burke
Dane H. Butswinkas
Steven M. Cady
Robert M. Cary
Richard S. Cleary, Jr.
Melissa B. Collins
Holly M. Conley
Colette T. Connor
Charles Davant IV
Steven M. Farina
Stanley E. Fisher
Thomas S. Fletcher
Stephen J. Fuzesi
Paul B. Gaffney
Nicholas G. Gamse
Grant A. Geyerman

Benjamin W. Graham
Benjamin M. Greenblum
Dov P. Grossman
Adam D. Harber
Benjamin N. Hazelwood
Thomas G. Hentoff
Kevin Hoagland-Hanson
Kevin M. Hodges
Kathryn Hoover
Heidi K. Hubbard
Margaret A. Keeley
Sarah F. Kirkpatrick
David M. Krinsky
David S. Kurtzer-Ellenbogen
Jonathan M. Landy
Simon A. Latcovich
Amanda M. MacDonald
Gloria K. Maier
Enu Mainigi
Christopher J. Mandernach
Christopher N. Manning
Aaron P. Maurer
C. Luke McCloud
John M. McNichols
Carl R. Metz
Liam J. Montgomery
Richmond T. Moore
Matthew B. Nicholson

¹ *Ocee v. Attorney General*, No. 20-2423, 2022 WL 3334532, at *1 n.2 (3d Cir. Aug. 12, 2022).

Michael F. O'Connor
Jessica L. Pahl
Joseph G. Petrosinelli
Jonathan B. Pitt
A. Joshua Podoll
R. Kennon Poteat III
Carol J. Pruski
Steven M. Pyser
Edward C. Reddington
David R. J. Riskin
Tobin J. Romero
Andrew W. Rudge
Thomas W. Ryan
Jessica B. Rydstrom
Amy M. Saharia
Suzanne M. Salgado
Ryan T. Scarborough
Eden Schiffmann
John E. Schmidtlein
Craig D. Singer

Beth A. Stewart
Joseph M. Terry
Andrew V. Trask
Katherine A. Trefz
Katherine M. Turner
Robert A. Van Kirk
Adrienne E. Van Winkle
John K. Villa
Lance A. Wade
Neelum J. Wadhwani
Zachary K. Warren
Noah M. Weiss
Jennifer G. Wicht
R. Hackney Wiegmann
John S. Williams
C. Bryan Wilson
Stephen Wohlgemuth
Joseph Q. Wood
Christopher A. Yeager
Alexander S. Zolan

May 21, 2025

The Honorable Charles Grassley
Chairman, Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

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

Re: Nomination of Whitney Hermandorfer for the U.S. Court of Appeals for the Sixth Circuit

Dear Chairman Grassley and Ranking Member Durbin:

We write in support of Whitney D. Hermandorfer's nomination to the U.S. Court of Appeals for the Sixth Circuit. As a bipartisan group of current and former state solicitors general, we have regularly appeared before the U.S. Courts of Appeals. And though the signatories to this letter have diverse political and jurisprudential perspectives, we all agree that Whitney would be a superb addition to the Sixth Circuit.

Whitney possesses the skill, integrity, and intellect needed to serve as a member of the federal judiciary. She has briefed and argued complex legal questions in courts throughout the country, including the Sixth Circuit. And these questions arose in some of the most consequential cases of our time. Those who have worked alongside her and those who have opposed her have witnessed firsthand her sound judgment, clear thinking, and exceptional legal acumen. Whitney represents the very best the legal profession has to offer.

The breadth of Whitney's experiences—spanning public service, private practice, and clerkships at each level of the federal judiciary—leaves her well-prepared for the bench. A leadership role in an Attorney General's Office, like Whitney's, serves as a powerful experience multiplier, sharpening legal judgment through a heavy docket of high-stakes matters. Whitney came to that role after years of practice at an elite firm with preeminent appellate advocates Lisa Blatt and Sarah Harris. And her clerkships for four distinguished jurists engrained her unwavering commitment to justice and the rule of law.

Finally, and most importantly, Whitney is an extraordinary person. A former college athlete, two-time Supreme Court clerk, and proud girl mom, Whitney is precisely the kind of well-rounded individual our country needs on the federal bench. And even with her unparalleled credentials, Whitney carries herself with uncommon humility and a sincere care for others. She's grounded, principled, and guided by a deep sense of devotion to our great nation. We are confident that, if confirmed, she will thoughtfully apply the law in each case that comes before her, treating all litigants with respect and fairness.

For these reasons, we strongly support the nomination of Whitney Hermandorfer to the Sixth Circuit and urge the Senate to confirm her without delay.

Sincerely,

J. Matthew Rice (Solicitor General of Tennessee, 2024-present)
 J. Benjamin Aguiñaga (Solicitor General of Louisiana, 2024-present)
 Jessica M. Alloway (Solicitor General for Civil Appeals of Alaska, 2021-present)
 Philip Axt (Solicitor General of North Dakota, 2023-present)
 Cody Barnett (Solicitor General of Nebraska, 2025-present)
 James A. Barta (Solicitor General of Indiana, 2023-present)
 Andrée Blumstein (Solicitor General of Tennessee, 2014-2024)
 John J. Bursch (Solicitor General of Michigan, 2011-2013)
 James A. Campbell (Solicitor General of Nebraska, 2020-2023)
 Christian B. Corrigan (Solicitor General of Montana, 2022-present)
 Jeffrey DeSousa (Acting Solicitor General of Florida, 2025-present)
 David Dewhirst (Solicitor General of Montana, 2021-2022)
 Andrew Ferguson (Solicitor General of Virginia, 2022-2024)
 Thomas M. Fisher (Solicitor General of Indiana, 2005-2023)
 Benjamin M. Flowers (Solicitor General of Ohio, 2019-2023)
 Garry M. Gaskins, II (Solicitor General of Oklahoma, 2023-present)
 Eric J. Hamilton (Solicitor General of Nebraska, 2023-2025)
 Kyle D. Hawkins (Solicitor General of Texas, 2018-2021)
 Melissa Holyoak (Solicitor General of Utah, 2020-2024)
 Thomas Hydrick (Solicitor General of South Carolina, 2025-present)
 Scott A. Keller (Solicitor General of Texas, 2015-2018)
 Matthew F. Kuhn (Solicitor General of Kentucky, 2021-present)
 Edmund LaCour (Solicitor General of Alabama, 2019-present)
 Erika L. Maley (Solicitor General of Virginia, 2024-present)
 Mithun Mansinghani (Solicitor General of Oklahoma, 2017-2022)
 Liz Murrill (Solicitor General of Louisiana, 2016-2023)
 Aaron L. Nielson (Solicitor General of Texas, 2023-present)
 Autumn H. Patterson (Solicitor General of Arkansas, 2025-present)
 Stephen J. Petrany (Solicitor General of Georgia, 2021-present)
 Anthony J. Powell (Solicitor General of Kansas, 2023-present)
 Stanford Purser (Solicitor General of Utah, 2024-present)
 Brunn (Beau) Roysden (Solicitor General of Arizona, 2020-2022)
 Lindsay See (Solicitor General of West Virginia, 2018-2024)
 Ann M. Sherman (Solicitor General of Michigan, 2022-present)
 O.H. Skinner (Solicitor General of Arizona, 2019-2020)
 Scott G. Stewart (Solicitor General of Mississippi, 2021-present)
 Caroline S. Van Zile (Solicitor General of the District of Columbia, 2022-present)
 Eric H. Wessan (Solicitor General of Iowa, 2023-present)
 Michael R. Williams (Solicitor General of West Virginia, 2024-present)

All titles are listed for identification only. Signatories write in their personal capacity.

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

PUBLIC

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

Maria Ann Lanahan (current)

Maria Ann Hassett (maiden name)

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

United States District Court Judge for the Eastern District of Missouri

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.

815 Olive Street
Suite 200
Saint Louis, Missouri 63104

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

1987, Portland, Oregon

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.

2010 – 2013, The University of Chicago Law School; Juris Doctor, 2013

2009, Portland Community College, Rock Creek Campus; no degree received

2009, Portland Community College, Sylvania Campus; no degree received

2005 – 2009, Gonzaga University; Bachelor of Arts (Economics), Bachelor of Arts (Political Science), summa cum laude, 2009

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.

2021 – present
 State of Missouri, Office of the Attorney General
 815 Olive Street, Suite 200
 Saint Louis, Missouri 63101
 Principal Deputy Solicitor General (2025 – present)
 Deputy Solicitor General (2021 – 2025)

2020 – 2021
 The Honorable Raymond Gruender
 111 South 10th Street
 Saint Louis, Missouri 63101
 Law Clerk

2018 – 2020
 Charter Communications
 12405 Powerscourt Dr.
 Saint Louis, Missouri 63131
 Senior Manager, Litigation (counsel)

2014 – 2018
 Thompson Coburn LLP
 505 North 7th Street
 Saint Louis, Missouri 63101
 Associate

2013 – 2014
 The Honorable Brian K. Zahra
 925 West Ottawa Street
 Lansing, Michigan 48915
 Law Clerk

Summer 2012
 K&L Gates
 925 4th Ave., Suite 2900
 Seattle, Washington 98104
 Summer Associate

Summer 2011
 The Honorable Diarmuid F. O’Sconnlain
 700 Southwest 6th Avenue
 Portland, Oregon 97204
 Summer Extern

Spring and Summer 2009; Summer 2010

A Signature Affair
P.O. Box 828
Hillsboro, Oregon 97123
Server/Bartender

Summer 2009 – Summer 2010
Claeys Catering
31429 Northwest Commercial Street
North Plains, Oregon 97133
Server/Bartender

Summer 2009
Representative Cathy McMorris Rodgers
29 South Palouse Street
Walla Walla, Washington 99362
Fellow

Other Affiliations (uncompensated):

2024 – present
Missouri Civil Rules Committee
207 West High Street
Jefferson City, Missouri 65101
Appointed Member

2023 – present
The Saint Louis Federalist Society Board
1776 I Street Northwest, Suite 300
Washington, District of Columbia 20006
Board Member

2022 – present
Chesterton Academy of St. Louis
12934 Marine Avenue
Saint Louis, Missouri 63146
Volunteer Core Team Member

2015 – 2025
Big Brothers Big Sisters of Eastern Missouri
501 North Grand Boulevard
Saint Louis, Missouri 63103
Volunteer “Big Sister”

2023 – 2024
i9
12545 Fee Fee Road

Saint Louis, Missouri 63146
Volunteer Basketball Coach

2020 – 2020
Edward Jones YMCA
12521 Marine Avenue
Saint Louis, Missouri 63146
Assistant Basketball Coach

2017 – 2020 (approximate)
Future in Action, Inc.
2136 Lehne Court
Saint Louis, Missouri 63031
Volunteer

2016 – 2017
Saint Joseph Catholic Church
106 North Meramec Avenue
Saint Louis, Missouri 63105
Volunteer with Youth Group

2016 – 2017
Taizé Pilgrimage of Trust
6 Rue Des Pendaines
71250 Taizé
France
Volunteer with Pilgrimage of Trust

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 never served in the U.S. Military. I was not required to register 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.

Dixon Award for Appellate Advocacy (July 2024)

The University of Chicago Law School
Articles Editor of The University of Chicago Law Review (2012 – 2013)
Member of The University of Chicago Law Review (2011 – 2012)

Egan Scholarship for leadership potential and “aggressive desire to succeed tempered by integrity and a reputation for toughness, honesty, and fair dealing.”

Gonzaga University
 Summa cum laude
 President's List (Fall 2005 – Fall 2008)
 Political Science Senior Award (2009)
 Literary Analysis Award (2nd Place, 2006)

Phi Alpha Theta History Honors Society

Pi Sigma Alpha Political Science Honors Society

Phi Sigma Tau Philosophy Honors Society

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.

Missouri Bar Association (member since 2013)

Illinois State Bar Association (member since 2014)

Bar Association of Metropolitan Saint Louis (member from 2015 to 2020)

Eighth Circuit Bar Association (member from 2020 to 2022)

American Bar Association (member from 2014 to 2019)

Member of the Missouri Supreme Court Civil Rules Committee (2024 – 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.

Missouri (2013)

Illinois (2014)

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.

The Supreme Court of the United States, 2023

United States Court of Appeals for the Fifth Circuit, 2023

United States Court of Appeals for the Eighth Circuit, 2022
 United States District Court for the Eastern District of Missouri, 2014
 United States District Court for the Western District of Missouri, 2014
 United States District Court for the Northern District of Texas, 2023
 United States District Court for the District of North Dakota, 2023
 United States District Court for the District of Colorado, 2015 – 2021

I allowed the District of Colorado membership to voluntarily lapse because I had no cases there and I did not wish to be a paying member.

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, 2022 – present

The Magic House, November 2019 – February 2021, March 2021 – December 2022, February 2023 – present

Missouri Botanical Garden, 2017 – present (approximately)

The Federalist Society, Board Member 2023 – present, Member 2010 – present

The Edmund Burke Society, 2010 – present

City Museum, 2021 – 2024 (approximately)

Big Ideas Group, 2015 – 2016

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

To the best of my knowledge, none of these organizations discriminates or has 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 copies of all published material to the Committee.

Maria A. Lanahan, *Amongst the "Waives": Whether Sovereign Immunity is Waived for Contractual Damages in the Public Vessels Act or in the Suits in Admiralty Act*, 80 U. Chi. L. Rev. 895 (2013). Article supplied.

Maria Hassett, *Lenten Practices*, THE WITNESS (March 17, 2009). Article supplied.

Maria Hassett, *Loving God in Modern Times*, THE WITNESS (February 1, 2009). Article supplied.

Maria Hassett, *Staying Alive: the Crucifixion, and how love defeats death and all its counterparts*, THE WITNESS (April 28, 2009). Article supplied.

Maria A. Hassett, *Doug Scott inspires conviction in students, the community, through wilderness speech*, FRIENDS OF THE SCOTCHMAN PEAKS NEWSLETTER (December 2006). Article supplied.

I was on the masthead of the University of Chicago Law Review for Volumes 79 and 80, during which time I engaged in non-substantive editing of law review articles:

Masthead Volume 79:

<https://lawreview.uchicago.edu/sites/default/files/v79%20Masthead%203-21-2013.pdf>

Volume 79 Articles: https://chicagounbound.uchicago.edu/ucirev_online/vol79/

Masthead Volume 80:

<https://lawreview.uchicago.edu/sites/default/files/v80%20Masthead%202-22-2013.pdf>

Volume 80 Articles: <https://chicagounbound.uchicago.edu/ucirev/vol80/>

b. Supply 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.

February 2024: The Missouri Civil Rules Committee agreed to issue a recommendation to the Missouri Supreme Court regarding the Missouri Civil Rules of Procedure. When I began work on this Committee, I was told our work was confidential, so I will not divulge the substance of our recommendation here. To the extent that this information is

not confidential, it may be available via Missouri Sunshine Request. I do not have a copy of our recommendation.

April 2024: The Missouri Civil Rules Committee agreed to issue a recommendation to the Missouri Supreme Court regarding the Missouri Civil Rules of Procedure. When I began work on this Committee, I was told our work was confidential, so I will not divulge the substance of our recommendation here. To the extent that this information is not confidential, it may be available via Missouri Sunshine Request. I do not have a copy of our recommendation.

November 2024: The Missouri Civil Rules Committee agreed to issue several recommendations to the Missouri Supreme Court regarding the Missouri Rules of Civil Procedure. When I began work on this Committee, I was told our work was confidential, so I will not divulge the substance of our recommendation here. To the extent that this information is not confidential, it may be available via Missouri Sunshine Request. I do not have a copy of our recommendation.

February 2025: To the best of my recollection, the Missouri Civil Rules Committee agreed to issue a recommendation to the Missouri Supreme Court regarding the Missouri Civil Rules of Procedure. When I began work on this Committee, I was told our work was confidential, so I will not divulge the substance of our recommendation here. To the extent that this information is not confidential, it may be available via Missouri Sunshine Request. I do not have a copy of our recommendation.

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

None.

d. Supply 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.

February 20, 2025: Speaker, *Supreme Court Roundup – Halftime Report*, Washington University Federalist Society, Saint Louis, Missouri. Notes supplied.

November 20, 2024: Speaker, *Constitutional Law*, Aloha High School's Constitutional Law Team, Aloha, Oregon (video call from Saint Louis, Missouri). The presentation was on practicing law, on our office's case *Murthy v. Missouri*, and the First Amendment. I

have no notes, transcript, or recording. The address for Aloha High School's Constitutional Law Team is 18550 Southwest Kinnaman Road, Aloha, Oregon 97007.

September 28, 2024: Panelist, Teneo, Marana, Arizona. I spoke about legal issues surrounding women's health. I have no notes, transcript, or recording. Teneo's address is 512 W. MLK Jr. Blvd. Ste. 239, Austin, Texas, 78701.

November 3, 2023: Guest Lecturer, *Statutory Interpretation*, Missouri University Law School, Jefferson City, Missouri. Notes supplied.

September 8, 2023: Panelist, *Optimal Work*, Chesterton Academy of St. Louis. I was part of a panel discussing Optimal Work, which is a podcast based on the work of Harvard psychiatrist Dr. Kevin Majeres, and which is dedicated to sharing practical insights from psychology and neuroscience to help people work at their best. I have no notes, transcript, or recording. Chesterton Academy's address is 12934 Marine Avenue, Saint Louis, Missouri 63146.

August 18, 2023: Speaker, *Supreme Court Roundup*, The Federalist Society and the Federal Bar Association, Saint Louis, Missouri. Notes supplied.

July 13, 2022: Speaker, *Supreme Court Roundup*, The Federalist Society and the Federal Bar Association, Saint Louis, Missouri. Notes supplied.

Date Unknown: On an unknown date while I was working at the Missouri Attorney General's Office, I spoke to the Washington University Federalist Society Chapter about clerkships. Saint Louis, Missouri. I have no notes, transcript, or recording. Washington University Law School's address is 1 Brookings Drive, Saint Louis MO 63130.

November 15, 2016: Speaker, *Talk at Lyon Academy in South Saint Louis City Regarding Being an Attorney and Careers in Law*, Lyon Academy, Saint Louis, Missouri. My friend was part of Teach for America, and I spoke to her eighth grade class about being an attorney and careers in law. I have no notes, transcript, or recording. Lyon Academy's address is 516 Loughborough Avenue, Saint Louis, Missouri 63111.

November 24, 2013: Speaker, *Abbie Harper Memorial Speech*, The University of Chicago, Chicago, Illinois. Notes supplied.

During college and maybe law school, I would periodically stop by my old AP U.S. History teacher's class and talk generally to the high school students about college and law school. I believe I did this in Spring 2006, but I am unsure of other dates. Aloha High School, Beaverton, Oregon.

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 copies of the clips or transcripts of these interviews where they are available to you.

September 5, 2024: "Goodwin, Lanahan, Lehmborg awarded for outstanding appellate work," *The Missouri Bar Foundation*. I was not interviewed for this article but I am quoted based on remarks I provided to the Missouri Bar after I was awarded the Dixon Award. Article supplied.

June 5, 2014: "An Unexpected Reply," *Gonzaga University: Gonzaga Giving*. I do not remember if I was interviewed about this article, but I am quoted in it. Article supplied.

Fall 2014: Marriage Announcement, *Gonzaga Magazine*. Article supplied.

March 20, 2013: "Scott Gaille, '95, Guest Lectures in Oil and Gas Law Class," *The University of Chicago Law School Website*. Article supplied.

February 15, 2012: "Justice Scalia returns for spirited dialogue," *The University of Chicago Law School Website*. Article supplied.

October 22, 2008: "Schafer makes another commitment," *The Gonzaga Bulletin*. Article supplied.

November 13, 2007: "Bjorklund locking down for young Bulldogs," *The Gonzaga Bulletin*. Article supplied.

October 2, 2007: "Basketball too important for Brown to pass up," *The Gonzaga Bulletin*. Article supplied.

February 27, 2007: "Fr. Morris: Spirit of women's basketball team," *The Gonzaga Bulletin*. Article supplied.

January 30, 2007: "Women remain unbeaten in WCC, extending record to 7-0," *The Gonzaga Bulletin*. Article supplied.

October 31, 2006: "Young players give women's basketball a fresh look," *The Gonzaga Bulletin*. Article supplied.

2005: On a date I do not recall, I believe I was asked about being a new freshman on the Gonzaga Women's Basketball team. The only thing I recall about that instance is saying that my favorite pre-game meal is steak and potatoes. I do not have a copy of the article.

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

I have not held judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____

i. Of these cases, approximately what percent were:

jury trials: _____ %
 bench trials: _____ %

ii. Of these cases, approximately what percent were:

civil proceedings: _____ %
 criminal proceedings: _____ %

b. Provide citations for all opinions you have written, including concurrences and dissents.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

e. Provide a list of all cases in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by

which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

Public Offices Held:

Member of Missouri Supreme Court Civil Rules Committee, 2024 – present.
Appointed by Chief Justice Mary R. Russell.

I have never been unsuccessfully nominated for appointed office.

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

Volunteer making phone calls and knocking on doors, Kevin Parker for Washington State House of Representatives, Spokane, Washington (2008)

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

- a. Describe chronologically your law practice and legal experience after graduation

from law school including:

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

From 2020 to 2021, I served as a law clerk to the Honorable Raymond W. Gruender, United States Court of Appeals for the Eighth Circuit.

From 2013 to 2014, I served as a law clerk to the Honorable Brian K. Zahra, Michigan Supreme Court.

- 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;

2021 – present
State of Missouri, Office of the Attorney General
815 Olive Street, Suite 200
Saint Louis, Missouri 63101
Principal Deputy Solicitor General (2025 – present)
Deputy Solicitor General (2021 – present)

2018 – 2020
Charter Communications, Inc.
12405 Powerscourt Dr.
Saint Louis, Missouri 63131
Senior Manager, Counsel (litigation)

2014 – 2018
Thompson Coburn LLP
505 North 7th Street
Saint Louis, Missouri 63101

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

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

- b. Describe:

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

From 2013 to 2014, while clerking for Justice Zahra on the Michigan Supreme Court, I advised the Justice on both criminal and civil law, and my case load was about 50% of each. I drafted opinions and legal memoranda regarding which cases the court should take and how those cases should be resolved.

From 2014 to 2018, while in private practice at Thompson Coburn LLP, I handled complex civil litigation and appellate matters. I drafted pleadings, managed (or helped manage) litigation and discovery, deposed witnesses, defended depositions, drafted critical motions, assisted with experts, assisted with trials, drafted post-trial briefs, drafted appellate briefs, and argued both discovery motions and critical motions on behalf of clients.

From 2018 to 2020, while in-house at Charter Communications, Inc., I directed and managed litigation, structured settlements, and assisted in managing investigations.

From 2020 to 2021, while clerking for Judge Gruender on the Eighth Circuit, I advised the Judge on both criminal and civil law, and my case load was about 50% of each. I drafted opinions and legal memoranda regarding how the court should resolve each case.

From 2021 to 2025, while at the Missouri Attorney General's Office, I served as Deputy Solicitor General. My practice included both trial and appellate cases in both federal and state courts. I argued numerous cases on behalf of the people of Missouri and drafted motions and briefs in dozens of others.

From 2025 to the present, at the Missouri Attorney General's Office, I have served as Principal Deputy Solicitor General. Starting around September 2024, my practice included not only litigating both trial and appellate cases, arguing motions and briefs, and drafting motions and briefs, but also managing the litigation and appeals of other Deputy Solicitors and Assistant Attorneys General in the office. My title was updated to reflect these new managerial responsibilities in January 2025.

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

From 2013 to 2014, my "client" was Justice Zahra on the Michigan Supreme Court. I advised on about 50% criminal and 50% civil law.

From 2014 to 2018, while in private practice at Thompson Coburn LLP, I

represented various companies and individuals in litigation and on appeal. I handled (or helped handle) all aspects of litigation, from the filing of a complaint to discovery, critical motions, depositions, trial, and appellate briefs.

From 2018 to 2020, while in-house at Charter Communications, Inc., I represented Charter Communications, Inc. I managed (or helped manage) both large and small litigation, structured settlements, and assisted in managing investigations.

From 2020 to 2021, my “client” was Judge Gruender on the Eighth Circuit. I advised on about 50% criminal and 50% civil law.

From 2021 to the present, while at the Missouri Attorney General’s Office, I represented the State of Missouri. My practice has been both in trial and appellate courts, and my cases ranged across a broad spectrum of issues and areas.

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

From 2013 to 2014, my practice was to advise Justice Zahra, not to appear in court.

From 2014 to 2018, my practice was exclusively (or nearly exclusively) litigation-related. During these times, I appeared in court occasionally.

From 2018 to 2020, my practice was focused on managing litigation in-house, giving counsel to my client, and helping manage investigations. During this time, I did not appear in court.

From 2020 to 2021, my practice was to advise Judge Gruender, not to appear in court.

From 2021 to the present, my practice has been exclusively (or nearly exclusively) litigation-related. During these times, I appeared in court frequently.

- i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 30% |
| 2. | state courts of record: | 68% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 2% |

ii. Indicate the percentage of your practice in:

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

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

In constitutional-law cases and those involving the validity or interpretation of statutes, like those I often work on in my current employment, many cases are resolved on motion to dismiss or motion for judgment on the pleadings.

Beyond that, I have tried (or assisted in trying) at least four cases to verdict, judgment, or final decision. In one of those cases, I was chief counsel, and in the other three cases I was associate counsel.

i. What percentage of these trials were:

- | | | |
|----|-----------|-----|
| 1. | jury: | 50% |
| 2. | non-jury: | 50% |

e. Describe your practice, if any, before the Supreme Court of the United States. Supply 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 been associate counsel for petitioner in one petition for certiorari and one reply in support of petition for certiorari in the following case:

Missouri Department of Corrections v. Finney, No. 23-203 (2023).

I have been associate counsel for one motion to intervene and one reply in support thereof in the following merits-stage case:

Food & Drug Administration v. Alliance for Hippocratic Medicine, No. 23-235 (2024).

I have been counsel of record for *amici curiae* in the following certiorari-stage case:

Center for Medical Progress v. National Abortion Federation, No. 22-1135 (2023).

I have been associate counsel for *amici curiae* in the following certiorari-stage cases:

Moody v. NetChoice, LLC, No. 22-277 (2024).
NetChoice, LLC v. Paxton, No. 22-555 (2024).

I have been counsel of record for *amici curiae* in two emergency docket cases:

Danco Laboratories, LLC v. Alliance for Hippocratic Medicine, No. 22A901 (2023).

Food & Drug Administration v. Alliance for Hippocratic Medicine, No. 22A902 (2023).

I have not included less significant filings such as requests for extension of time to file writ of certiorari.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

The ten most significant litigated matters which I have handled are as follows:

1. *AstraZeneca v. Bailey*, No. 2:24-cv-04143-MDH (W.D. Mo.).

AstraZeneca sued the State Defendants alleging that S.B. 751 (which requires pharmaceutical manufacturers to deliver 340B drugs to all pharmacies used by a covered entity to serve its patients) violates the Contracts Clause, violates the Takings Clause, and is preempted. I am lead counsel on this case for State Defendants. I supervised the drafting of the motion to dismiss and edited it. The district court granted that motion in part (Harpool, J.). I wrote the answer and handled case scheduling. I will be supervising discovery in this case, which is ongoing.

Date of Representation: (2024 – present)

Principal Counsel for AstraZeneca

Lora Jennings Mizell
9401 Indian Creek Parkway
Suite 1150, Building 40
Overland Park, Kansas 66210

913-491-5500

Principal Counsel for Missouri Hospital Association and Missouri Primary Care Association

Alexa B. Barton
Husch Blackwell LLP – Omaha
14606 Branch Street
Suite 200
Omaha, NE 68154
402-964-5000

2. *City of St. Louis v. State of Missouri*, 21AC-CC00466 (Cole Cnty. Cir.) (motion to dismiss granted), 682 S.W.3d 387 (Mo. 2024) (affirmed in part and reversed in part), 21AC-CC00466-01 (Cole Cnty. Cir.) (litigation ongoing).

The City of Saint Louis sued the State of Missouri in Cole County Circuit Court, challenging the Police Bill of Rights (S.B. 26 (2021)) under the Missouri Constitution's (1) single subject rule; (2) clear title rule; (3) Hancock Amendment; (4) article VI, section 22; (5) article III, section 38(a); and (6) equal protection provision. I represent the State of Missouri and co-drafted a motion for judgment on the pleadings and then argued it. That motion was granted (Beetem, J.). The case was affirmed on appeal except for the Hancock Amendment count (another attorney handled the appeal). Now, the case is back in the trial court on only the Hancock claim, where I am overseeing the litigation (Stumpe, J.).

Date of Representation: 2021 - present

Co-counsel

The Honorable Jason K. Lewis
105 S. Central Ave.
Clayton, MO 63105
314-615-1535

Caleb Aaron Rutledge
Reed Dempsey
207 W. High St.
Jefferson City, Missouri 65102
573-751-3321

Principal Counsel for City of St. Louis

Erin McGowan
1 Brookings Drive
Saint Louis, Missouri 63130

314-747-5392

Charles William Hatfield
230 W. McCarty Street
Jefferson City, Missouri 65101
573-636-6827

Principal Counsel for Century Casinos, Inc.

Marc H. Ellinger
Ellinger Bell LLC
308 East High Street
Suite 300
Jefferson City, Missouri 65101
573-750-4100

3. *Blackmon v. State of Missouri*, No. 2322-CC00120 (St. Louis City Cir.)

Blackmon sued the State of Missouri, alleging that eight of the State's abortion laws violate the Missouri Constitution's Establishment Clause. I represented the State of Missouri and wrote the motion to dismiss for lack of standing, which resulted in the dismissal of five of the eight statutes challenged (Sengheiser, J.). I drafted and filed the motion to dismiss the Cross Claim filed against the State of Missouri by the Jackson County Prosecutor, a motion that was granted (Sengheiser, J.). I co-wrote the motion for judgment on the pleadings and solely argued it, which resulted in dismissal of Blackmon's remaining claims against the State (Sengheiser, J.). Blackmon pursued an appeal initially but then abandoned it, leading to a victory for the State.

Date of Representation: 2023 – 2024

Co-counsel

Joshua Divine
Caleb Rutledge
207 West High Street
Jefferson City, Missouri 65101
573-751-0812

Samuel Freedlund
815 Olive Street, Suite 200
Saint Louis, Missouri 63101
314-340-4869

Principal Counsel for Plaintiffs

Denise D. Lieberman

P.O. Box 56574
Saint Louis, MO 63156
(314) 780-1833

Jenny Samuels
Americans United for Separation of Church and State
1310 L Street, Northwest
Suite 200
Washington, D.C. 20005
(202) 466-7308

Kent A. Yalowitz
Arnold & Porter Kaye Scholer LLP
250 West 55th Street
New York, NY 10019
(202) 836-8000

Michelle Banker
K. M. Bell
Donya Khadem
National Women's Law Center
1350 I Street, Northwest
Suite 700
Washington, D.C. 20005
(202) 588-7620

John A. Freedman
Matthew Tabas
Annie Blackman (LinkedIn suggests she is clerking)
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, D.C. 20001
(202) 942-5000

Daniel E. Raymond
Arnold & Porter Kaye Scholer LLP
70 West Madison Street
Suite 4200
Chicago, IL 60602
(312) 583-2379

Counsel for Defendant Prosecuting Attorney for Boone County

Charles James Dykhousé
705 East Walnut, Suite 211
Columbia, MO 65201

(573) 886-4414

Deidre Faye Wood
TGH Litigation
28 North 8th Street, Suite 317
Columbia, MO 65201
(573) 256-2850

Counsel for Defendant Prosecuting Attorney for Greene and Jasper Counties

Stephen Paul Sokoloff
Amy J. Fite
Missouri Association of Prosecuting Attorneys
200 Madison Street
Suite 1060
Jefferson City, MO 65101
(573) 751-0619

Norman Earl Rouse
Collins, Webster, & Rouse
5957 East 20th Street
Joplin, MO 64801
(417) 782-2222

Counsel for Defendant/Cross-Plaintiff Prosecuting Attorney for Jackson County

Ryan Daryl Taylor
Amanda Rae Langenheim
Office of the Circuit Attorney
415 East 12th Street
Suite 200
Kansas City, MO 64106
(816) 881-3656

Counsel for Defendant Prosecuting Attorney for St. Charles County

Robert Edward Hoeyneck
Office of the County Counselor
12444 Powerscourt Drive
Suite 250
Saint Louis, MO 63131
(636) 949-7540

Michael Gerard Mueth
Office of the County Counselor
100 North 3rd Street

Suite 216
St. Charles, MO 63301
(636) 949-7540

Counsel for Defendant Prosecuting Attorney for City of Saint Louis

Aaron Elliott Schwartz
David Harold Luce
Lopa M. Blumenthal
Terrence J. O'Toole
Office of the Circuit Attorney
8182 Maryland Avenue, 15th Floor
Saint Louis, MO 63105
(314) 589-6289
(314) 754-4810

4. *Missouri Dept. of Corrections v. Finney*, 662 S.W.3d 89 (Mo. App. 2002), SC99974, 601 U.S. ---, 2024 WL 674657.

The question in this case was whether striking jurors on the basis of their religious beliefs when the judge determined that they were not biased violates the Fourteenth Amendment of the U.S. Constitution. I took over this case on appeal on behalf of the Missouri Department of Corrections, briefed it, and argued it before the Missouri Court of Appeals for the Western District in November 2022, where the Western District affirmed the trial court (Thomson, Ahuja, Ardini, JJ.). I then filed an application for transfer to the Missouri Supreme Court (Mem. – Russell, C.J.; Wilson, Ransom, Fischer, Broniec, Gooch, Powell, JJ.), which was denied. I then helped draft and file a petition for certiorari with the U.S. Supreme Court, which was denied in February 2024. I was lead counsel on this case until applying for transfer to the Missouri Supreme Court, at which time I became associate counsel.

Date of Representation: 2022 – 2024

Co-counsel

Joshua M. Divine
207 West High Street
Jefferson City, Missouri 65101
573-751-8870

The Honorable Abbie Rothermich
1315 Locust, 2nd Floor
Kansas City, Missouri 64106
816-881-3679

The Honorable Derek Spencer

2501 West Mechanic Street
Harrisonville, Missouri 64701
816-380-8227

Principal Counsel for other party

David Lunceford
201 Southeast 1st Street
Lees Summit, Missouri 64063
816-525-4701

Rachel Catherine Rutter
201 Southeast 1st Street
Lees Summit, Missouri 64063
816-525-4701

Christina Jeannette Nielsen
210 Hickory Hollow Lane
Talladega, Alabama 35160
314-288-7144

5. *Faatz v. Ashcroft*, 685 S.W.3d 388 (Mo. 2024).

Case addressed whether the judicial redistricting commission properly redistricted the State Senate seats under article III, section 3 of the Missouri Constitution. My role in the case was to draft the Respondent Secretary of State's Brief in the Missouri Supreme Court and argue at oral argument. I successfully convinced the Missouri Supreme Court to affirm the circuit court's decision in favor of my client, the Missouri Secretary of State (Russell, C.J.; Wilson, Ransom, Fischer, Broniec, Gooch, Powell, JJ.). I was lead counsel on this case.

Date of Representation: 2023 – 2024

Co-counsel:

The Honorable Jason K. Lewis
105 S. Central Ave.
Clayton, MO 63105
314-615-1535

Principal Counsel for Plaintiffs:

Charles William Hatfield
Alixandra Cossette
Alexander Clark Barrett
Stinson LLP

230 West McCarty Street
Jefferson City, MO 65101

6. *Dean v. Precythe*, 79 F.4th 986 (8th Cir.).

Plaintiff Dean alleged that Missouri Department of Corrections Director Anne Precythe violated Dean's 8th Amendment rights because Dean was sexually assaulted in prison by a prison guard who was currently being investigated for other alleged assaults. I presented oral argument and successfully convinced the Eighth Circuit to reverse the district court's denial of summary judgment (Smith, Stras, Kobes, JJ.). I was lead counsel at oral argument.

Date of Representation: 2023

Co-counsel

Michael Pritchett
221 West High Street, 8th Floor
Jefferson City, Missouri
573-751-8864

Zachary T. Buchheit
7700 Forsyth Boulevard
Suite 1100
Saint Louis, Missouri 63105
314-345-7038

Kaleb D. Gregory
211 North Broadway, Suite 2825
Saint Louis, Missouri 63102
314-326-4136

Courtney R. Chapin
Missouri Department of Corrections
PO Box 236
Jefferson City, Missouri 65102
573-526-6504

Principal Counsel for Plaintiff Dean

Jenifer Snow
4900 Daggett Avenue
Saint Louis, Missouri 63110
314-561-6326

John Ammann

100 North Tucker Boulevard
Saint Louis, Missouri 63101
314-977-2796

Brendan Roediger
100 North Tucker Boulevard
Saint Louis, Missouri 63101
314-977-2551

7. *Saddle & Sirloin Club of Kansas City v. Director of Revenue*, 655 S.W.3d 351 (Mo. 2022).

In this case, the Saddle & Sirloin Club appealed a finding by the Missouri Administrative Hearing Commission that the Club owed sales tax under section 144.021.1, RSMo., for monthly membership dues paid by Club members. On appeal to the Missouri Supreme Court, I successfully defended the favorable ruling the Director of Revenue received from the Administrative Hearing Commission. I wrote the Respondent's Brief and argued the case before the Missouri Supreme Court. I successfully convinced the Missouri Supreme Court to affirm the decision in favor of my client (Wilson, then-C.J.; Russell, now-C.J.; Fischer, Powell, Ransom, Draper, Breckenridge, JJ.). I was lead counsel for this case on appeal.

Date of Representation: 2022

Co-counsel

Benjamin Charles Slawson
301 West High Street, Room 670
Jefferson City, Missouri 65101
573-751-2699

Joseph Gabriel Plaggenberg
1528 East McCarty Street, Suite 4
Jefferson City, Missouri 65101
573-482-3274

Principal Counsel for Saddle and Sirloin Club of Kansas City

Todd Ruskamp
2555 Grand Boulevard
Kansas City, Missouri 64108
816-559-2319

John Simpson
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106

816-691-3158

8. *American Federation of State, County, and Municipal Employees, AFL-CIO Council 61 v. State of Missouri*, 653 S.W.3d 111 (Mo. 2022), 18AC-CC00407-01 (Cole Cnty. Cir.).

This case is about the meaning of Missouri S.B. 1007 (2018) and whether that meaning violates the right to bargain collectively under the Missouri Constitution (article I, section 29) or the Missouri Contracts Clause (article I, section 13). I represented the State. The State lost the case in the Circuit Court (I was not involved in that part), and I appealed the case to the Missouri Supreme Court. I wrote the appellant brief and the reply brief, and I argued the case before the Missouri Supreme Court (Wilson, then-C.J.; Russell, now-C.J.; Fischer, Powell, Ransom, Draper, Breckenridge, JJ.). The State ultimately prevailed on appeal on most issues. On remand, I settled the remaining issues (Beetern, J.). I was lead counsel for this case on appeal.

Date of Representation: 2021 – 2023

Co-counsel

The Honorable Jason K. Lewis
105 S. Central Ave.
Clayton, MO 63105
314-615-1535

D. John Sauer
U.S. Department of Justice
950 Pennsylvania Ave, N.W.
Washington, D.C. 20530
202-514-2217, ext. 18

Principal Counsel for American Federation of State, County, and Municipal Employees, AFL-CIO Council 61 and the other Plaintiffs

Loretta Haggard
Christopher Grant
555 Washington Avenue, Suite 520
Saint Louis, Missouri 63101
314-621-2626

9. *Baker v. Baker*, 14SL-CC00261 (St. Louis Cnty. Cir.).

I represented Gregory and Paula Baker in a family dispute over jewelry and other belongings of a deceased family member. I assisted with drafting summary judgment briefing, trial, and drafted the post-trial briefing, leading to a win for the client (McLaughlin, J.). I was associate counsel in this case.

Date of Representation: 2015 – 2017

Co-counsel

Michael W. Bartolacci
7701 Forsyth Boulevard
Saint Louis, Missouri 63105
314-719-2134

Mark Alan Mattingly
One U.S. Bank Plaza
Saint Louis, Missouri 63101
314-552-6122

Principal Counsel for Carl Baker

Leonard J. Frankel
Michael J. Payne
231 S. Bemiston Ave., Suite 1111
Saint Louis, Missouri 63105
314-725-8000

10. *The Western Sugar Cooperative v. Pacific Ethanol Pekin*, 1:15-cv-00415-MEH (D. Colo.).

Western Sugar forfeited certain of its sugar to USDA. USDA sold the sugar, which was still in Western Sugar's warehouses, to Aventine Renewable Energy (later Pacific Ethanol Pekin). The question was what price Aventine had to pay Western Sugar for sugar storage. I represented Western Sugar. I drafted the complaint, took at least four or five depositions, drafted and reviewed discovery requests, discovery responses, and discovery documents, assisted with experts, and drafted summary judgment briefing. This led to a favorable settlement (Hegarty, J.). I was associate counsel in this case.

Date of Representation: 2015 – 2017

Co-counsel

Christopher Hohn
One U.S. Bank Plaza
Saint Louis, Missouri 63101
314-552-6159

Principal Counsel for Pacific Ethanol Pekin

Rachael Dettmann Spiegel
1144 Fifteenth Street
Suite 3400

Denver, Colorado 80202
303-607-3687

Todd Philip Walker
2595 Canyon Boulevard
Suite 210
Boulder, Colorado 80302
303-522-7130

Margaret Young Cass
2000 16th Street
Denver, Colorado 80202
303-607-3712

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

The following are the most significant legal activities I have pursued.

Office of the Missouri Attorney General: From 2021 to January 2025, I served as Deputy Solicitor General and then, from January 2025 to the present, I have served as Principal Deputy Solicitor General. In those capacities, I litigated many cases in both federal and state court, and in both trial and appellate court. I have pursued appeals in the U.S. Supreme Court, Eighth Circuit, Missouri Courts of Appeals, and Missouri Supreme Court. In both roles, I have overseen and managed the work of other attorneys in the office in litigation, major motions, and appeals.

The Honorable Raymond Gruender: From 2020 to 2021, I served as law clerk to Judge Gruender on the United States Court of Appeals for the Eighth Circuit. In that capacity, I handled about 50% criminal cases and 50% civil cases that were on appeal.

Charter Communications, Inc.: From 2018 to 2020, I served as Senior Manager, Counsel in Charter's litigation group. In that capacity, I counseled Charter with respect to litigation and investigations.

Thompson Coburn LLP: From 2014 to 2018, I was an associate at Thompson Coburn LLP, in which capacity I participated in all stages of litigation, from pleadings to discovery, major motions, trial, and appeals. I also managed (or helped manage) litigation from start to finish, including managing other attorneys.

The Honorable Brian K. Zahra: From 2013 to 2014, I served as law clerk to Justice Zahra on the Michigan Supreme Court. In that capacity, I handled about 50% criminal cases and 50% civil

cases.

I have never acted or registered as a lobbyist.

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

I have not taught a course.

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

None.

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

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation.

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

See Financial Disclosure Report.

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

See Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in any litigation where I have ever played a role. I will evaluate recusal in cases involving the State of Missouri (including the Office of the Attorney General), Charter Communications, Thompson Coburn, and any clients I represented at that firm. I would also recuse myself from matters involving my family, close friends, and my own financial interests. Lastly, I will evaluate any other real or potential conflict or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action, with the advice of parties and their counsel, including recusal where necessary.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

I performed pro bono service when I was in private practice. For instance, while I was working at Thompson Coburn, I handled a pro bono case relating to a landlord-tenant dispute and a pro bono case assisting a domestic violence victim to obtain a protective order. I have spent most of my career in public service, however, where I have not been able to serve private clients. I nonetheless continue to serve the community through speaking events and other community-service opportunities.

26. **Selection Process:**

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

On December 10, 2024, Senator Schmitt's office sent me an email requesting that I apply for the position, which I did on December 23, 2024. On January 23, 2025, Senator Hawley's office emailed me and invited me to interview for the position. I interviewed for the position with Senator Hawley's office in Saint Louis, Missouri on February 3,

2025, with Senator Hawley's Chief Counsel and several other staff members. On February 7, 2025, I was contacted by the White House Counsel's Office and invited to interview for a vacancy on the United States District Court for the Eastern District of Missouri. On February 12, 2025, I interviewed with attorneys from the White House Counsel's Office. Since that time, I have been in contact with officials from the Office of Legal Policy at the Department of Justice and periodically in contact with officials from White House Counsel's Office. On May 6, the President called to tell me I would be nominated to the Eastern District of Missouri.

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

No.

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		211	177	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		417	820	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		9	314
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		162	204
Real estate owned – see schedule		322	200	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		23	623	Business Liabilities (Est.)		20	000
Cash value-life insurance							
Other assets itemize:							
HSA Accounts		30	285				
Missouri MOST 529 Accounts		115	743				
Missouri State Employees Retirement Contributions		15	890				
457 Plan Investable Cash Acct.		12	970				
Business Assets (Est.)		56	500	Total Liabilities		191	518
TSP			35	Net Worth	1	014	725
Total Assets	1	206	243	Total Liabilities and Net Worth	1	206	243
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

Accenture PLC Ireland	\$3,120
Airbnb Inc.	1,075
Alphabet Inc.	3,125
Amazon.com Inc.	22,831
Apple Inc.	2,888
Autodesk Inc.	1,047
Berkshire Hathaway	2,663
Boeing Co.	1,194
Coinbase Global Inc.	6,889
Crowdstrike Holdings Inc.	1,763
Disney Walt Co	494
Forge Global Holdings Inc.	6
GE Aerospace	600
GE Healthcare Technologies	81
Intuit	3,070
Lemonade Inc.	660
Lucid Group Inc.	73
Netflix Inc.	2,798
NICE LTD	463
NVIDIA Corp	30,347
Okta Inc.	1,368
Palantir Technologies Inc.	4,220
Paypal Holdings Inc.	326
Rockwell Automation Inc.	775
RTX Corp	927
Salesforce Inc.	268
Servicenow Inc.	796
Shopify Inc.	955
Southwest Airlines Co.	168
Stitch Fix Inc.	82
Tesla Inc.	777
The Trade Desk Inc.	4,925
Wix Com Ltd	327
Zoom Communications Inc.	442
Zscaler Inc.	595
BlackRock S&P Sm Cap 600 Equity Index Fund	\$57
DFA International Real Estate Sec	149
Dodge & Cox International Stock	4,129
Dodge & Cox Stock (Multi Cap)	25,682
Energy Select Sector	1,589
Fidelity Capital Preservation	3,403

Fidelity Emerging Markets Index	1,262
Fidelity International Equity	16,568
Fidelity MSCI Comm Srv	3,283
Fidelity MSCI Energy	3,799
Fidelity MSCI Information Technology	3,870
Fidelity MSCI Materials	2,416
Fidelity MSCI Real	2,747
Fidelity MSCI Utilities	1,263
Fidelity Real Estate Ind	296
Fidelity Small Cap Blend	5,487
Growth Fd of Amer R-6 (Large Cap)	25,878
Hartford Multifactor	1,007
Invsc Dow Jones Industrial	792
IR+M Core Bond	1,604
Ishares Core Dividend	5,137
Ishares Core MSCI	1,387
Schwab Index Retire 2055	2,645
Select Sector Health	730
Select Sector Industrial	1,311
Spdr Gold Minishares ETV	2,476
Spdr Portfolio S&P 500	7,019
Spdr S&P Software	3,996
Spdr S&P 500 ETF	15,645
Spdr S&P 500 Value ETF	4,327
Spdr S&P 600 Small Cap	1,580
State Street Bond Market Index	599
State Street Global All Cap ex US	8,185
State Street RSL SMMDCP Idx II	12,517
State Street S&P 500 Index	38,852
State Street S&P MidCap Index	1,154
State Street US Bond Indx XIV	1,685
T. Rowe Price Equity Ind.	5,308
TRP Mid Cap Growth	16,304
TRP QM US SmCap Growth	2,261
Vanguard Emerging Market	642
Vanguard Instl Ext Market Idx Tr	17,202
Vanguard Mid Cap Value	803
Vanguard Real Estate Index Inst	3,730
Vanguard S&P 500 Growth	3,010
Vanguard Small-Cap Value Idx Inst	4,735
Vanguard Total	311
Vanguard Total Intl St Mt Ix Tr	4,196
Vanguard Total Stock	4,947
Vanguard Total World	580
Xtrackers MSCI EAFE SEL	307
Xtrackers FTSE Devl EX US	452

521

Missouri Deferred Comp Missouri 2050	<u>\$36,368</u>
Total Listed Securities	\$417,820

<u>Real Estate Owned</u>	
Personal Residence	<u>\$322,200</u>
Total Real Estate Owned	\$322,200

<u>Real Estate Mortgages Payable</u>	
Personal Residence – Mortgage	<u>\$162,204</u>
Total Real Estate Mortgages Payable	\$162,204

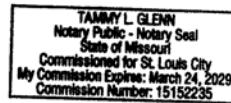
AFFIDAVIT

I, Maria A. Lanahan, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

April 30, 2025
(DATE)

Maria Lanahan
(NAME)

Tammy L. Glenn
(NOTARY)



Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Maria Ann Lanahan
Nominee to be U.S. District Judge for the Eastern District of Missouri
June 11, 2025

1. You represented Missouri in its attempts to challenge access to mifepristone, one of two drugs used for medication abortions and miscarriage management. You initially filed a motion in the U.S. District Court for the Northern District of Texas to intervene in a case filed by private plaintiffs who sought a preliminary injunction ordering the Food and Drug Administration to withdraw or suspend access to mifepristone.

Last year, the Supreme Court unanimously held that the private plaintiffs lacked standing. You are now trying to revive the case to limit access to mifepristone despite decades of peer-reviewed research showing that the drug is safe.

In your amended complaint, you cited a study suggesting that access to abortion medication is “depressing expected birth rates for teenaged mothers in Plaintiff States” and claimed that Missouri would be injured because a loss of potential population would lead to “diminishment of political representation” and “loss of federal funds.”

- a. **Do you believe it is bad that teenage pregnancy rates are declining in your state?**

Response: The point the amended complaint was making was that teenage abortions were increasing.

- b. **Do you believe that teenagers should be forced to give birth to benefit Missouri’s coffers and its representation in Congress?**

Response: This question takes the statements out of context. One of the things a party must do to sue in federal court is prove it has standing. One part of standing is that the regulation challenged must affect the party in a concrete and imminent way. Missouri’s point was that under *Department of Commerce v. New York*, 588 U.S. 752, 754 (2019), the Supreme Court has held that a probable decrease in population is sufficient to demonstrate the first element of standing.

2. In your Senate Judiciary Questionnaire, you noted that you represented the state in *Blackmon v. Missouri*.

- a. **Did your office respond to all discovery requests made by the plaintiffs in this case?**

Response: Yes.

- b. **Did the Missouri circuit court ultimately order you to produce discovery**

materials requested by the plaintiffs in this case after they filed a motion to compel?

Response: The Court disagreed with plaintiffs on some of their claims about what the State should produce. On others, it agreed.

3. According to your Senate Judiciary Questionnaire, you have participated in at least one panel held out of state since joining the Office of the Attorney General for the State of Missouri. In September 2024, you participated in a Teneo Network event in Marana, Arizona.

- a. **Was any of the out-of-state travel for this event done at state taxpayer expense?**

Response: No.

- b. **If yes, what was the justification for Missouri taxpayers funding your out-of-state travel?**

- c. **If yes, did you receive any form of pre-travel authorization or file any post-travel expense reports? Did you comply with all relevant state laws addressing travel by public officials at state taxpayer expense?**

4. Since 2010, you have been a member of the Edmund Burke Society, a debate group at the University of Chicago Law School. In 2018, the group issued a “whip sheet” advertising a debate about immigration. Among other things, the document said, “Instead of being a porcelain receptacle for other nations’ wretched refuse, the United States should again put America first.” It also argued that, “If the essence of a nation is its people, allowing foreign bodies to enter is inviting disease into the body politic.”¹ If you are not familiar with this document, it is available at the footnote below.

- a. **Why did you remain a member of this organization after you graduated from law school?**

Response: I have not been actively involved in the organization since law school.

- b. **When did you become aware of this whip sheet?**

Response: I do not recall. I was not at the law school at the time it was issued.

- c. **Will you condemn this document?**

¹ Lee Harris, *Immigration Debate Postponed After Student Criticism, Claimed “Risk of Serious Disturbance,”* CHICAGO MAROON (Feb. 4, 2018), <https://chicagomaroon.com/25430/news/conservative-burke-society-postpones-immigration-d/>.

Response: As Eric Wessan, the then-Chairman of the Edmund Burke Society said: “I want to say that I am sorry to anyone who felt attacked or belittled by this Whip Sheet. This entire thing is awful. I feel terrible about how people are feeling. I look around the community and am upset by the harm done. It is bad for the Law School community. It’s bad for dialogue and debate. It is clear this sheet has caused people to feel attacked and belittled, and I am truly sorry. One person told me that some of the arguments made were not merely parody, but mirrored ugly sentiments. Given people’s immediate and visceral reaction to those sentiments, I see that using them was a mistake.”

d. Will you condemn the characterization of the United States as a “porcelain receptacle”?

Response: See response to 4.c.

e. Will you condemn the characterization of immigrants as “wretched refuse” and “foreign bodies”?

Response: See response to 4.c.

f. Will you continue your membership in this group if you are confirmed to serve as a district judge?

Response: See response to 4.a.

g. If the answer to the previous question is yes, why should any immigrant have confidence that you will treat them fairly if you are confirmed to serve as a district judge?

Response: I had no part in writing the whip sheet and was not at the University of Chicago Law School at the time. See also response to 4.a and response to 4.c.

5. Did President Trump lose the 2020 election?

Response: Joseph Biden was certified as the president and served from January 2021 to January 2025.

6. Where were you on January 6, 2021?

Response: In Saint Louis, Missouri.

7. Do you denounce the January 6 insurrection?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts, and whether January 6, 2021, was an insurrection is a

legal question. As a judicial nominee, it also is not appropriate for me to comment on political issues, so I will not do so.

8. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: As a judicial nominee, it is not appropriate for me to comment on political issues, so I will not do so.

9. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: As a general matter, they may appeal, request a stay, move for reconsideration, or file a writ.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. *See, e.g., Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

10. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”

a. Are non-party injunctions constitutional?

Response: This legal issue is being considered by the Supreme Court, so as a judicial nominee, it would be improper for me to comment on it.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: This legal issue is being considered by the Supreme Court, so as a judicial nominee, it would be improper for me to comment on it.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: This legal issue is being considered by the Supreme Court, so as a judicial nominee, it would be improper for me to comment on it.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: To the best of my recollection, I have not done so in any case in which I was lead counsel. I have entered as associate counsel on behalf of the State of Missouri in numerous multistate cases that were being led by another state. I have entered my appearance in many different cases, and I do not recall one that specifically requested such relief.

11. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

12. Does the U.S. Constitution permit a president to serve three terms?

Response: Section 1 of the 22nd Amendment states that “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.”

13. When, if ever, may a lower court depart from Supreme Court precedent?

Response: Assuming the Supreme Court has not overruled its precedent, a lower court It may not.

14. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: In the Eighth Circuit, one panel cannot overturn the published and binding decision of another panel. It can only be overturned by an *en banc* panel.

15. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: The Supreme Court has identified factors that it considers in determining whether overturn its own precedent (such as whether past precedent is not workable, whether there is a reliance interest in the precedent, etc.).

16. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

a. *Brown v. Board of Education*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. However, they have historically commented on whether they think *Brown v. Board of Education* was correctly decided. Yes, it was correctly decided.

b. *Plyler v. Doe*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Plyler* is binding precedent, and I will apply it faithfully.

c. *Loving v. Virginia*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. However, they have historically commented on whether they think *Loving v. Virginia* was correctly decided. Yes, it was correctly decided.

d. *Griswold v. Connecticut*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Griswold* is binding precedent, and I will apply it faithfully.

e. *Trump v. United States*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Trump v. United States* is binding precedent, and I will apply it faithfully.

f. *Dobbs v. Jackson Women's Health Organization*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Dobbs* is binding precedent, and I will apply it faithfully.

g. *New York State Rifle & Pistol Association, Inc. v. Bruen*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Bruen* is binding precedent, and I will apply it faithfully.

h. *Obergefell v. Hodges*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Obergefell* is binding precedent, and I will apply it faithfully.

i. *Bostock v. Clayton County*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Bostock* is binding precedent, and I will apply it faithfully.

j. *Masterpiece Cakeshop v. Colorado*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Masterpiece Cakeshop* is binding precedent, and I will apply it faithfully.

k. *303 Creative LLC v. Elenis*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *303 Creative* is binding precedent, and I will apply it faithfully.

l. *United States v. Rahimi*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Rahimi* is binding precedent, and I will apply it faithfully.

m. *Loper Bright Enterprises v. Raimondo*

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Loper Bright* is binding precedent, and I will apply it faithfully.

17. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

Response: Yes – the Supreme Court has said that judges should look to the original public meaning of the Constitution.

18. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: If I were a district court judge, I would look to Supreme Court and Eighth Circuit precedent.

19. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: *Obergefell* held that the Constitution includes a right to same-sex marriage. If confirmed, I would apply that precedent faithfully.

20. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: *Loving v. Virginia* held that the Constitution includes a right to marry persons of a different race. I would apply that precedent faithfully.

21. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The Equal Protection Clause of the Fourteenth Amendment states: “No state shall... deny to any person within its jurisdiction the equal protection of the laws.”

The Due Process Clause of the Fourteenth Amendment states: “No state shall...deprive any person of life, liberty, or property, without due process of law.”

If I were confirmed, I would faithfully apply Supreme Court and Eighth Circuit precedent on these two Clauses of the Fourteenth Amendment.

22. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Equal Protection Clause and Due Process Clause apply to men and women regardless of their LGBTQ+ affiliation. Whether these clauses are violated in a particular case are legal questions that could come before me if I am confirmed, and so would be inappropriate to comment on.

23. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Judges should follow the precedent of the Supreme Court and the controlling circuit precedent. The Supreme Court has held that judges should apply the original public meaning of the Constitution.

24. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: District courts should follow the precedent of the Supreme Court and the controlling circuit precedent regarding the Foreign Emoluments Clause.

25. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

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

Response: In general, content-based restrictions are restrictions based on the message expressed. Content-neutral restrictions are not. For instance, time, place, and manner restrictions are typically considered content-neutral restrictions. I would follow Supreme Court and Eighth Circuit precedent faithfully on this issue.

27. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: The Supreme Court has held that true threats are not protected speech under the First Amendment. *Virginia v. Black*, 538 U.S. 343, 359 (2003). I will fully and faithfully apply the standard for true threats in *Virginia v. Black* and any other binding Supreme Court precedent.

28. Is every individual within the United States entitled to due process?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

29. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

30. The Fourteenth Amendment states: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: The Fourteenth Amendment also requires that the person born in the United States be “subject to the jurisdiction thereof.” As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

31. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: The most important factor to consider in selecting federal judges is merit. As the U.S. Supreme Court has stated in *Students for Fair Admissions v. Harvard*, 141 S. Ct. 2141, 2170 (2023), “One of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities.”

32. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

- a. **How do you view the role of federal judges in implementing the *First Step Act*?**

Response: The First Step Act allows, among other things, parties to ask judges to resentence them under the Fair Sentencing Act retroactively. I would apply the First Step Act faithfully.

- b. **Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?**

Response: Yes.

33. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”

- a. **In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of “traditional values”?**

Response: That quote appears to be from the Federalist Society for Law and Public Policy Studies. I am not familiar with that group or what it means by “traditional values.”

- b. **President Trump wrote on Truth Social that the Federalist Society gave him “bad advice” on “numerous Judicial Nominations.” He also wrote that Leonard Leo is a “sleazebag” who “probably hates America.” If you are not familiar with this post, please refer to it in the footnote.²**

- i. **Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?**

Response: As a judicial nominee, it would be inappropriate for me to comment on political issues.

- ii. **Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?**

Response: As a judicial nominee, it would be inappropriate for me to comment on political issues.

² Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: I make decisions about memberships on a year-to-year basis. I will consider whether to renew when my yearly membership expires.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I have not spoken to Leonard Leo or Steven G. Calabresi during my selection process. The Federalist Society is very large. According to their website, the Federalist Society is a society of 90,000 members. As part of my selection process, I may have spoken to people associated with the Federalist Society, but that was not the reason I was speaking with them.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: I have been asked to speak at legal education events put on by the Washington University Law School Federalist Society Chapter and at continuing legal education (CLE) events put on by the St. Louis Federalist Society Chapter.

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: No.

34. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

a. In your Questionnaire, you state that you are currently or were previously a member of the Teneo Network. How many meetings have you attended since joining?

Response: By my count, I have attended eight Teneo events.

b. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I have not spoken with Leonard Leo during my selection process. To my knowledge, I spoke to no Teneo members as part of my selection process.

- c. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: I spoke on a panel one time at a Teneo event.

- d. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No.

35. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: No.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

36. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

37. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

38. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.**

Response: Not to my knowledge.

- b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

39. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: To my knowledge, I spoke to no individuals associated with ADF as part of the selection process.

- b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

- c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

40. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: I did not speak to Leonard Leo or Carrie Severino as part of my selection process. To my knowledge, I spoke to no individuals associated with the Concord Fund or the 85 Fund as part of my selection process.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I have no knowledge of any donations to organizations to support my nomination, and I would never ask for any such donations.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: See response to Question 40.d.

- f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: See response to Question 40.d.

**Senator Mike Lee
Questions for the Record**

Maria A. Lanahan, to be United States District Judge for the Eastern District of Missouri

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

Response: The Supreme Court has instructed courts to interpret the constitution by determining what the text would have meant to the public at the time the constitution was ratified.

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

Response: The Supreme Court has determined which groups are suspect classes such that laws affecting that group must survive strict scrutiny. If confirmed, I will apply binding Supreme Court and Eighth Circuit precedent on this topic faithfully.

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

Response: Federalist No. 51 addressed the separation of powers and how it was designed to prevent any one branch from accumulating too much power and abusing it.

- 4. How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come up before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

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

Response: According to Black’s Law Dictionary (12th ed. 2024), judicial supremacy is the “doctrine that interpretations of the Constitution by the federal judiciary in the exercise of judicial review...are binding on the coordinate branches of the federal government and the states,” and judicial review is a “court’s power to review the actions of other branches or levels of government.”

**Nomination of Maria Ann Lanahan
Nominee to the U.S. District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR WHITEHOUSE

- 1. You said in your questionnaire that President Trump called you to tell you that you would be nominated.**

- a. What else did he discuss on the phone call?**

Response: President Trump told me that he intended to nominate me to a vacancy on the United States District Court for the Eastern District of Missouri. He congratulated me and wished me and my family the best.

- b. Did he ask you to make any commitments?**

Response: No.

- 2. You said in your questionnaire that you have been a member of Teneo since 2022.**

- a. In your words, what is the Teneo Network?**

Response: Teneo is a 501(c)(3) professional networking organization.

- b. Why did you join?**

Response: Networking opportunities.

- c. You said in your questionnaire that you served as a panelist at a Teneo event in Austin, Texas, in September 2024 where you “spoke about legal issues surrounding women’s health.” Please describe in detail the legal issues you spoke about.**

Response: I never spoke at a Teneo event in Austin, Texas. I spoke at an event in Arizona in September 2024 that concerned legal issues surrounding women’s health, including developments involving legislation, regulation, and litigation.

- d. What other activities have you participated in as part of the group?**

Response: An online gathering, two dinner gatherings, a baseball game and a meal, two retreats, and two holiday parties.

- e. **Leonard Leo declared in a November 2024 NPR interview that his goal with the Teneo Network is to “crush liberal dominance” across American life. Do you agree with Leo’s goal?**

Response: My understanding is that Teneo is a 501(c)(3) professional networking organization. I am not familiar with this comment. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on any subject of political controversy or to express a position regarding matters of public policy.

3. **You said in your questionnaire that you have been a member of the Edmund Burke Society, a conservative debate club at the University of Chicago, since 2010. In 2018, the Edmund Burke Society said on an event flyer that the United States was a “porcelain receptacle for other nations’ wretched refuse” and that “allowing foreign bodies to enter is inviting disease into the body politic.”**

- a. **Why did you remain a member after this incident?**

Response: I was not at the law school at the time of this incident, and I have not been actively involved in the organization since law school. I had no part in writing the whip sheet.

- b. **Do you agree with the quoted statements from the Society’s flyer?**

Response: As Eric Wessan, the then-Chairman of the Edmund Burke Society said: “I want to say that I am sorry to anyone who felt attacked or belittled by this Whip Sheet. This entire thing is awful. I feel terrible about how people are feeling. I look around the community and am upset by the harm done. It is bad for the Law School community. It’s bad for dialogue and debate. It is clear this sheet has caused people to feel attacked and belittled, and I am truly sorry. One person told me that some of the arguments made were not merely parody, but mirrored ugly sentiments. Given people’s immediate and visceral reaction to those sentiments, I see that using them was a mistake.”

4. **You said in your questionnaire that you have been a member of the Federalist Society since 2010. Recently, President Trump said he was “so disappointed” with the Federalist Society’s “bad advice” on nominees, calling Leonard Leo a “sleazebag” and a “bad person who, in his own way, probably hates America.”**

- a. **Do you agree with President Trump that Leonard Leo is a “sleazebag”? Why or why not?**

Response: As a judicial nominee, it is not appropriate for me to comment on political issues.

- b. Do you agree with President Trump that Leonard Leo is a “bad person who, in his own way, probably hates America”? Why or why not?**

Response: As a judicial nominee, it is not appropriate for me to comment on political issues.

- 5. Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.**

Response: Not to my recollection.

- 6. Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?**

Response: Article II, Section 4 of the Constitution states that “The President, Vice President, and all civil Officers of the United States shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” I would faithfully apply the Supreme Court’s and Eighth Circuit’s precedents on this topic.

- 7. Please explain your understanding of existing case law regarding:**

- a. The executive branch’s obligation to comply with federal court orders.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- b. Remedies available to a federal court to ensure executive branch compliance with a court order.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- c. Federal government lawyers’ duty of candor to federal courts before which those lawyers appear.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- d. The president’s legal obligations under the Constitution’s Take Care Clause.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- e. The limits of the executive branch's power under the anti-commandeering doctrine.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- f. The president's ability or inability to impound congressionally appropriated funds.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- g. The federal government's ability to enact laws or regulations that burden Second Amendment rights.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- h. The federal government's ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- 8. As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.**

Response: To the best of my recollection, I have not done so in any case in which I was lead counsel. I have entered as associate counsel on behalf of the State of Missouri in numerous multistate cases that were being led by another state. I have entered my appearance in many different cases, and I do not recall one that specifically requested such relief.

- a. Have you ever publicly voiced support or opposition regarding a federal court's issuance of a nationwide injunction or similar relief? If yes, please describe.**

Response: Not to my recollection.

- b. Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'etat?**

Response: Whether nationwide injunctions are permissible relief is a legal issue currently being considered by the Supreme Court. As a judicial nominee, it would be improper for me to comment on it.

- c. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?**

Response: Whether nationwide injunctions are permissible relief is a legal issue currently being considered by the Supreme Court. As a judicial nominee, it would be improper for me to comment on it.

- d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?**

Response: Whether nationwide injunctions are permissible relief is a legal issue currently being considered by the Supreme Court. As a judicial nominee, it would be improper for me to comment on it.

9. Please describe your understanding of natural law.

Response: Black's Law Dictionary (12th ed. 2024) defines "natural law" as "A philosophical system of legal and moral principles purportedly deriving from a universalized conception of human nature or divine justice rather than from legislative or judicial action...."

- a. What authority does natural law carry in federal case law?**

Response: If I am confirmed as a district court judge, I will follow Supreme Court and Eighth Circuit precedent on this issue.

- b. When do you think it is appropriate for a federal judge to rely on natural law?**

Response: See response to Question 9.a.

- c. If confirmed, do you plan to incorporate natural law into your decisions?**

Response: See response to Question 9.a.

10. Please describe your understanding of originalism.

Response: Originalism is the theory that the Constitution should be interpreted as the public would have understood it at the time it was ratified. To the extent that this is not clear, courts use history and tradition to assist them in determining original public meaning.

- a. Do you consider yourself an originalist?**

Response: Yes.

- b. Do you believe that people who do not support or adhere to originalism do not like America?**

Response: As a nominee for a federal judge position, I cannot comment about my political views.

- c. Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?**

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Citizens United* is binding precedent, and I will apply it faithfully.

- d. Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?**

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Trump v. United States* is binding precedent, and I will apply it faithfully.

11. Please describe your understanding of textualism.

Response: I understand textualism to be very similar to originalism. When interpreting statutes, the text of the statute must be based on its public meaning at the time the statute was adopted.

- a. Do you consider yourself a textualist?**

Response: Yes.

- b. How should a court analyzing a federal statute account for the “Findings” or “Purposes” sections of such statutes?**

Response: If I am confirmed, I would apply the Supreme Court’s and Eighth Circuit’s precedents relating to this issue.

12. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: The district court is the factfinding and trial court. The appellate court is not considered a factfinding court and may only overturn factual findings in rare instances, such as when the fact found is clearly erroneous. Appellate courts considers whether the trial court committed legal error and whether that error should lead to reversal or remand of the case.

- a. **What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?**

Response: If I am confirmed, I would apply the Supreme Court's and Eighth Circuit's precedents relating to this issue.

- b. **Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?**

Response: Yes.

- c. **What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?**

Response: I will apply Supreme Court and Eighth Circuit precedent to determine when a case's material facts are different enough to warrant distinguishing the case from the facts in an existing appellate precedent.

13. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts.

- a. **As part of these historical analyses, will you solicit input from amici curiae?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I will consider input from amici curiae if amicus briefs are filed.

- b. **How will you assess the veracity of historical claims made by parties?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I will apply Supreme Court and Eighth Circuit precedent on this issue.

- c. **How will you assess the veracity of historical claims made by amici curiae?**

Response: See response to 13.b.

14. The U.S. Sentencing Commission recently prioritized the “[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry.” Courts can tailor these programs to meet specific needs of defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: I support the U.S. Sentencing Commission's decision to compile and disseminate information so that all three branches of government can make evidence-based decisions.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

Response: See response to Question 14.a.

15. If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?

Response: Yes.

16. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

a. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: Among other things, I read news from many sites with various views. I keep up with Supreme Court cases, including understanding the arguments made on both sides of the case. And I plan to continue these and other practices when I become a judge.

b. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?

Response: See Response to 16.a.

c. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?

Response: I plan to hire the best law clerks I can find.

17. If confirmed, do you plan to “boycott” the hiring of law clerks from any specific schools? If so, which schools and why?

Response: No.

a. Do you believe such boycotts are appropriate?

Response: As a judicial nominee, it is not appropriate for me to comment on the decisions of other judges.

18. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.

a. What professional experience do you have overseeing and managing others?

Response: As Principal Deputy Solicitor General, I oversee and manage Assistant Attorneys General and other Deputy Solicitors in the Missouri Attorney General's Office in major motions, trial court cases, and appeals. I directly oversee approximately one-fourth of the appeals from our office. While at Thompson Coburn, I oversaw the work of associates on trial-court cases.

b. How do you plan to recruit and hire law clerks?

Response: I plan to cast a wide net by reaching out to many different universities and contacts across the nation.

19. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?

Response: I don't currently have plans to integrate AI into my work as a federal judge.

20. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.

Response: With respect to publications, the answer is no to the best of my recollection. With respect to posts, to the best of my recollection I have not deleted any posts relating to my professional role or legal matters. I have previously deleted content like old pictures from personal social-media accounts over the two decades in which social media has been prevalent.

21. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.

Response: No.

22. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.

a. Sexual harassment?

Response: No.

b. Sex-based discrimination?

Response: No.

c. Race-based discrimination?

Response: No.

d. Discrimination on the basis of national origin?

Response: No.

e. Discrimination on the basis of religion?

Response: No.

f. Workplace misconduct of any kind?

Response: No.

23. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: No.

c. Mike Davis

Response: No.

d. The Article III Project

Response: No.

24. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has recognized substantive due process rights. *See, e.g., Obergefell v. Hodges*, 576 U.S. 644, 675 (2015).

25. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: The Supreme Court has recognized a number of rights that are not expressly enumerated in the Constitution. For instance, the right to marry someone of a different race, the right to use contraceptives, and the right to marry someone of the same sex. *See Loving v. Virginia*, 388 U.S. 1 (1967); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Obergefell v. Hodges*, 576 U.S. 644 (2015).

26. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: As a judicial nominee, it is not appropriate for me to comment on legal issues that could come before the courts.

27. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: As a judicial nominee, it would not be appropriate for me to comment on legal questions that could come before the courts.

28. What protections does the Constitution offer to safeguard the freedom of the press?

Response: Among other things, the First Amendment protects freedom of speech and freedom of the press.

29. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: As a judicial nominee, it would not be appropriate for me to comment on a case that could come before the courts.

30. Do you agree that campaign finance donor disclosure requirements “impose no ceiling on campaign-related activities” and “do not prevent anyone from speaking,” as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: As a general matter, judicial nominees do not comment on whether Supreme Court cases have been decided correctly. *Citizens United* is binding precedent, and I will apply it faithfully.

31. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court in *Trump v. Hawaii* recognized what it described as “obvious”—that “*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—‘has no place in law under the Constitution.’”

- a. **Do you agree with Chief Justice Roberts that “[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful”?**

Response: *See* Response to Question 31.a.

32. The Seventh Amendment ensures the right to a jury “in suits at common law.”

- a. **What role does the civil jury play in our constitutional system?**

Response: The civil jury serves as a check on government power and ensures public participation in the administration of justice.

- b. **Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?**

Response: Should I be confirmed, I will apply binding Supreme Court and Eighth Circuit precedents on this topic.

- c. **Should an individual’s Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?**

Response: Should I be confirmed, I will apply binding Supreme Court and Eighth Circuit precedents on this topic.

33. Did Joe Biden win the 2020 presidential election?

Response: Joseph Biden was certified as the president and served from January 2021 to January 2025.

34. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: I was not present at the U.S. Capitol at the time. I do not have personal knowledge of the details. Consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on any subject of political controversy or to express a position regarding matters of public policy.

a. Where were you on January 6, 2021?

Response: Saint Louis, Missouri

35. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: Section 1 of the 22nd Amendment states that “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.” I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

Senate Judiciary Committee
Nomination Hearing
June 4, 2025
Questions for the Record
Senator Amy Klobuchar

For Maria Ann Lanahan, nominee to be U.S. District Judge for the Eastern District of Missouri

1. **As Deputy Solicitor General of Missouri, you led the effort to restrict women’s access to Mifepristone, a drug that has been approved in over 90 countries and safely used by millions. Your suit tries, among other things, to overturn the FDA’s 2016 approval and refers to these medications as “dangerous drugs.”**
 - **In filing your suit, are you aware that in 2018 the GAO—an independent, non-partisan agency—evaluated 62 studies and articles that supported the FDA’s decision, and that in 2023, the American Medical Association stated: “There is no evidence that people are harmed by having access to this safe and effective medication”?**

Response: My work on this case has been discrete and limited. I am not lead counsel on this case. I was not aware of the two studies you reference. That said, it is Missouri’s view that abortion complications are underreported for multiple reasons: failure to abide by reporting laws, the 2016 REMS removing the requirement to report complications other than death, and the fact that women presenting to emergency rooms who have taken abortion drugs do not always tell their providers that they took an abortion drug.

Nomination of Maria Lanahan to the
United States District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025

QUESTIONS FROM SENATOR COONS

1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.

Response: No.

- a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?

Response: No.

2. In your Senate Judiciary Questionnaire, you note that, on May 6, 2025, President Trump called you to tell you that you would be nominated to the federal bench.

- a. How long did that call last?

Response: Approximately two minutes.

- b. Who else, if anyone, participated in the call other than you and President Trump?

Response: I was connected to President Trump by the White House Operator.

- c. What was discussed on the call?

Response: President Trump told me that he intended to nominate me to a vacancy on the United States District Court for the Eastern District of Missouri. He congratulated me and wished me and my family the best.

- d. What questions, if any, were you asked by President Trump during the call and how did you answer them?

Response: As small talk, President Trump asked me if I had seen Solicitor General John Sauer's latest win at the U.S. Supreme Court. I told him I had not had a chance to see that yet. For context, John Sauer used to be my boss. I don't recall President Trump asking me any other questions.

3. How would you describe your judicial philosophy?

Response: Originalism

4. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

e. What other factors would you consider?

Response: If I were confirmed, in addressing such questions, I would faithfully apply the standards set forth in applicable Supreme Court and Eighth Circuit precedent, including as appropriate *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 238-50 (2022), *Obergefell v. Hodges*, 576 U.S. 644, 662-73 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

5. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.

Response: No, under the principles of *stare decisis*.

6. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, “[h]igher education at the time was considered dangerous for women,” a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, “As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser.” This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Eighth Circuit governing consideration of such evidence.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Eighth Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized

knowledge in the determination of adjudicative facts is governed by, *inter alia*, Federal Rule of Evidence 702 and the applicable precedent construing that rule.

7. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

- a. **As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?**

Response: I will impose supervision thoughtfully and consistent with all applicable laws.

- b. **Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?**

Response: As a nominee for judicial office, I cannot share my views about the wisdom of various statutes. I would apply all applicable statutes fully and faithfully.

- c. **Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?**

Response: I commit to applying all applicable statutes fully and faithfully.

8. **What is the remedy if the President of the United States violates his constitutional duty to faithfully execute the laws?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

9. **Is President Trump eligible to be elected President for a third term?**

Response: Section 1 of the 22nd Amendment states that “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.”

I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

10. Who won the 2020 U.S. Presidential Election?

Response: Joseph Biden was certified as the president and served from January 2021 to January 2025.

11. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: This is either a political question or a legal question that could come before the courts. To the extent it is a political question, it is improper for judicial nominees to comment on political issues. To the extent it is a legal question that could come before the courts, it is not appropriate for judicial nominees to opine on such questions. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

12. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

13. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point. To the extent that this question asks about my political views, it would be improper for a judicial nominee to comment on political issues.

- 14. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.**

Response: The Supreme Court held that there is a constitutional right to privacy that protects a woman's right to use contraceptives in *Griswold v. Connecticut*, 381 U.S. 479 (1965). If confirmed, I would faithfully follow that decision and all other Supreme Court precedents.

- 15. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- 16. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?**

Response: The Fifth Amendment provides, in relevant part, "No person shall ... be deprived of life, liberty, or property, without due process of law." The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. The question in most cases is less about whether the doctrine of due process applies and more about how much process is due. As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- 17. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- 18. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

19. What role, if any, should empathy play in a judge's decision-making process?

Response: The role of the judge is to faithfully apply the law. As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

20. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: The role of the judge is to faithfully apply the law. As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

21. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned."

- a. You filed an amicus brief in the Supreme Court on behalf of Missouri in *Alliance for Hippocratic Medicine v. Food and Drug Administration*. The case challenged the Food and Drug Administration's approval of the abortion drug mifepristone. Should you be confirmed, would you recuse yourself from future cases involving abortion drugs? Why or why not?**

Response: As stated in my SJQ, if confirmed, I will recuse in any litigation where I have ever played a role. I will evaluate recusal in cases involving the State of Missouri (including the Office of the Attorney General), Charter Communications, Thompson Coburn, and any clients I represented at that firm. I would also recuse myself from matters involving my family, close friends, and my own financial interests. Lastly, I will evaluate any other real or potential conflict or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action, with the advice of parties and their counsel, including recusal where necessary.

If confirmed I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

22. In your Senate Judiciary Questionnaire, you disclosed that you are a member of the Federalist Society, a group whose members often advocate an "originalist" interpretation of the Constitution. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the "circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light" on the amendment's original meaning, "it

is not enough to resolve the problem with which we are faced. At best, they are inconclusive We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.” 347 U.S. at 489, 490-93. Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?

Response: Yes.

- a. **Should the public’s understanding of a constitutional provision’s meaning at the time of its adoption ever be dispositive when interpreting that constitutional provision today?**

Response: The Supreme Court has held that the original public meaning of constitutional provisions is relevant in interpreting them.

- b. **Does the public’s original understanding of the scope of a constitutional provision constrain its application decades later?**

Response: See response to Question 22.a.

- c. **What sources would you employ to discern the contours of a constitutional provision?**

Response: Inferior courts must follow Supreme Court and Circuit precedent in discerning the contours of a constitutional provision. The Supreme Court has held that courts should also look at the text, structure, history, and tradition.

23. **Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?**

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. See, e.g., *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination. I don’t currently plan to inform parties that they do not need to comply with my orders.

- a. **Under what circumstances would you tell a party they could decide not to comply with your orders?**

Response: See response to Question 23.a.

b. What would you do if a party refuses to comply with one of your orders?

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. See, e.g., *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination. Inferior courts must follow Supreme Court and Circuit precedent in determining what to do if a party refuses to comply with a court order.

24. Discuss your proposed hiring process for law clerks.

I would review materials sent to me by applicants. I would interview those applicants I believe to be strong candidates. After interview, I would determine whether to hire those applicants. Once I have clerks, I would likely have my clerks interview any applicant before I decide whether to hire him or her.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

This is a political question. As a judicial nominee, it would be improper for me to share my political views.

25. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

I have not made a determination on this issue at this time.

a. How else would you support the skills development of junior lawyers appearing before you?

I have not made a determination on this issue at this time. I will certainly be supporting the skill development of my clerks by working with them directly.

**Questions for the Record for Ms. Maria A. Lanahan
Submitted by Senator Richard Blumenthal
June 11, 2025**

1. You co-authored a legal complaint in *Missouri v. FDA* in which you cited two studies by James Studnicki, Tessa Longbons, and others that had been published in *Health Services Research and Managerial Epidemiology*. This complaint was electronically filed on November 3, 2023.

On February 5, 2024, Sage Journals, the publisher of *Health Services Research and Managerial Epidemiology*, issued a retraction of the studies. A post-publication peer review “identified fundamental problems with the study design and methodology, unjustified or incorrect factual assumptions, material errors in the authors’ analysis of the data, and misleading presentations of the data” in the studies that, in the opinion of the reviewers, “demonstrate[d] a lack of scientific rigor and invalidate[d] the authors’ conclusions in whole or in part.”

a. When did you learn the studies were retracted?

Response: I am not lead counsel on this case, and my work on this case has been discrete and limited. I did not know the studies were retracted.

b. Did you notify the Court of the retractions?

Response: I am not lead counsel on this case, and my work on this case has been discrete and limited. I did not notify the Court of the retractions because I did not know about them.

i. If so, what information did you provide the Court? When did you provide this information?

Response: See response to 1.b, above.

2. The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges’ ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as “inherent in all courts” and “essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice.” Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

a. Do you believe the contempt power is “essential . . . to the due administration of justice[?]”

Response: This question references a live political debate. Judicial nominees are prohibited from weighing in on political questions. Typically, courts have the power to hold parties in contempt if they do not follow court orders.

b. Do you believe that federal judges should be limited in their ability to hold government officials in contempt?

Response: This question references a live political debate. Judicial nominees are prohibited from weighing in on political questions. Typically, courts have the power to hold parties in contempt if they do not follow court orders.

3. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that “[j]udges aren’t allowed to control the executive’s legitimate power.” This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: Yes.

ii. What powers would you have to enforce those orders?

Response: Judges can enforce their orders by holding parties in contempt, imposing fines, and imposing other penalties.

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. *See, e.g., Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination.

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: See Response to Question 2.b.

d. What would make a court order unlawful?

Response: A court order would be unlawful if, among other things, it did not follow binding law or if the court lacked the authority to issue it, such as when the court lacks jurisdiction.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Remedies for a party that believes a court order to be unlawful may include, depending on the case, moving for reconsideration, appealing, seeking a stay, or filing a writ petition.

ii. Is it ever acceptable to not follow this process? When and why?

Response: See response to Question 2.b.

4. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

**Senator Mazie K. Hirono
Questions for the Record
Maria A. Lanahan**

Nominee to the U.S. District Court for the Eastern District of Missouri

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
 - a. **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?**

Response: No.
 - b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

Response: No.
2. You represented the State of Missouri in a case that was filed in a one-judge division in Texas, challenging the FDA's regulations surrounding the use of the drug mifepristone. Your office sought to litigate this case in Texas despite the fact that neither the State of Texas nor any person in Texas was a party to the lawsuit.
 - a. **Why was this lawsuit filed in Texas instead of Missouri?**

Response: I did not make the decision to file the lawsuit in Texas. That said, a case raising similar issues was already pending there. This promotes judicial efficiency.
 - b. **Why were the judges on the federal district court on which you are currently nominated to serve either not competent or not desirable to hear the case?**

Response: See response to Question 2.a.
3. After the Supreme Court of the United States issued its opinion in *Dobbs v. Jackson Women's Health Organization*, the State of Missouri was the first state to enforce a full abortion ban with no exceptions for rape or incest. You have defended this abortion ban. However, last November, Missourians voted to amend the Missouri State Constitution to protect reproductive freedom. Even after Missourians voted to enshrine reproductive freedom in the constitution, the Attorney General's Office continued to argue for a full abortion ban.
 - a. **If confirmed, do you intend to consider the law and decide cases impartially regardless of your personal beliefs on the issue?**

Response: Yes.

- b. Under *Dobbs v. Jackson Women's Health Organization*, is it your understanding that states are free to decide for themselves what protections, if any, to extend to abortion?**

Response: *Dobbs* states, "The Constitution does not prohibit the citizens of each state from regulating or prohibiting abortion." 597 U.S. 215, 302 (2022).

4. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

- a. As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.**

Response: U.S. district courts have a number of tools to ensure compliance with court orders, including but not limited to contempt, fines, and other penalties.

- i. When should each of these tools be used?**

Response: I would apply Supreme Court and Eighth Circuit precedent governing when it is appropriate to use each of these tools.

- b. Is it ever permissible for a party in a case to disregard a court order?**

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. *See, e.g., Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) ("[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling."). Whether a particular case fits into an exception to the rule is a case-by-case determination.

- i. How should a federal judge respond if a party disregards an order issued by the judge?**

Response: See responses to Questions 4.a and 4.a.i.

- ii. Is the President of the United States allowed to disregard a court order?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

c. What does it mean for a judge to hold a party in contempt of court?

Response: Contempt involves behaviors that disrespect or obstruct the judicial process. *See* 18 U.S.C. § 401-402. To hold a party in contempt is to find that a party has engaged in such a behavior. Judges have various options in response. *Id.*

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

1. If so, where does that authority come from?

Response: See response to 4.c.i.

2. If not, why not?

Response: See response to 4.c.i

ii. What tools does a judge possess to punish contumacious conduct?

Response: See response to 4.c.

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

2. If not, why not?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would

faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

**Nomination of Maria A. Lanahan
Nominee to be U.S. District Judge for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR CORY A. BOOKER

1. If you are confirmed to the federal bench, you would be one of the least experienced federal district judges in the nation. Having graduated from law school in 2013, you have about 12 years of legal experience.

- a. **If you are confirmed, what concrete and affirmative steps do you plan to take to try to overcome the relative experience gap between you and your colleagues?**

Response: I am qualified and have the necessary background experience to be a judge. I have handled civil, criminal, and administrative cases. I have represented parties from states, to large corporations, to small businesses, to plaintiffs pro bono. I have litigated both as a plaintiff and a defendant. I have taken cases from beginning to end, from complaints and answers to motions to dismiss, discovery, pretrial, trial, post trial, and appeals. Should I find myself in a new situation, I would consult the applicable federal rules, case law, materials provided by the judiciary, and review what other judges have done in similar circumstances.

2. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

- a. **Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?**

Response: This is a political question. As a judicial nominee, it would be improper for me to comment on political issues.

- b. **How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?**

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

Response: Twelve, to my knowledge.

3. In your Senate Judiciary Questionnaire, you reported that you have been a member of Teneo, or the Teneo Network.

a. Please describe what Teneo is.

Response: Teneo is a 501(c)(3) professional networking organization.

b. What is Teneo's mission?

Response: Teneo believes in the principles of limited, constitutional government, individual liberty and free enterprise, a robust civic society, and a strong national defense.

c. How did you become a member of Teneo?

Response: I was asked to join.

d. Have you recruited others to join Teneo? If yes, provide the names of those individuals.

Response: I have not recruited any Teneo members.

e. Please provide a list of all events you have attended as a member of Teneo. Provide dates and locations for all events listed and describe the purpose of the event.

Response: From 2022 to 2025, I participated in an online gathering, two dinner gatherings, a baseball game, two retreats, and two holiday parties. These were networking events.

f. Have you (or, if applicable, your spouse) made financial contributions to Teneo? If yes, please provide the amounts and dates of such contributions.

Response: Yes. \$1,000 in December 2022; \$2,500 in December 2023; \$1,000 in December 2024.

4. How would you characterize your judicial philosophy?

Response: I am an originalist.

5. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Response: Yes. I understand originalism to mean that the text of the constitution must be interpreted based on its public meaning at the time the text was ratified. To the extent this is not clear, judges should consider history and tradition.

6. **Do you consider yourself a textualist? If so, what do you understand textualism to mean?**

Response: Yes. I understand textualism to be very similar to originalism. When interpreting statutes, the text of the statute must be interpreted based on its public meaning at the time the statute was adopted.

7. **Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Some federal judges consider legislative history when analyzing the meaning of a statute.**

- a. **If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?**

Response: What one member of Congress believed a bill meant is not a reliable indicator of what Congress as a whole believed a bill meant. The point of having a written statute is to allow the public to read it and understand what it means from the text, without having to resort to researching the legislative record. I would not rely on legislative history unless required to by the Supreme Court or the Eighth Circuit.

8. **According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.² Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.³ This disparity still persists. Even though rates of illicit drug use do not substantially differ by race and ethnicity,⁴ a 2023 study reports that one in four people arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.⁵**

² Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>.

³ *Id.*

⁴ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

⁵ Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), <https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/>.

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.⁶ In my home state of New Jersey, "the rate of imprisonment among Black people is more than nine times" that of white people.⁷

a. To what do you attribute the statistics above?

Response: I have no personal knowledge of the statistics above or, if correct, what causes them. I will not speculate on their cause.

9. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁸ What do you attribute this to?

Response: I have no personal knowledge of the statistics above or, if correct, what causes them. I will not speculate on their cause.

10. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.⁹ What do you attribute this to?

Response: I have no personal knowledge of the statistics above or, if correct, what causes them. I will not speculate on their cause.

11. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

Response: I have no personal knowledge of implicit racial bias in our criminal justice system. One of the sentencing factors judges must consider under 18 U.S.C. § 3553(a) is "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." To avoid unwarranted disparities, judges can consider how other defendants found guilty of the same crime were sentenced.

12. Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.

⁶ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

⁷ *Id.* at 9.

⁸ Sonja B. Starr & M. Marit Rehaui, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁹ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

Response: The most important factor to consider in selecting federal judges is merit. As the U.S. Supreme Court has stated in *Students for Fair Admissions v. Harvard*, 141 S. Ct. 2141, 2170 (2023), “One of the principal reasons race is treated as a forbidden classification is that it demeans the dignity and worth of a person to be judged by ancestry instead of by his or her own merit and essential qualities.”

- 13. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person’s gender identity?**

Response: I would always treat any plaintiff, defendant, or witness with respect, and I would follow Supreme Court and Eighth Circuit precedent on this issue.

- 14. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?**

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. *See, e.g., Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination.

- a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ if confirmed to the federal bench to determine whether that official should be held in contempt?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- 15. Does the president have the power to ignore or nullify laws passed by Congress?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

- 16. Does the president have the power to withhold funds appropriated by Congress?**

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

17. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supremacy Clause states: “This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.” I would apply the precedent of the Supreme Court and Eighth Circuit on this point.

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

18. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

19. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would faithfully apply the precedent of the Supreme Court and Eighth Circuit on this point.

20. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Yes.

21. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: *Griswold* is binding precedent. *Griswold* addressed whether a married couple has a constitutional right to use contraceptives. The Court held that it did.

22. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: *Lawrence* is binding precedent. *Lawrence* addressed whether a criminal law that banned consensual sexual conduct between individuals of the same sex violated the Due Process Clause of the Fourteenth Amendment. The Court held that it did.

23. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: *Obergefell* is binding precedent. *Obergefell* addressed whether state bans on same-sex marriage violate the Fourteenth Amendment's Due Process and Equal Protection Clauses. The Court held that the right to marry a person of the same sex is a fundamental right.

24. Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.

Response: Joseph Biden was certified as the president and served from January 2021 to January 2025. It is unclear to what case you are referring.

25. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."¹⁰

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: President Trump was certified as president and served from January 2017 to January 2021.

b. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: President Trump was certified as president and has served from January 2025 to the present.

c. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: Section 1 of the 22nd Amendment states that "No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some

¹⁰ U.S. CONST. amend. XXII.

other person was elected President shall be elected to the office of the President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.”

26. **Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?**

Response: Judicial nominees have historically not opined on whether past Supreme Court decisions were correctly decided other than *Loving v. Virginia* and *Brown v. Board of Education*.

27. **Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

28. **Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.**

Response: Not to my knowledge.

29. **Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

30. **Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

31. **Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

32. **Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

33. **Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

34. **Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

35. **Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.**

Response: No.

36. **Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.**

- a. **Enrique Tarrio**

Response: No.

- b. **Stewart Rhodes**

Response: No.

- c. **Kelly Meggs**

Response: No.

- d. **Kenneth Harrelson**

Response: No.

- e. **Thomas Caldwell**

Response: No.

- f. **Jessica Watkins**

Response: No.

g. Roberto Minuta

Response: No.

h. Edward Vallejo

Response: No.

i. David Moerschel

Response: No.

j. Joseph Hackett

Response: No.

k. Ethan Nordean

Response: No.

l. Joseph Biggs

Response: No.

m. Zachary Rehl

Response: No.

n. Dominic Pezzola

Response: No.

o. Jeremy Bertino

Response: No.

p. Julian Khater

Response: No.

37. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

38. **Have you ever been demoted, terminated, or experienced any other adverse employment action?**

Response: No.

- a. **If yes, please describe the events that led to the adverse employment action.**
- b. **If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.**

Response: I affirm that, since becoming a legal adult, I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

39. **Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?**

Response: Yes.

40. **Article III Project (A3P) “defends constitutionalist judges and the rule of law.” According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹¹**

- a. **Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: On May 6, 2025, Josh Hammer, who was a law school classmate of my husband, texted congratulations to me on being nominated for this position. I thanked him.

- b. **Are you currently in contact with anyone associated with A3P? If so, who?**

Response: Not to my knowledge.

- c. **Have you ever been in contact with anyone associated with A3P? If so, who?**

¹¹ See <https://www.article3project.org/about>.

Response: Other than Josh Hammer, not to my knowledge. I had not heard of A3P until the date I received these QFRs – June 11, 2025.

41. According to its Form 990 filed in 2024,¹² the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) “is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends.”

- a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: I have never heard of the Concord Fund, so not to my knowledge.

- b. Are you currently in contact with anyone associated with The Concord Fund? If so, who?

Response: See response to 41.a.

- c. Have you ever been in contact with anyone associated with The Concord Fund? If so, who?

Response: See response to 41.a.

42. Please describe the selection process that led to your nomination to be a United States federal judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: On December 10, 2024, Senator Schmitt’s office sent me an email requesting that I apply for the position, which I did on December 23, 2024. On January 23, 2025, Senator Hawley’s office emailed me and invited me to interview for the position. I interviewed for the position with Senator Hawley’s office in Saint Louis, Missouri on February 3, 2025, with Senator Hawley’s Chief Counsel and several other staff members. On February 7, 2025, I was contacted by the White House Counsel’s Office and invited to interview for a vacancy on the United States District Court for the Eastern District of Missouri. On February 12, 2025, I interviewed with attorneys from the White House Counsel’s Office. After that, I remained in contact with officials from the Office of Legal Policy at the Department of Justice and was periodically in contact with officials from the White House Counsel’s Office. On May 6, 2025, the President called to tell me I would be nominated to the Eastern District of Missouri.

¹² The Concord Fund, Form 990 (filed on May 13, 2024), available at <https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full>.

43. **Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?**

Response: Not that I recall.

- a. **Who?**
- b. **What advice did they give?**
- c. **Did anyone suggest that you omit or include any particular case or type of case in your SJQ?**

Response: Not that I recall.

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

Response: Not to my knowledge. I had not heard of the Article III Project until the date I received these QFRs – June 11, 2025.

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

Response: The Federalist Society is very large. According to their website, the Federalist Society is a society of 90,000 lawyers. In all likelihood, I spoke to various people associated with the Federalist Society, with or without knowing it.

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

Response: See response to Question 42.

47. **Please explain, with particularity, the process whereby you answered these written questions.**

Response: I drafted my responses to each of these questions. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this Committee. My answers are my own.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

June 4, 2025

Questions for Ms. Lanahan:

- 1. Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: In general, parties to a case must follow court orders. There are exceptions to this rule. *See, e.g., Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981) (“[I]n the rare case when appeal after final judgment will not cure an erroneous discovery order, a party may defy the order, permit a contempt citation to be entered against him, and challenge the order on direct appeal of the contempt ruling.”). Whether a particular case fits into an exception to the rule is a case-by-case determination.

- 2. Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: See response to Question 1.

- 3. Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge’s decision or order?**

Response: The President has freedom of speech and judges, as public figures, should expect people to freely comment on and even criticize their decisions. However, physical threats or attempting to physically harm a judge are unacceptable.

- 4. In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

Response: No.

Questions for the Record

Sen. Adam Schiff (CA)

Maria A. Lanahan, Nominee to the United States District Court for the Eastern District of Missouri

1. You have been a member of the Federalist Society since 2010. President Trump recently decried the Federalist Society for its “bad advice” on judicial nominations and called Leonard Leo, its Co-Chairman, a “real sleazebag.”

- a. **Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States District Court for the Eastern District of Missouri?**

Response: The Federalist Society is very large. According to their website, the Federalist Society is a society of 90,000 members. It is quite likely that current or former members of the Federalist Society recommended me for nomination to the United States District Court for the Eastern District of Missouri.

- b. **Do you believe the Federalist Society provided “bad advice” to President Trump on judicial nominations?**

Response: As a judicial nominee, it would not be proper for me to discuss my views on political issues.

2. **The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: “No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued.” In your estimation, would this provision, if enacted, diminish your ability as a future United States District Judge to enforce contempt orders against the government or government officials?**

Response: As a judicial nominee, it would not be proper for me to discuss my views on political issues, including proposed legislation.

3. **Given your previous work for the Missouri Attorney General’s office, do you commit to faithfully abiding by all relevant conflict of interest and judicial disqualification policies and procedures during your potential tenure as a District Judge in the Eastern District of Missouri?**

Response: Yes.

4. The governing statute of the United States Marshals Service requires: “the United States Marshals Service *shall* execute *all lawful writs, process, and orders* issued under the authority of the United States.” Additionally, the “primary . . . mission” of the Service is to “provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.]” 28 U.S.C. § 566.

- a. Based on the Service’s governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any “writ[], process [or] order[]” issued by a United States District Judge?

Response: “Ordinarily, the marshals and the federal courts which they serve have a close and harmonious relationship.” *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985) (Stevens, J., dissenting). *Id.* at 43–44 (Stevens, J., dissenting). “Open disputes between the marshals and the courts are rare, and appropriately so.” *Id.* at 44. But sometimes “administrative problems” come up. *Id.* “Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches.” *Id.* at 44. *Pennsylvania Bureau of Correction v. U.S. Marshals Service* was “an exceptional case” because it “involve[d] a dispute between the Marshals Service and a Federal District Court.” *Id.* at 43. In resolving that dispute, the Supreme Court held that, “at least in the absence of an express finding of exceptional circumstances, that neither a magistrate nor a district court has authority to order the Marshals to transport state prisoners to the federal courthouse to testify in an action brought by a state prisoner under 42 U.S.C. § 1983 against county officials.” *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985).

As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would follow all binding precedent from the Supreme Court and the Eighth Circuit on this topic.

- b. If the Service were to obey an executive branch command to disregard, or otherwise not execute, one of your orders, what other mechanisms would you consider employing, as a United States District Judge, to ensure compliance?

Response: As a judicial nominee, it is not appropriate for me to opine on legal questions that may come before the courts. I would follow all binding precedent from the Supreme Court and the Eighth Circuit on this topic.

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Cristian Matthew Stevens

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

United States District Judge for the Eastern District of Missouri

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.

Missouri Court of Appeals, Eastern District
One Post Office Square
815 Olive Street
St. Louis, Missouri 63101

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

1973; St. Louis, Missouri

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.

1995 – 1998, University of Missouri School of Law; J.D. *cum laude*, 1998

1992 – 1995, University of Missouri-Columbia; B.A. *magna cum laude*, 1995

Summer 1993, Lindenwood University; no degree received

1991 – 1992, University of Missouri-St. Louis; 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.

2021 – present
 Missouri Court of Appeals, Eastern District
 One Post Office Square
 815 Olive Street
 St. Louis, Missouri 63101
 Judge

2019 – 2021
 Office of the Missouri Attorney General
 207 West High Street
 Jefferson City, Missouri 65101
 First Assistant Attorney General (2020 – 2021)
 Deputy Attorney General for the Criminal Division (2019 – 2021)

2017 – 2019
 Armstrong Teasdale LLP
 7700 Forsyth Boulevard, Suite 1800
 Clayton, Missouri 63105
 Partner

2002 – 2017
 Office of the United States Attorney for the Eastern District of Missouri
 111 South Tenth Street, Suite 20.333
 St. Louis, Missouri 63102
 Assistant United States Attorney

1999 – 2002
 Bryan Cave LLC
 211 North Broadway, Suite 3600
 St. Louis, Missouri 63102
 Associate Attorney

1998 – 1999
 Honorable Pasco M. Bowman II, Chief Judge
 United States Court of Appeals for the Eighth Circuit
 400 East Ninth Street
 Kansas City, Missouri 64106
 Law Clerk

1998
 Bryan Cave LLC
 211 North Broadway, Suite 3600
 St. Louis, Missouri 63102
 Summer Associate

1997

Gallop Johnson and Neuman LLP
101 North Hanley Road
Clayton, Missouri 63105
Summer Associate

1996
Office of the United States Attorney for the Eastern District of Missouri
111 South Tenth Street, Suite 20.333
St. Louis, Missouri 63102
Summer Intern

1995
Trailhead Brewing Company
920 South Main Street
St. Charles, Missouri 63301
Waiter

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

I have not served in the military. I registered for selective service upon turning 18.

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

Creve Coeur Police Department Citizen Support Award, 2024, for performing CPR on motorist suffering cardiac arrest

Honored at the Missouri Bar Foundation and Public Service Awards Luncheon at the 2019 Annual Meeting of the Missouri Bar with the W. Oliver Rasch Award for outstanding substantive article

U.S. Attorney General's Award for Exceptional Service, 2015, for the investigation of the events surrounding the August 9, 2014, officer-involved shooting in Ferguson, Missouri

U.S. Attorney's Award for Most Outstanding Trial of the Year, 2014, for the trial, as a special prosecutor in state court, of a 1991 cold-case homicide in which the defendant murdered his ex-wife and left her body in the Mark Twain National Forest

U.S. Attorney's Special Achievement Award, 2005, for the trial and conviction of a defendant who escaped from a federal facility, murder his brother-in-law, and was featured on the U.S. Marshals Service's list of 15 Most-Wanted Fugitives.

Editor-in-Chief, *Missouri Law Review*, 1997 – 1998

Order of the Coif, 1998

Judge Roy W. Harper Prize for Best Work in Constitutional Law, 1997

ABA/BNA Award for Excellence in Labor and Employment Law, 1997

Student Representative, Missouri Students Association, 1992 – 1993

Finalist, 1996 Fall Moot Court Competition

National Moot Court Prize, 1996

CALI Excellence for the Future Award, Basic Business Principles for Lawyers, 1996

Phi Beta Kappa National Honor Society, 1995

Golden Key Honor Society, 1995

Honors College Community Involvement Program, mentoring foster children, 1994 – 1995

University of Missouri Honors College, 1991 – 1995

J.G. Heinberg Research Scholarship in Political Theory, 1992

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.

Missouri Bar, 1998 – present
Member

Illinois Bar, 1999 – present (Inactive)
Member

Federal Bar Association, St. Louis Chapter, approximately 2017 – present
Member

The Federalist Society, St. Louis Chapter, approximately 1999 – present
Member

St. Louis County Bar Association, approximately 2017 – present
Member

Bar Association of Metropolitan St. Louis, approximately 2017 – present
Member

The Lawyers Association of St. Louis, approximately 2017 – present
Member

Missouri Court of Appeals, Eastern District Committee Assignments:

2021-22: Library Committee; Docket Committee

2022-23: Library Committee; Docket Committee; Rules Committee; Wellness Committee

2023-25: Executive Committee (Secretary); Library Committee; Public Information Committee; Rules Committee; Docket Committee; Wellness Committee

Missouri Court of Appeals, Eastern District Writ Panels:

April 2022

September 2022 (Presiding Judge)

April 2023

November 2023 (Presiding Judge)

June 2024

January 2025 (Presiding Judge)

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.

Missouri, 1998

Illinois Bar, 1999

There has been no lapse in membership. My bar license in Illinois is inactive because I do not practice there.

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.

U.S. Court of Appeals for the Eighth Circuit, 1998

U.S. District Court for the Eastern District of Missouri, 2000

U.S. District Court for the Southern District of Illinois, 2017

U.S. District Court of the Western District of Missouri, 2018

There has been no lapse 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.

St. Louis Shamrock Club, 2025 – present

Licensed Foster Parents, Missouri Children's Division. Completed the nine-week Missouri Foster STARS Training Program in August 2017 and became licensed foster parents. We discontinued our service as foster parents after we adopted our daughter in 2019.

Missouri Athletic Club, approximately 2017 – present

The Backstoppers, Inc., approximately 2017 – present

Whitehouse Retreat, St. Louis Jesuit House of Retreats, approximately 1998 – present

Order of the Coif, 1998 – present

University of Missouri-Columbia Alumni Association, intermittent since 1995

Phi Beta Kappa National Honor Society, 1995 – present

Golden Key Honor Society, 1995 – present

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

To my knowledge, none of the organizations listed above discriminates on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies. The Missouri Athletic Club was racially segregated until the 1960s and was a male-only athletic club until the 1980s, but it had been fully integrated for decades by the time my family and I became members.

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 copies of all published material to the Committee.

Listen to What DOJ is Telling You: Principles of Federal Prosecution of Business Organizations, ACC Docket (January 2019). Copy supplied.

Attorney-Client Privilege: Varied Interpretations of Upjohn Present Challenges, Missouri Lawyers Weekly (August 2018). Copy Supplied.

Attorney-Client Privilege: Varied Interpretations of Upjohn Present Challenges, Missouri In-House Counsel Magazine (August 2018). Copy Supplied.

Mitigating Risk: How Thorough Investigations Can Limit Government Intervention, Whitepaper, Corporate Counsel (August 2018). Copy supplied.

Internal Investigations: Lessons Learned for Corporate Counsel and the Investigating Lawyer, Journal of the Missouri Bar (May/June 2018), recipient of the Missouri Bar Foundation 2019 W. Oliver Rasch Award for outstanding substantive article. Copy supplied.

Lessons from Ferguson: What Corporate Counsel Should Know About Internal Investigations, ACC Newsletter (July 2017). Copy supplied.

Press release, *Former President of St. Louis Law Enforcement Officer Association Sentenced on Fraud Charges*, United States Attorney's Office, Eastern District of Missouri, Dec. 12, 2016, available at <https://www.justice.gov/usao-edmo/pr/former-president-st-louis-law-enforcement-officer-association-sentenced-fraud-charges>.

Press release, *East St. Louis Man Pleads Guilty to Kidnapping Charges*, United States Attorney's Office, Eastern District of Missouri, Nov. 2, 2016, available at <https://www.justice.gov/usao-edmo/pr/east-st-louis-man-pleads-guilty-kidnapping-charges>.

Press release, *Former President of St. Louis Law Enforcement Officer Association Pleads Guilty to Fraud Charges*, United States Attorney's Office, Eastern District of Missouri, Sept. 13, 2016, available at <https://www.justice.gov/usao-edmo/pr/former-president-st-louis-law-enforcement-officer-association-pleads-guilty-fraud>.

Press release, *Former President of St. Louis Law Enforcement Officer Association Indicted on Fraud Charges*, United States Attorney's Office, Eastern District of Missouri, Apr. 18, 2016, available at <https://www.justice.gov/usao-edmo/pr/former-president-st-louis-law-enforcement-officer-association-indicted-fraud-charges>.

Press release, *Two Local Men Charged Involving a Drug-Related Homicide*, United States Attorney's Office, Eastern District of Missouri, Mar. 3, 2016, available at <https://www.justice.gov/usao-edmo/pr/two-local-men-charged-involving-drug-related-homicide>.

Press release, *Frederickton, Missouri Man Sentenced on Federal Weapons Charges*, United States Attorney's Office, Eastern District of Missouri, Dec. 9, 2015, <https://www.justice.gov/usao-edmo/pr/frederickton-missouri-man-sentenced-federal-weapons-charges>.

Press release, *Franklin County Man Indicted on Federal Drug and Weapons Charges*, United States Attorney's Office, Eastern District of Missouri, June 29, 2015, available at <https://www.justice.gov/usao-edmo/pr/franklin-county-man-indicted-federal-drug-and-weapons-charges>.

Press release, *Illinois Man Sentenced For Assaulting Federal Agents*, United States Attorney's Office, Eastern District of Missouri, June 2, 2014, available at <https://www.justice.gov/usao-edmo/pr/illinois-man-sentenced-assaulting-federal-agents>.

Press release, *Local Man Sentenced To Lengthy Prison Sentence On Federal Firearms Charges*, United States Attorney's Office, Eastern District of Missouri, Apr. 10, 2014, available at <https://www.justice.gov/usao-edmo/pr/local-man-sentenced-lengthy-prison-sentence-federal-firearms-charges>.

Press release, *Former bank robber and three associates indicted on bank robbery conspiracy charges*, United States Attorney's Office, Eastern District of Missouri, May 3, 2012, available at https://www.justice.gov/archive/usao/moe/news/2012/may/mcallister_otis.html.

Press release, *St. Louis County man sentenced to almost 27 years on drug and weapons charges*, United States Attorney's Office, Eastern District of Missouri, Jan. 5, 2012, available at https://www.justice.gov/archive/usao/moe/news/2012/january/shores_mark.html.

Revolutionary or Aberrational?: The Status of the Supreme Court's Recent Federalism Cases in the Eighth Circuit, 44 St. Louis U. L.J. 529 (Spring 2000). Copy supplied.

Note, *Criticism of Crack Cocaine Sentences Is Not What It Is Cracked Up To Be: A Case of First Impression Within the Ongoing Crack vs. Cocaine Debate*, 62 Mo. L. Rev. 869 (Fall 1997). Copy supplied.

b. Supply 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.

Department of Justice Report Regarding the Criminal Investigation into the Shooting Death of Michael Brown by Ferguson, Missouri Police Officer Darren Wilson, Mar. 4, 2015, <https://www.justice.gov/sites/default/files/opa/press->

releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown_1.pdf.

c. Supply 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.

Testimony in support of Missouri statute prohibiting carjacking, Missouri State Senate Judiciary and Civil and Criminal Jurisprudence Committee (Jefferson City, Missouri, February 3, 2020). I do not have a copy of the testimony.

d. Supply 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.

March 13, 2025, Faculty, *Advanced Trial Skills Training for Judges: Objections and Preservation of Issues at Trial* (Columbia, Missouri). Copy supplied.

February 7, 2025, Host, Missouri Court of Appeals, Eastern District Legislative Luncheon (St. Louis, Missouri). Copy supplied.

November 23, 2024, Visiting Judge, St. Louis County Circuit Court Adoption Saturday, Case No. 22-461 (Clayton, Missouri). Outline supplied.

October 10, 2024, *Views from the Appellate Bench*, Armstrong Teasdale (Clayton, Missouri). The presentation was on observations of appellate judges regarding briefing and oral argument. I have no notes, transcript, or recording. The address of Armstrong Teasdale is 7700 Forsyth Boulevard, Suite 1800, Clayton, Missouri 63105.

September 26, 2024, Panel Member, *Objections at Trial and Other Methods of Avoiding Waiver in Civil Litigation*, St. Louis County Bar Association, Armstrong Teasdale (Clayton, Missouri). The panel presentation was on best practices for preservation of error at all stages of the litigation process, with an emphasis on recent decisions of Missouri appellate courts. I have no notes, transcript, or recording. The address of Armstrong Teasdale is 7700 Forsyth Boulevard, Suite 1800, Clayton, Missouri 63105. Announcement and agenda supplied.

August 20, 2024, Panel Member, Judicial Panel, Missouri Attorney General's Office New Attorney Orientation (Jefferson City, Missouri). The judicial panel was on briefing and argument observations of judges for new assistant attorneys general. I have no notes, transcript, or recording. The address of the Missouri Attorney General's Office is 207

West High Street, Jefferson City, Missouri 65101.

June 21, 2024, Panel Member, Judicial Panel, Missouri Association of Trial Lawyers Annual Conference (Lake of the Ozarks, Missouri). The judicial panel was on briefing and argument observations of judges. I have no notes, transcript, or recording. The address of the Missouri Association of Trial Lawyers is 240 East High Street, Suite 300, P.O. Box 1792, Jefferson City, Missouri 65102.

June 6-8, 2024, Panel Member, Blended Judicial Panel, Missouri Organization of Defense Lawyers 39th Annual Meeting (Branson, Missouri). The judicial panel was on observations of trial, appellate, and Supreme Court judges. I have no notes, transcript, or recording. The address of the Missouri Organization of Defense Lawyers is 101 East High Street, Suite 200, P.O. Box 1072, Jefferson City, Missouri 65102.

March 12, 2024, Presiding, Docket, Holman Middle School Field Trip, Missouri Court of Appeals, Eastern District (St. Louis, Missouri). Docket supplied.

March 7, 2024, Panel Member, *A Constitution that Still Works: The Fourth Amendment and Cell Phones*, Festus Middle School (Festus, Missouri). Copy supplied.

January 19, 2024, Panel Member, *Judicial Conversation*, Judicial Panel with Judges Duane Benton, Stephen Clark, Steven Grasz, Federalist Society Missouri Chapters Meeting CLE (Jefferson City, Missouri). Outline and description supplied.

December 22, 2023, Presiding, Attorney C.J. Tammons Swearing-In Ceremony, Missouri Court of Appeals, Eastern District of Missouri En Banc (St. Louis, Missouri). Attorney oath supplied.

November 15, 2023, Speaker, Judge Margaret Donnelly Retirement Ceremony, St. Louis County Circuit Court (Clayton, Missouri). The speech was to thank and congratulate Judge Margaret Donnelly, the judge who presided over the adoption of our daughter, on her retirement. I have no notes, transcript, or recording. The address of the St. Louis County Circuit Court is 105 South Central Avenue, Clayton, Missouri 63105.

November 14, 2023, *The Curious Cold Case of Farrell Wayne Cross*, Columbia College Forensic Science Club (Columbia, Missouri). Copy supplied.

October 17, 2023, Panel Member, *How to Have Difficult Conversations and Handle Crazy Cases*, Panel with Judge Thomas Albus and Ted Bruce, Missouri Attorney General's Office Conference CLE (Lake of the Ozarks, Missouri). The presentation was on observations of former prosecutors regarding investigating and prosecuting difficult cases. I have no notes, transcript, or recording. The address of the Missouri Attorney General's Office is 207 West High Street, Jefferson City, Missouri 65101.

2023, Speaker, St. Louis County Police Association Luncheon (St. Louis, Missouri). The presentation was on the role of police officers in protecting the rule of law. I have no

notes, transcript, or recording. The address of the St. Louis County Police Association is 115 Baxter Road, Manchester, Missouri 63011.

April 4, 2023, Host, St. Austin School Field Trip, Missouri Court of Appeals, Eastern District. The presentation was to welcome students of St. Austin School to the Missouri Court of Appeals, Eastern District. I have no notes, transcript, or recording. The address of the Missouri Court of Appeals, Eastern District is 815 Olive Street, St. Louis, Missouri 63101. A thank you note from the students is supplied.

February 10, 2023, Host, Missouri Court of Appeals, Eastern District Legislative Luncheon (St. Louis, Missouri). Copy supplied.

January 20, 2023, Panel Member, *The Role of a Judge/The Initiative Petition Process Under the Missouri Constitution*, Judicial Panel with Judges Duane Benton, Stephen Limbaugh Jr., Matthew Schelp, and John Torbitzky, Federalist Society Missouri Chapters Meeting CLE (Jefferson City, Missouri). Outline, description, and audio file supplied.

November 16, 2022, Panel Member, Judicial Panel with Judges Robin Ransom and James Journey, Missouri Attorney General's Office Annual Conference CLE (Lake of the Ozarks, Missouri). The panel presentation was on observations of trial, appellate, and supreme court judges for assistant attorneys general. I have no notes, transcript, or recording. The address of the Missouri Attorney General's Office is 207 West High Street, Jefferson City, Missouri 65101.

November 14, 2022, Panel Member, *Advice for Law Clerks*, Judicial Panel with Judges Stith, Gardner, Dowd, and Torbitzky, Missouri Court of Appeals, Eastern District CLE (St. Louis, Missouri). The panel presentation was on advice of appellate judges for law clerks. I have no notes, transcript, or recording. The address of the Missouri Court of Appeals, Eastern District is One Post Office Square, 815 Olive Street, St. Louis, Missouri 63101.

November 10, 2022, Special Docket and Presentation, Missouri Court of Appeals, Eastern District of Missouri (Francis Howell North High School, St. Charles, Missouri). Docket supplied.

October 13, 2022, Panel Member, Bar Association of Metropolitan St. Louis Young Lawyers Section Panel, Missouri Court of Appeals, Eastern District of Missouri (St. Louis, Missouri). The panel presentation was an informal reception welcoming members of the young lawyers section of the Bar Association of Metropolitan St. Louis to the Missouri Court of Appeals, Eastern District. I have no notes, transcript, or recording. The address of the Bar Association of Metropolitan St. Louis is 319 North Fourth Street, Suite 100, St. Louis, Missouri 63102.

September 27, 2022, Presiding, Assistant Attorneys General Class of 2022 Swearing-In Ceremony, Missouri Attorney General's Office (Jefferson City, Missouri). Attorney oath supplied.

September 15, 2022, Panel Member, *May It Please the Court, Judicial Advice and Insights on Appeals*, Missouri Bar/Judicial Conference Annual Meeting CLE (Springfield, Missouri). The panel discussion was on the observations of appellate judges regarding briefing and arguing cases on appeal. I have no notes, transcript, or recording. The address of the Missouri Bar is 326 Monroe Place, P.O. Box 119, Jefferson City, Missouri 65102. Program supplied.

July 21, 2022, University of Missouri Law Students Reception with Judges Kelly Broniec and Thomas Albus, St. Louis County Circuit Court (Clayton, Missouri). The presentation was an informal welcome reception for law students of the University of Missouri School of Law. I have no notes, transcript, or recording. The address of the University of Missouri Law School is 203 Hulston Hall, Columbia, Missouri 65211. The address of the St. Louis County Circuit Court is 105 South Central Avenue, Clayton, Missouri 63105.

June 9, 2022, *The Rule of Law and Mentoring*, Installation Ceremony, Missouri Court of Appeals, Eastern District of Missouri En Banc (St. Louis, Missouri). Outline supplied.

February 10, 2022, Presiding, Judge Chris McDonough Swearing-In Ceremony, Eleventh Judicial Circuit Court (St. Charles, Missouri). Outline supplied.

November 3, 2021, Panel Member, *The Evolving Concept of Expectation of Privacy and the Fourth Amendment*, St. Louis County Circuit Court, Missouri Athletic Club, CLE (St. Louis, Missouri). The presentation was on recent federal cases dealing with the application of the Fourth Amendment to new technological innovations, like GPS monitoring, cell tower tracking, and drone surveillance. I have no notes, transcript, or recording. The address of the St. Louis County Circuit Court is 105 South Central Avenue, Clayton, Missouri 63105.

September 9, 2021, *The Missouri Attorney General's Office*, Lashley & Baer, P.C., CLE (St. Louis, Missouri). Notes supplied.

August 24, 2021, Panel Member, *Attorney General Responses to Human Trafficking*, National Association of Attorneys General Southern Region Meeting. Program supplied.

May 17, 2021, *Objections at Trial*, Missouri Attorney General's Office (Jefferson City, Missouri). Outline supplied.

September 17, 2019, Panel Member, *Constitution Day Panel*, Missouri S&T University (Rolla, Missouri). Notes supplied.

June 25, 2019, Instructor, *Vehicle Stops Report*, Missouri Police Chiefs Charitable Foundation Law Enforcement Conference (Osage Beach, Missouri). Copy supplied.

June 6, 2019, Panel Member, *Basic Issues in Violent Crime and Narcotics Prosecutions*, U.S. Attorney's Office, Eastern District of Missouri CLE (St. Louis, Missouri). The

presentation was on basic legal issues encountered in the prosecution of federal violent crimes and drug cases. I have no notes, transcript, or recording. The address of the U.S. Attorney's Office for the Eastern District of Missouri is 111 South Tenth Street, Suite 20333, St. Louis, Missouri 63102.

May 30, 2019, *Upjohn: The Attorney-Client Privilege in the Corporate Context*, Missouri Attorney General's Office CLE (St. Louis, Missouri). Copy supplied.

May 4, 2019, Guest Speaker, Thirty-Second Annual Missouri Law Enforcement Memorial Service (Jefferson City, Missouri). Program and notes supplied.

April 4, 2019, Keynote Speaker, Eastern Missouri Law Enforcement Training Academy Commencement Ceremony (Lake St. Louis, Missouri). Notes and program supplied.

February 28, 2019, *Upjohn: The Attorney-Client Privilege in the Corporate Context*, University of Missouri Law School Career Expo CLE (Columbia, Missouri). Copy supplied.

November 16, 2018, *In the Media Spotlight: Lessons Learned from Ferguson and Other High-Profile Investigations*, National Association of Police Organizations 2018 Legal Seminar CLE (Las Vegas, Nevada). Copy supplied.

November 7, 2018, *Upjohn: The Attorney-Client Privilege in the Corporate Context*, Armstrong Teasdale Alumni CLE (St. Louis, Missouri). Copy supplied.

November 5, 2018, *In the Media Spotlight: Lessons from High Profile Investigations*, Washington University School of Law Criminal Law Society (St. Louis, Missouri). Copy supplied.

September 27, 2018, *Investigations in the Age of #MeToo*, Missouri Bar/Missouri Judicial Conference 2018 Annual Meeting CLE (St. Louis, Missouri). Copy supplied.

July 25, 2018, *Upjohn: The Attorney-Client Privilege in the Corporate Context*, Association of Corporate Counsel Nevada Chapter CLE (Las Vegas, Nevada). Copy supplied.

June 19, 2018, *Lessons from High Profile Investigations: From Ferguson and Greitens to Corporate Investigations*, Armstrong Teasdale Summer Intern Meeting (St. Louis, Missouri). Copy supplied.

June 1, 2018, *Lessons from High Profile Investigations: From Ferguson and Greitens to Corporate Investigations*, United States Law Firm Group CLE (St. Louis, Missouri). Copy supplied.

May 16, 2018, *Upjohn: The Attorney-Client Privilege in the Corporate Context*, Association of Corporate Counsel/Bar Association of Metropolitan St. Louis Corporate

Counsel Institute CLE (St. Louis, Missouri). Copy supplied.

April 26, 2018, *False Claims and Qui Tam Lawsuits: From Whistleblower Protection to Litigation*, Armstrong Teasdale CLE (St. Louis, Missouri). Copy supplied.

September 13, 2017, *False Claims and Qui Tam Lawsuits: From Whistleblower Protection to Litigation*, Association of Corporate Counsel Mid-America Chapter CLE (Kansas City, Missouri). Copy supplied.

June 29, 2017, *Lessons from Ferguson: What Corporate Counsel Should Know About Internal Investigations*, Federal Bar Association CLE (St. Louis, Missouri). Copy supplied.

November 2016: Keynote Speaker, FBI National Academy Eastern Missouri Chapter (St. Louis, Missouri). The speech was on the role of law enforcement officers in protecting the rule of law. I have no notes, transcript, or recording. The address of the FBI National Academy is Building 8-102, Quantico, Virginia 22135.

September 2016: Instructor, Bureau of Alcohol, Tobacco, Firearms and Explosives Academy (Federal Law Enforcement Training Center, Brunswick, Georgia). The presentation was on the investigation and prosecution of federal violent crimes. I have no notes, transcript, or recording. The address of the ATF Academy at the Federal Law Enforcement Training Center is 1131 Chapel Crossing Road, Building 86, Glynco, Georgia, 31525.

August 2016: Instructor, *Basics of Prosecution of Federal Violent Crime*, St. Louis Metropolitan Police Academy (St. Louis, Missouri). The presentation was on the investigation and prosecution of federal violent crimes. I have no notes, transcript, or recording. The address of the St. Louis Metropolitan Police Academy is 315 South Tucker Boulevard, St. Louis, Missouri 63102.

June 2016: Keynote Speaker, St. Louis County and Municipal Police Academy Commencement Ceremony (St. Louis, Missouri). The speech was on the role of police officers in protecting the rule of law. I have no notes, transcript, or recording. The address of the St. Louis County Police Academy is 1266 Sutter Avenue, St. Louis, Missouri 63133.

May 2016: Instructor, Bureau of Alcohol, Tobacco, Firearms and Explosives Academy (Federal Law Enforcement Training Center, Brunswick, Georgia). The presentation was on the investigation and prosecution of federal violent crimes. I have no notes, transcript, or recording. The address of the ATF Academy at the Federal Law Enforcement Training Center is 1131 Chapel Crossing Road, Building 86, Glynco, Georgia, 31525.

April 20, 2016: *State v. Farrell Cross*, Major Case Conference, Twin Lakes Retired Police Officers Scholarship Foundation (Mountain Home, Arkansas). Copy supplied.

April 6, 2015: *Appellate Practice Tips*, Federal Bar Association Appellate Practice CLE (St. Louis, Missouri). Outline supplied.

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

October 25, 2021, *Stevens named to Eastern District*, Missouri Lawyers Media. Copy supplied.

October 22, 2021, *Top aide to Missouri attorney general picked for appeals court post*, St. Louis Post-Dispatch. Copy supplied.

January 6, 2020, *Deputy AG brings experience to Safer Streets prosecutions*, Missouri Lawyers Media. Copy supplied.

January 22, 2019, *Missouri attorney general, U.S. attorney announce partnership to target violent crime in St. Louis area*, St. Louis Post-Dispatch. Copy supplied.

June 4, 2018, *Dismissal of Greitens charges sparks ethical debates*, Missouri Lawyers Media. Copy supplied.

May 31, 2018, *Governor's attorneys approached St. Louis prosecutor with deal: He'll resign, you drop felony charge*, St. Louis Post-Dispatch. Copy supplied.

April 24, 2018, *Investigator on Greitens' criminal case refuses to answer deposition questions*, St. Louis Post-Dispatch. Copy supplied.

April 20, 2018, Appearance on *MSNCB Live* with Craig Melvin regarding investigations and prosecution of Missouri Governor Eric Greitens. I have no clips or transcripts of this interview.

March 22, 2018, *Judge rejects Greitens' request to move up trial*, Associated Press, Jefferson City News Tribune. Copy supplied.

March 21, 2018, *Experts: Plenty of reasons for Greitens to seek bench trial*, Associated Press, New York Times. Copy supplied.

March 21, 2018, *Judge refuses to change trial date for Greitens*, Missouri Lawyers Media. Copy supplied.

March 15, 2018, *Man investigating Greitens' affair was himself investigated by FBI for bigamy*, St. Louis Post-Dispatch. Copy supplied.

February 19, 2018, *Laterals bring prosecutorial, judicial chops to job*, Missouri Lawyers Media. Copy supplied.

February 19, 2018, *New Partners 2018*, Missouri Lawyers Media. Copy supplied.

January 25, 2018, *Attys React to DOJ's New Memo on FCA Dismissals*, Law360. Copy supplied.

January 23, 2018, *St. Louis circuit attorney has broad power over Greitens probe but little to go on, experts say*, St. Louis Post-Dispatch. Copy supplied.

February 23, 2017, *Former assistant U.S. attorney joins Armstrong*, Missouri Lawyers Media. Copy supplied.

February 9, 2017, *Armstrong Teasdale Adds Federal Prosecutor Who Led Ferguson Case*, The American Lawyer. Copy supplied.

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

I was nominated to serve as a Judge on the Missouri Court of Appeals, Eastern District, by the Appellate Judicial Commission of the Missouri Non-Partisan Court Plan and appointed by Governor Mike Parson in 2021. I was retained by the voters in a merit retention election in 2024. The Missouri Court of Appeals is a regional intermediate appellate court with jurisdiction over 26 counties in eastern Missouri. The court hears civil and criminal appeals from the state circuit courts and appeals from some administrative agencies.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

As an appellate judge, I have been on the panel for more than 270 cases decided by opinion and I have written more than 90 opinions. I have served as a special judge with the Supreme Court of Missouri on one civil case, *Crown Diversified Industries Corp., et al., v. Zimmerman*, SC100219 (January 4, 2024). I have served as a visiting judge with the St. Louis County Circuit Court on one adoption case, Case No. 22-461 (November 23, 2024).

- i. Of these cases, approximately what percent were:

jury trials:	0%
bench trials:	0%

As a court of appeals, the Missouri Court of Appeals does not maintain records regarding what percent of the cases on appeal were jury trials or bench trials at the circuit court level.

- ii. Of these cases, approximately what percent were:

civil proceedings: 70%
 criminal proceedings: 30%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

Citations for all opinions I have written, including concurrences and dissents are provided in Appendix 13b.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

The ten most significant cases over which I have presided are listed below. All of the cases were reported.

1. *DMK Holdings v. City of Ballwin*, 646 S.W.3d 708 (Mo. App. E.D. 2022)

A fence DMK installed on one of its properties failed city inspection because it was not installed in a “professional” manner. At another property, DMK installed solar panels without a permit. DMK filed a claim for inverse condemnation, arguing the applicable city ordinance required the fence to be installed in a “workmanlike” manner, not a “professional” manner, and a declaratory judgment action, arguing the installation of the solar panels did not require a permit. The trial court granted summary judgment in favor of the city. The Court of Appeals affirmed the trial court’s summary judgment because the plain and ordinary meanings of the terms “workmanlike” in the city ordinance and “professional” used by the inspector were indistinguishable on any principled basis according to the definitions in Webster’s Third New International Dictionary. The city likewise was entitled to summary judgment because DMK’s solar panels were mounted on a “roof,” within the plain and ordinary meaning of that term, which required a permit under the city ordinance. The Court made clear that the interpretation of an ordinance is a question of law for the independent judgment of the reviewing court in the first instance, and an agency’s interpretation with no basis in the ordinance’s text is not entitled to any deference.

Counsel for Appellant:

David C. Knieriem
 Law Offices of David C. Knieriem
 13321 North Outer Forty Rd., Ste. 100
 Town & Country, MO 63017
 (314) 862-5110

Counsel for Respondent:

Robert E. Jones
 Curtis, Heinz, Garrett & O'Keefe, P.C.
 130 South Bemiston, Suite 200
 Clayton, MO 63105
 (314) 571-6825

2. *Reddick v. Spring Lake Estates Homeowner's Ass'n*, 648 S.W.3d 765 (Mo. App. E.D. 2022)

The family of a decedent who fell on a neighbor's property filed a wrongful death suit against the homeowner's association, the home inspector, and the inspector's liability insurer. The decedent's family alleged the homeowner's association was negligent in failing to adequately light the subdivision, and the inspector negligently inspected the property. The trial court granted summary judgment in favor of the homeowner's association and dismissed the claims against the home inspector and the insurance company. The Court of Appeals affirmed the trial court's judgment because the homeowner's association did not assume a duty to adequately light the private property where the decedent fell, and the home inspector owed no duty of care to decedent, who was not a party to the inspection contract between the inspector and the neighboring homeowner. The Court also held that the insurance company was not a party to, nor bound by, a contract between the plaintiffs and the inspector, in which the inspector agreed not to contest liability or move to dismiss the negligence claim against him. Pursuant to a statute recently amended by the legislature to allow insurers to intervene in such cases, the insurer had a right to intervene, contest liability and damages, and move to dismiss the claims against the inspector.

Counsel for Appellant:

Joseph C. Blanton Jr., Shaun D. Hanschen, Diedre A. Peters, Bryan E. Nickell,
 Blanton, Nickell, Collins, Douglas & Hanschen, L.L.C.
 219 South Kingshighway, P.O. Box 805
 Sikeston, MO 63801
 (573) 471-1000

Counsel for Respondent:

D. Keith Henson, Bradley J. Sylwester
 Baker, Sterchi, Cowden & Rice L.L.C.
 165 North Meramec Avenue, Suite 110
 St. Louis, MO 63105, 314-455-8300

Martha Charepoo
 100 North Broadway, 21st Floor
 St. Louis, MO 63102
 (314) 480-1822

James R. Howard
302 Campusview Drive, Suite 204
Columbia, MO 65201
(573) 442-9423

3. *Interest of A.L.D.*, 649 S.W.3d 370 (Mo. App. E.D. 2022).

The trial court held a juvenile certification hearing via video conference because of the COVID-19 pandemic and certified the juvenile for prosecution as an adult. The juvenile appealed the trial court's decision, arguing the video conference procedure violated his confrontation and due process rights under the Missouri and United States Constitutions. The Court of Appeals reversed the trial court's decision based on recent Missouri Supreme Court precedent that the video conference procedure violated the juvenile's rights to confrontation and due process. The Court quoted Judge Zel Fischer's admonition on behalf of the Missouri Supreme Court, "Neither the United States Constitution nor the Missouri Constitution are entitled to take 'sick days,'" *J.A.T. v. Jackson Cty. Juv. Off.*, 637 S.W.3d 1, 10 (Mo. banc 2022), and Justice Scalia's observation, "Virtual confrontation might be sufficient to protect virtual constitutional rights; I doubt whether it is sufficient to protect real ones," *Order of the Supreme Court*, 207 F.R.D. 89, 94 (2002).

Counsel for Appellant:

Jeffrey C. Esparza
Office of the State Public Defender
920 Main Street, Suite 500
Kansas City, MO 64105
(816) 889-7699

Daniel Feldman
1010 Market Street, Suite 1340
St. Louis, MO 63101

Counsel for Respondent:

Alexander Martinez, Abbey McDonough
St. Louis County Juvenile Office
105 South Central Avenue
Clayton, MO 63105
(314) 615-2936

4. *City of Columbia v. Spectra Commc'ns Grp.*, 652 S.W.3d 356 (Mo. App. E.D. 2022).

CenturyLink allegedly violated the license tax ordinances of the cities of Columbia and Joplin. The trial court granted partial summary judgment to the cities on all counts and

awarded \$53,802,060.70 to Columbia and \$1,153,678.23 to Joplin for unpaid license taxes, interest, penalties, attorneys' fees, and expenses. The Court of Appeals affirmed in part and reversed in part. The Court found the trial court's judgment did not account for qualifying language in the cities' ordinances: "To the extent the Cities acknowledge the qualifying language, they effectively urge us to ignore it But this Court's role is to interpret the law, not to amend it. *See Li Lin v. Ellis*, S.W.3d 238, 244 (Mo. banc 2020) ("[T]his Court, under the guise of discerning legislative intent, cannot rewrite the statute . . ."). *State ex rel. Vandenoorn v. Bd. of Zoning Adjustment of Kansas City*, 633 S.W.3d 446, 458 (Mo. App. W.D. 2021) ("In interpreting laws, we are not authorized to re-write them in contravention of the plain language effected by the legislative body enacting them."). The Cities, by contrast, generally are free to amend their own ordinances." Finally, the Court reversed the award of attorneys' fees because, pursuant to the American rule, each party generally bears its own fees, and the statutes allowing for fees for "willful" violations of the ordinances did not apply.

Counsel for Appellants:

Mark B. Ledlove, Timothy Beyer, Jonathan B. Potts
Bryan, Cave, Leighton, Paisner, L.L.P.
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102
(314) 259-2000

Adam S. Hochschild
Hochschild Law Firm, L.L.C.,
P.O. Box 401
Plainfield, VT 05667
(314) 503-0326

Counsel for Respondents:

David A. Streubel, Margaret E. Meisel
Cunningham, Vogel & Rost, P.C.
333 South Kirkwood Road, Suite 300
St. Louis, MO 63122
(314) 446-0800

5. *Williams v. City of Kinloch*, 657 S.W.3d 236 (Mo. App. E.D. 2022).

The City of Kinloch impeached and removed its mayor for alleged tax delinquencies, perjuring himself in denying any tax delinquencies, and an outstanding traffic warrant. Forty-eight days after his removal, the mayor filed a petition for judicial review. The trial court reversed the impeachment and removal of the mayor. The Court of Appeals reversed the trial court's judgment because the City's e-mail delivery of its decision impeaching and removing the mayor was the requisite "mailing or delivery" of notice

pursuant to the applicable statute, and the mayor's petition for judicial review was untimely filed outside the 30-day statutory filing period. Thus, the trial court was without authority to consider the mayor's petition.

Counsel for Appellant:

Christopher B. Bent
Law Office of Christopher Bent, L.L.C.
111 West Port Plaza Drive, Suite 1025
St. Louis, MO 63146
(314) 439-0287

Counsel for Respondent:

Donnell Smith
Smith & Associates, L.L.C.
6101 Delmar Boulevard, Suite A
St. Louis, MO 63112
(314) 361-2500

6. *Copeland v. WRBM, LLC*, 679 S.W.3d 30 (Mo. App. E.D. 2023).

Copeland worked as a deck crew member on a ship that traveled the Mississippi River in Missouri and other states. Copeland was injured on the vessel in a work-related incident while the vessel was between Iowa and Wisconsin. Copeland filed suit and his employer, WRBM, moved to dismiss the petition for lack of personal jurisdiction. The trial court granted the motion to dismiss. The Court of Appeals affirmed the trial court's dismissal because Copeland failed to plead that his claims arose from WRBM's transaction of business in Missouri, his employment contract with WRBM was made in Missouri, or that WRBM committed any tortious act in Missouri, as required by Missouri's long-arm statute. The Court also questioned whether the long-arm statute extends jurisdiction over non-resident defendants to the same extent as due process, given that the plain language of the long-arm statute requires that a cause of action "arise from" the defendant's acts within the state but due process more broadly allows for suits that "arise out of or relate to" the defendant's contacts within the state.

Counsel for Appellant:

Patrick K. Bader, Jacob C. Murov
Bader & Murov, L.L.C.
230 South Bemiston, Suite 1401
Clayton, MO 63105
(314) 820-0061

Jonathan E. Taylor
Gupta Wessler PLLC

2001 K Street NW, Suite 850 North
 Washington, D.C. 20006
 (202) 888-1741

Counsel for Respondent:

Ronald B. Zielger, Ryan T. Harding
 Lewis Rice, L.L.C.
 600 Washington Avenue, Suite 2500
 St. Louis, MO 63101
 (314) 444-7792

7. *D.J. by and through Jackson v. First Student, Inc.*, 2024 WL 3152509 (Mo. App. E.D. 2024) (Stevens, J., dissenting), *transferred to Mo. S.Ct.* (Oct. 1, 2024), *vacated and remanded, D.J. by and through R.J. v. First Student, Inc.*, 2025 WL 662596 (Mo. banc 2025).

The plaintiff, a fourth-grade student, was struck by a hit-and-run driver after alighting from a school bus at the wrong corner of the intersection where his usual bus stop was located. The bus driver activated the eight-way flashing lights and extended the stop arm on the school bus to warn motorists that students were existing the bus. The plaintiff exited and crossed in front of the bus. The hit-and-run driver, who was stopped behind the bus, suddenly accelerated around the left side of the bus, crossing the double-yellow line into the oncoming traffic lane. The bus driver laid on the bus horn, but the vehicle struck the plaintiff, continued through the stop sign at the intersection, and sped away. The plaintiff suffered a fractured left ankle and a sprained right ankle and limped back to the bus. The hit-and-run-driver was never identified. The plaintiff sued the bus company and bus driver. The jury found that the plaintiff was dropped off at a reasonably safe location but found for the plaintiff against the bus company and awarded \$1.3 million on the claim that the bus company was negligent. A majority of the Court of Appeals affirmed the judgment because the conduct of the hit-and-run driver was foreseeable and did not eclipse the bus company's negligence.

In dissent, I reasoned that the plaintiff was dropped off at a reasonably safe place, which is the only legal duty owed by the bus company in this kind of case, and that the criminal act of the hit-and-run driver, and not any negligence on the part of the bus company, was the proximate cause of the plaintiff's injuries.

The Supreme Court of Missouri granted transfer. Consistent with my dissent, the Supreme Court vacated the judgment of the trial court and held that the criminal act of the hit-and-run driver was the proximate cause of the plaintiff's injuries. *D.J. by and through R.J. v. First Student, Inc.*, 707 S.W.3d 581 (Mo. banc 2025).

Counsel for Appellant:

Justin Assouad

Heplerbroom, L.L.C.
211 North Broadway, Suite 2700
St. Louis, MO 63102

Emily D. Roman, Margaret L. Fowler, Kathleen S. Hamilton
Heplerbroom, L.L.C.
701 Market Street, Suite 1400
St. Louis, MO 63101
(314) 241-6160

Counsel for Respondent:

Jeremy A. Gogel
The Gogel Law Firm
745 Old Ballas Rd.
St. Louis, MO 63144

Nolan D. Drafahl
Drafahl Law Firm
1401 S. Brentwood Boulevard, Suite 950
St. Louis, MO 63144
(314) 775-3864

8. *Cole v. Kan. City S. Ry. Co.*, 2024 WL 3764262 (Mo. App. E.D. 2024) (Stevens, J., dissenting), *transferred to Mo. S.Ct.* (Nov. 19, 2024).

Christopher Cole, an employee of the railroad, was injured in Illinois when he hit a sign next to the railroad tracks as he attempted to board a moving train. Cole filed a negligence and negligence *per se* action against the railroad in St. Louis, Missouri, under the Federal Employers' Liability Act (FELA). The trial court found that the railroad was not entitled to a contributory negligence defense under 45 U.S.C. §§ 53, 54a and an Illinois safety regulation. The majority opinion of the Court of Appeals affirmed that the railroad was not entitled to a contributory negligence defense.

In dissent, I concluded the railroad was entitled to a contributory negligence defense under the plain language of the statutes and persuasive authority of the U.S. Court of Appeals for the Seventh Circuit, which is the only authoritative decision on the issue. The majority's decision would sow confusion, encourage forum shopping in St. Louis, and give FELA different meanings in Illinois and Missouri, even with regard to identical accidents in Illinois to which the same Illinois safety regulation applies.

The Missouri Supreme Court granted transfer, but has yet to decide the case.

Counsel for Appellant:

JoAnn T. Sandifer, Michael P. Nolan, Mary K. Mullen

Husch Blackwell
8001 Forsyth Boulevard, Suite 1500
St. Louis, MO 63105

Sean P. Hamer
1100 Walnut Street, Suite 1950
Kansas City, MO 64106
(314) 480-1500

Counsel for Respondent:

Nelson G. Wolff, Jerome J. Schlichter, Scott M. Gershenson
Schlichter Bogard, LLP
100 South 4th Street, Suite 1200
St. Louis, MO 63102
(314) 621-6115

9. *Arch Energy v. City of Brentwood*, 2025 WL 837487 (Mo. App. E.D. 2025).

The City of Brentwood amended its zoning ordinance over the objections of a gas station owner. The gas station owner sued the city, and the trial court granted summary judgment to the city. The Court of Appeals held the city was not entitled to summary judgment because it did not provide the statutorily mandated notice “in an official paper or paper of general circulation in [the] municipality” of a public hearing on the ordinance “at which parties in interest and citizens shall have an opportunity to be heard.” The Court of Appeals lacked jurisdiction to consider whether the trial court erred in denying the gas station owner’s motion for summary judgment because the denial of a motion for summary judgment is not a final judgment subject to appeal. The Court reversed the trial court’s summary judgment in favor of the city and remanded the case for further proceedings.

Counsel for Appellant:

Donald K. Anderson Jr.
8011 Clayton Road, Third Floor
St. Louis, MO 63117
(314) 727-7100

Counsel for Respondent:

Peter J. Dunne
Pitzer Snodgrass, P.C.
100 South Fourth Street, Suite 400
St. Louis, MO 63102
(314) 421-5545

10. *Sandbach v. KMS-KFC, LLC*, 2025 WL 966890 (Mo. App. E.D. 2025).

Employees of a fast-food restaurant engaged in a confrontation with plaintiffs, who were customers of the restaurant. The confrontation was video recorded on security cameras. The plaintiffs sued the restaurant in the underlying lawsuit for assault, negligence, and other torts. In discovery, the plaintiffs learned that the video of the incident had been destroyed while it was in the restaurant's possession. The plaintiffs filed the instant suit for the destruction of the video based on an independent tort of spoliation of evidence. The trial court granted the restaurant's motion to dismiss for failure to state a claim. The Court of Appeals affirmed and, after a survey of the law of various states and rationales for not adopting a tort of spoliation, decided that Missouri does not recognize an independent tort of spoliation of evidence. The Court noted that, if good reasons existed for adopting such a tort, the legislature could enact legislation doing so.

Counsel for Appellant:

Daniel F. Harvath
Harvath Law Group, LLC
75 Lockwood, Suite #1
Webster Groves, MO 63119
(314) 550-3717

Counsel for Respondent:

Bradley Hansmann, Daniel P. Hunkins
Watters Wolf Bub Hansmann, LLC
600 Kellwood Parkway, Suite 120
St. Louis, MO 63017
(636) 798-0570

d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

The ten most significant opinions I have written are listed below. All of the decisions were published.

1. *DMK Holdings v. City of Ballwin*, 646 S.W.3d 708 (Mo. App. E.D. 2022).

Counsel for Appellant:

David C. Knieriem
Law Offices of David C. Knieriem
13321 North Outer Forty Road, Suite 100
Town & Country, MO 63017

(314) 862-5110

Counsel for Respondent:

Robert E. Jones
Curtis, Heinz, Garrett & O'Keefe, P.C.
130 South Bemiston, Suite 200
Clayton, MO 63105
(314) 571-6825

2. *Reddick v. Spring Lake Estates Homeowner's Ass'n*, 648 S.W.3d 765 (Mo. App. E.D. 2022).

Counsel for Appellant:

Joseph C. Blanton Jr., Shaun D. Hanschen, Diedre A. Peters, Bryan E. Nickell
Blanton, Nickell, Collins, Douglas & Hanschen, L.L.C.
219 South Kingshighway, P.O. Box 805
Sikeston, MO 63801
(573) 471-1000

Counsel for Respondent:

D. Keith Henson, Bradley J. Sylwester
Baker, Sterchi, Cowden & Rice L.L.C.
165 North Meramec Avenue, Suite 110
St. Louis, MO 63105
314-455-8300

Martha Charepoo
100 North Broadway, 21st Floor
St. Louis, MO 63102
(314) 480-1822

James R. Howard
302 Campusview Drive, Suite 204
Columbia, MO 65201
(573) 442-9423

3. *Interest of A.L.D.*, 649 S.W.3d 370 (Mo. App. E.D. 2022).

Counsel for Appellant:

Jeffrey C. Esparza
Office of the State Public Defender
920 Main Street, Suite 500

Kansas City, MO 64105
(816) 889-7699

Daniel Feldman
1010 Market Street, Suite 1340
St. Louis, MO 63101

Counsel for Respondent:

Alexander Martinez, Abbey McDonough
St. Louis County Juvenile Office
105 South Central Avenue
Clayton, MO 63105
(314) 615-2936

4. *City of Columbia v. Spectra Commc 'ns Grp.*, 652 S.W.3d 356 (Mo. App. E.D. 2022).

Counsel for Appellants:

Mark B. Ledlove, Timothy Beyer, Jonathan B. Potts
Bryan, Cave, Leighton, Paisner, L.L.P.
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102
(314) 259-2000

Adam S. Hochschild
Hochschild Law Firm, L.L.C.
P.O. Box 401
Plainfield, VT 05667
(314) 503-0326

Counsel for Respondents:

David A. Streubel, Margaret E. Meisel
Cunningham, Vogel & Rost, P.C.
333 South Kirkwood Road, Suite 300
St. Louis, MO 63122
(314) 446-0800

5. *Williams v. City of Kinloch*, 657 S.W.3d 236 (Mo. App. E.D. 2022).

Counsel for Appellant:

Christopher B. Bent
Law Office of Christopher Bent, L.L.C.

111 West Port Plaza Drive, Suite 1025
St. Louis, MO 63146
(314) 439-0287

Counsel for Respondent:

Donnell Smith
Smith & Associates, L.L.C.
6101 Delmar Boulevard, Suite A
St. Louis, MO 63112
(314) 361-2500

6. *Copeland v. WRBM, LLC*, 679 S.W.3d 30 (Mo. App. E.D. 2023).

Counsel for Appellant:

Patrick K. Bader, Jacob C. Murov
Bader & Murov, L.L.C.
230 South Berniston, Suite 1401
Clayton, MO 63105
(314) 820-0061

Jonathan E. Taylor
Gupta Wessler PLLC
2001 K Street NW, Suite 850 North
Washington, D.C. 20006
(202) 888-1741

Counsel for Respondent:

Ronald B. Zielger, Ryan T. Harding
Lewis Rice, L.L.C.
600 Washington Avenue, Suite 2500
St. Louis, MO 63101
(314) 444-7792

7. *D.J. by and through Jackson v. First Student, Inc.*, 2024 WL 3152509 (Mo. App. E.D. 2024) (Stevens, J., dissenting), *transferred to Mo. S.Ct.* (Oct. 1, 2024), *vacated and remanded*, *D.J. by and through R.J. v. First Student, Inc.*, 2025 WL 662596 (Mo. banc 2025).

Counsel for Appellant:

Justin Assouad
Heplerbroom, L.L.C.
211 North Broadway, Suite 2700

St. Louis, MO 63102

Emily D. Roman, Margaret L. Fowler, Kathleen S. Hamilton
Heplerbroom, L.L.C.
701 Market Street, Suite 1400
St. Louis, MO 63101
(314) 241-6160

Counsel for Respondent:

Jeremy A. Gogel
The Gogel Law Firm
745 Old Ballas Road
St. Louis, MO 63144

Nolan D. Drafahl
Drafahl Law Firm
1401 South Brentwood Boulevard, Suite 950
St. Louis, MO 63144
(314) 775-3864

8. *Cole v. Kan. City S. Ry. Co.*, 2024 WL 3764262 (Mo. App. E.D. 2024) (Stevens, J., dissenting), *transferred to Mo. S.Ct.* (Nov. 19, 2024).

Counsel for Appellant:

JoAnn T. Sandifer, Michael P. Nolan, Mary K. Mullen
Husch Blackwell
8001 Forsyth Boulevard, Suite 1500
St. Louis, MO 63105

Sean P. Hamer
1100 Walnut Street, Suite 1950
Kansas City, MO 64106
(314) 480-1500

Counsel for Respondent:

Nelson G. Wolff, Jerome J. Schlichter, Scott M. Gershenson
Schlichter Bogard, LLP
100 South 4th Street, Suite 1200
St. Louis, MO 63102
(314) 621-6115

9. *Arch Energy v. City of Brentwood*, 2025 WL 837487 (Mo. App. E.D. 2025).

Counsel for Appellant:

Donald K. Anderson Jr.
8011 Clayton Road, Third Floor
St. Louis, MO 63117
(314) 727-7100

Counsel for Respondent:

Peter J. Dunne
Pitzer Snodgrass, P.C.
100 South Fourth Street, Suite 400
St. Louis, MO 63102
(314) 421-5545

10. *Sandbach v. KMS-KFC, LLC*, 2025 WL 966890 (Mo. App. E.D. 2025).

Counsel for Appellant:

Daniel F. Harvath
Harvath Law Group, LLC
75 Lockwood, Suite #1
Webster Groves, MO 63119
(314) 550-3717

Counsel for Respondent:

Bradley Hansmann, Daniel P. Hunkins
Watters Wolf Bub Hansmann, LLC
600 Kellwood Parkway, Suite 120
St. Louis, MO 63017
(636) 798-0570

- e. Provide a list of all cases in which certiorari was requested or granted.

To the best of my knowledge, certiorari was not requested or granted in any of the cases for which I authored the panel opinion.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

None of my opinions has been reversed by a reviewing court, nor have any of my judgments been affirmed with significant criticism of my substantive or procedural rulings.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Eleven, or approximately 11 percent, of the opinions I have written as an appellate judge are unpublished opinions. The opinions are available on Westlaw, Lexis, and the court's website, www.courts.mo.gov.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Citations for significant opinions on federal or state constitutional issues are listed below. All of the opinions were officially reported.

Interest of T.D., 645 S.W.3d 669 (Mo. App. E.D. 2022).

Interest of A.L.D., 649 S.W.3d 370 (Mo. App. E.D. 2022).

State v. Hampton, 661 S.W.3d 409 (Mo. App. E.D. 2023).

State v. Thompson, 2024 WL 4018668 (Mo. App. E.D. 2024), *transferred to Mo. S.Ct.* (Nov. 5, 2024), *affirmed*, *State v. Thompson*, 2025 WL 1117745 (Mo. banc 2025).

State v. Rugen, 2025 WL 757047 (Mo. App. E.D. 2025).

State v. Beeson, 2025 WL 678404 (Mo. App. E.D. 2025).

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have utilized the standards in Rule 2, Canon 2 of the Missouri Code of Judicial Conduct in determining whether to recuse myself. Canon 2.11 provides, in part, "A judge shall recuse himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned"

When I assumed the position of Judge of the Missouri Court of Appeals, Eastern District, I recused myself from any matter in which I actively participated during my tenure at the Missouri Attorney General's Office, and any criminal matter that was pending at the Missouri Attorney General's Office when I was First Assistant Attorney General and Deputy Attorney General for the Criminal Division. The Missouri Attorney General's Office represents the State in all felony criminal appeals. As a result, all felony criminals appeals pending when I served at the Missouri Attorney General's Office were assigned to the other Judges of the Missouri Court of Appeals, Eastern District.

I am not aware of any case, motion or matter that has come before me in which a litigant or party has requested that I recuse myself due to an asserted conflict of interest.

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

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

Law Clerk, Honorable Pasco M. Bowman II, Chief Judge, United States Court of Appeals for the Eighth Circuit, 1998-99. This position was appointed by Judge Bowman.

Assistant United States Attorney, Office of the United States Attorney for the Eastern District of Missouri, 2002-17. This position was appointed by then-U.S. Attorney Raymond W. Gruender.

Deputy Attorney General, Criminal Division, Office of the Missouri Attorney General, 2019-21. This position was appointed by then-Attorney General of Missouri Eric Schmitt.

First Assistant Attorney General, Office of the Missouri Attorney General, 2020-21. This

position was appointed by then-Attorney General of Missouri Eric Schmitt.

In 2019, I applied for a vacancy on the United States District Court for the Eastern District of Missouri. To the best of my knowledge, I was one of four candidates interviewed for the vacancy by the White House Counsel's Office. I was not nominated by the President.

In 2021, I applied for a vacancy on the Supreme Court of Missouri. I was not one of three finalists recommended to the Governor.

In 2023, I applied for two vacancies on the Supreme Court of Missouri. To the best of my knowledge, I was one of 45 applicants interviewed by the Appellate Judicial Commission. I was not one of six finalists recommended to the Governor.

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

I have not held a membership or office in, or rendered services to, any political party or election committee. I have not held a position, or played a role in, a political campaign.

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

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

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

1998 – 1999
Honorable Pasco M. Bowman II, Chief Judge
United States Court of Appeals for the Eighth Circuit
400 East Ninth Street
Kansas City, Missouri 64106
Law Clerk

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

I did not practice 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;

1999 – 2002

Bryan Cave LLC
211 North Broadway, Suite 3600
St. Louis, Missouri 63102
Associate Attorney

2002 – 2017
Office of the United States Attorney for the Eastern District of Missouri
111 South Tenth Street, Suite 20.333
St. Louis, Missouri 63102
Assistant United States Attorney

2017 – 2019
Armstrong Teasdale LLP
7700 Forsyth Boulevard, Suite 1800
Clayton, Missouri 63105
Partner

2019 – 2021
Office of the Missouri Attorney General
207 West High Street
Jefferson City, Missouri 65101
Deputy Attorney General for the Criminal Division

2020 – 2021
Office of the Missouri Attorney General
207 West High Street
Jefferson City, Missouri 65101
First Assistant Attorney General

2021 – present
Missouri Court of Appeals, Eastern District
One Post Office Square
815 Olive Street
St. Louis, Missouri 63101
Judge

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

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

b. Describe:

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

character has changed over the years.

From 1998 to 1999, as a law clerk for Judge Pasco M. Bowman II, I researched federal civil and criminal law issues and drafted legal opinions and memoranda.

From 1999 to 2002, as a litigation associate at Bryan Cave LLC, my practice focused on civil commercial litigation. My practice primarily involved representing commercial entities as plaintiffs or defendants in civil cases litigated in state and federal courts, at all stages of litigation, including pretrial discovery and motion practice, trial, and appeal. In *Biomedical Systems Corp. v. GE Marquette Medical Systems, Inc.*, 4:99-CV-1590 CAS (E.D. Mo. 2001), I served as the associate attorney on the trial team led by former United States Attorney Edward L. Dowd Jr., which sued a subsidiary of General Electric for breach of contract and fraudulent misrepresentation on behalf of a local, family-owned company. After a three-week jury trial, the jury awarded a verdict of \$75 million in favor of our client, then reported to be the largest civil verdict in the history of the United States District Court for the Eastern District of Missouri.

From 2002 to 2017, as an Assistant United States Attorney at the United States Attorney's Office for the Eastern District of Missouri, my practice focused on prosecuting federal violent crimes and other violations of federal criminal statutes in the United States District Court for the Eastern District of Missouri. My practice largely involved the prosecution of homicides, other violent crimes, and white collar crimes, at all stages of litigation, including pretrial discovery and motion practice, trial, and appeal. I led, with an attorney from the Civil Rights Division of the Department of Justice, the investigation of the August 9, 2014, officer-involved shooting in Ferguson, Missouri. There was unprecedented political strife, social unrest, and media attention associated with the case. The investigation proved exhaustive and impartial. The investigation's findings were summarized in an 86-page report released by the United States Attorney General at a national press conference on March 4, 2015.

From 2017 to 2019, as a litigation partner at Armstrong Teasdale LLP, I created and engaged in a law practice focused on civil litigation, internal investigations, and white collar criminal defense, specializing in complex legal issues arising from the intersection of civil litigation, investigations, criminal prosecutions, and media coverage.

From 2019 to 2021, as First Assistant Attorney General and Deputy Attorney General for the Criminal Division at the Missouri Attorney General's Office, my practice focused on managing both the Civil and Criminal Divisions. Within those divisions, I supervised more than 150

lawyers in the Appellate, Consumer Protection, Litigation, Labor, Governmental Affairs, Financial Services, Public Safety, and Medicaid Fraud Sections. My practice ran the gamut from civil plaintiffs' lawsuits to defending state agencies, prosecutions of state crimes to special prosecutions of federal crimes, and from trials in state circuit courts to appeals in courts of last resort. My practice also largely involved the commencement and management of then-Attorney General Eric Schmitt's most impactful legal initiatives: the Safer Streets Initiative partnering with the United States Attorney's Offices for the Eastern and Western Districts of Missouri to prosecute federal violent crimes; the Safe Kits Initiative to eliminate the backlog of untested sex assault kits in Missouri; the Hope Initiative bringing civil lawsuits and criminal prosecutions against human traffickers; and the creation of the Cold Case Homicide Unit. I also remained a practicing lawyer. I was appointed as a Special Assistant United States Attorney at the United States Attorney's Offices for the Eastern and Western Districts of Missouri. In March 2021, I successfully tried a first-degree murder case in state circuit court. And I successfully represented the judges of the Supreme Court of Missouri in a federal Section 1983 lawsuit brought against them by a lawyer whose license had been suspended.

Since 2021, I have been an appellate judge, reviewing civil and criminal appeals from state trial courts and administrative agencies.

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

The clients I represented while in private practice (1999-2002 and 2017-19) primarily were businesses defending against civil lawsuits filed in federal and state courts or facing potential white collar criminal liability.

My client as an Assistant United States Attorney (2002-17) was the United States of America.

My client as the First Assistant Attorney General and Deputy Attorney General for the Criminal Division (2019-21) was the State of Missouri.

- 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.

Nearly one hundred percent of my practice has been in litigation, and I have appeared in court frequently at every stage of my career. Particularly as an Assistant United States Attorney (2002-17), I appeared on approximately a weekly basis before the judges and magistrate judges of the United States District Court for the Eastern District of Missouri. I continued to appear in court regularly as First Assistant Attorney General and Deputy

Attorney General for the Criminal Division (2019-21), both in state courts and as a Special Assistant United States Attorney in federal court. I appeared in court less as a partner at Armstrong Teasdale (2017-19) and as an associate at Bryan Cave (1999-2002) due to the complexity and lengthy pendency of the civil cases on which I worked.

i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 70% |
| 2. | state courts of record: | 25% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

- | | | |
|----|-----------------------|-----|
| 1. | civil proceedings: | 30% |
| 2. | criminal proceedings: | 70% |

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 to verdict approximately 40 cases in the United States District Court for the Eastern District of Missouri and state courts. I was chief counsel or co-counsel in approximately 38 of those cases and associate counsel in two of those cases.

I also have authored approximately 30 appellate briefs and argued approximately 21 appeals in the United States Court of Appeals for the Eighth Circuit and the Missouri Court of Appeals.

i. What percentage of these trials were:

- | | | |
|----|-----------|-----|
| 1. | jury: | 95% |
| 2. | non-jury: | 5% |

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

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

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

The ten most significant litigated matters which I personally handled are listed below. I was the attorney of record and lead trial counsel unless otherwise indicated.

1. *Trapp v. State of Missouri, et al.*, 2:21-CV-4006 MDH (2021), United States District Court for the Western District of Missouri, Judge M. Douglas Harpool.

I represented the judges of the Supreme Court of Missouri in a Section 1983 due process and equal protection lawsuit filed by a lawyer whose license was suspended. The trial court dismissed the case for lack of jurisdiction.

Co-counsel:

Shaun Mackelprang, Emily A. Dodge
Missouri Attorney General's Office
207 West High Street
Jefferson City, MO, 65102,
(573) 751-0272; (573) 751-7344

Principal counsel for the other party:

Heidi Vollet
Cook Vetter Doerhoff & Landwehr, P.C.
231 Madison Street
Jefferson City, MO 65101
(573) 635-7977

2. *State v. Kilgore*, 18SR-000437 (2021), Henry County, Missouri, Circuit Court, Judge James Journey.

I tried a corrections officer who attempted to solicit inmates to murder her husband and smuggled contraband to the inmates. Ultimately, the defendant arranged a murder-suicide, in which her father murdered her husband and then committed suicide at a gas station convenience store in Osceola, Missouri. The jury convicted the defendant of first-degree murder, acceding to corruption, and all other counts.

Co-counsel:

Daniel Dysart
St. Clair County Prosecutor
P.O. Box 494
Osceola, MO 64776
(417) 646-2512; (417) 818-8284

Julia Rives
Assistant Attorney General
Missouri Attorney General's Office
207 West High Street
Jefferson City, MO 65102
(573) 751-3321; (502) 424-7692

Principal counsel for the other party:

Rita Sanders
3023 South Kimbrough Avenue
Springfield, MO 65807
(417) 890-0909

3. *United States v. Wilson*, 4:16-CR-165 HEA (2016), U.S. District Court for the Eastern District of Missouri, Judge Henry E. Autrey.

I prosecuted a wire fraud scheme perpetrated by a police sergeant serving as president of the Ethical Society of Police (ESOP). The defendant misappropriated more than \$80,000 from the ESOP bank account to support his unrelated business promoting comedy shows. He was indicted on, and pleaded guilty to, nine counts of wire fraud.

Principal counsel for the other party:

Douglas Rudman, Timothy Smith,
Rudman Smith
2611 South Big Bend Boulevard
St. Louis, MO 64143
(314) 645-7246

4. *State v. Cross*, 12SF-CR00126 (2014), St. Francois County, Missouri, Circuit Court, Judge Sandra Martinez.

As a special prosecutor in state court, I tried a 1991 cold-case homicide in which the defendant murdered his ex-wife and left her body in the Mark Twain National Forest. The jury convicted the defendant of first-degree murder.

Co-counsel:

Kevin Zoellner

Missouri Attorney General's Office
207 West High Street
Jefferson City, MO 65102
(573) 751-2096; (573) 690-5518; (573) 616-8117

Principal counsel for the other party:

Beth Davis-Kerry, David Kenyon
Missouri State Public Defender's Office, Capital Division
1010 Market Street, Suite 1100
St. Louis, MO 63101
(314) 340-7662

5. *United States v. Warren, et al.*, 4:13-CR-221 CDP (2014), U.S. District Court for the Eastern District of Missouri, Judge Catherine D. Perry.

I tried and obtained the convictions of criminal defendants who conspired to commit a home-invasion robbery.

Co-counsel:

Allison H. Behrens
United States Attorney's Office for the Eastern District of Missouri
111 South 10th Street, 20th Floor
St. Louis, MO 63102
(314) 539-2200; (314) 706-9989

Principal counsel for the other parties:

Kevin Curran
Federal Public Defender's Office
1010 Market Street, Second Floor
St. Louis, MO 63101
(314) 241-1255

Edward Fehlig
Fehlig Law Firm
3002 South Jefferson Avenue, Suite 207
St. Louis MO 63118
(314) 359-5690

6. *United States v. McAllister, et al.*, 4:11-CR-481 SNLJ (2013), U.S. District Court for the Eastern District of Missouri, Judge Stephen N. Limbaugh, Jr.

I tried defendants engaged in a bank robbery conspiracy, in which its leader organized and directed the conspiracy from federal prison. His co-conspirators traveled from

Memphis, Tennessee, to St. Louis, Missouri, to commit the armed robbery of a bank. All defendants were convicted by a jury or pleaded guilty.

Co-counsel:

Hon. John Bird
Circuit Judge, St. Louis City Circuit Court
10 North Tucker Boulevard
St. Louis, MO 63101
(314) 369-6813

Principal counsel for the other parties:

Felicia Jones
Federal Public Defender's Office
1010 Market Street, Second Floor
St. Louis, MO 63101
(314) 241-1255

Hon. Stephen Welby
U.S. Magistrate Judge
111 South 10th Street
St. Louis, MO 63102
(314) 244-7640; (314) 409-3172

John Lynch
The Law Offices of John M. Lynch
5770 Mexico Road, Suite A
St. Peters, MO 63376
(314) 726-9999; (314) 313-1749

Michelle Monahan
Federal Public Defender's Office
1010 Market Street, Second Floor
St. Louis, MO 63101
(314) 241-1255

Matthew Radefeld
Radefeld Law Group
7711 Bonhomme Avenue, Suite 710
Clayton, MO 63105
(314) 571-9251

John Stobbs, II
Stobbs Law Offices
307 Henry Street, Suite 211

Alton, IL 62004
(618) 462-8484

7. *United States v. Meador*, 1:06-CR-134 CDP (2009), U.S. District Court for the Eastern District of Missouri, Judge Catherine D. Perry.

I tried a conspirator in an interstate racketeering homicide, in which the victim traveled from Texas to southeast Missouri to engage in a large-scale drug transaction. The jury convicted the defendant on all counts.

Co-counsel:

Thomas E. Dittmeier, Sr.
United States Attorney's Office for the Eastern District of Missouri
111 South 10th Street, 20th Floor
St. Louis, MO 63102
(636) 391-1953; (573) 645-9378

Michael A. Reilly
United States Attorney's Office for the Eastern District of Missouri
111 S. 10th Street, 20th Floor
St. Louis, MO 63102
(314) 539-2200; (314-) 821-8233; (314) 602-7384

Principal counsel for the opposing parties:

Michael Skrien
Federal Public Defender's Office
1010 Market Street, Second Floor
St. Louis, MO 63101
(314) 241-1255

Hon. Christopher McGraugh
Circuit Judge, St. Louis City Circuit Court
10 North Tucker Boulevard
St. Louis, MO 63101
(314) 622-4311; (314) 609-7201

8. *United States v. Hyles*, 1:05-CR-57 HEA (2006), U.S. District Court for the Eastern District of Missouri, Judge Henry E. Autrey.

I tried and obtained the conviction of a criminal defendant who engaged in a murder-for-hire conspiracy with her husband. The "hitman" traveled from Memphis, Tennessee, to southeast Missouri to murder a witness in a Missouri state drug case. He entered the victim's home at 3 a.m. and fatally shot him in the back of the head as he slept. The jury convicted the defendant on all counts.

Co-counsel:

Thomas E. Dittmeier, Sr.
United States Attorney's Office for the Eastern District of Missouri
111 South 10th Street, 20th Floor
St. Louis, MO 63102
(636) 391-1953; (573) 645-9378

Michael A. Reilly
United States Attorney's Office for the Eastern District of Missouri
111 South 10th Street, 20th Floor
St. Louis, MO 63102
(314) 539-2200; (314) 821-8233; (314) 602-7384

Principal counsel for the opposing parties:

Jennifer L. Booth
113 West Main Street, Suite 2
Jackson, MO 63755
(573) 204-3690

9. *United States v. Flenoid*, 4:03-CR-501 CDP (2004), U.S. District Court for the Eastern District of Missouri, Judge Catherine D. Perry.

I tried and convicted a criminal defendant who escaped from a federal facility, murdered his brother-in-law and attempted to kidnap his girlfriend. The defendant had been a fugitive for more than three years and was featured on the U.S. Marshals Service's list of 15 Most-Wanted Fugitives.

Co-counsel:

Thomas E. Dittmeier, Sr.,
United States Attorney's Office for the Eastern District of Missouri
111 South 10th Street, 20th Floor
St. Louis, MO 63102
(636) 391-1953; (573) 645-9378

Principal counsel for the opposing parties:

Lee T. Lawless (deceased)
Federal Public Defender's Office
1010 Market Street, Second Floor
St. Louis, MO 63101
(314) 241-1255

10. *Biomedical Systems Corp. v. GE Marquette Medical Systems, Inc.*, 4:99-CV-1590 CAS (2001), U.S. District Court for the Eastern District of Missouri, Judge Charles A. Shaw.

I served as the associate attorney on the trial team that sued a subsidiary of General Electric for breach of contract and fraudulent misrepresentation on behalf of a local, family-owned company. After a three-week jury trial, the jury awarded a verdict of \$75 million in favor of our client.

Lead counsel/co-counsel:

Gerard T. Carmody
Carmody MacDonald, P.C.
120 South Central Avenue, Suite 1800
St. Louis, MO 63105
(314) 854-8688; (314) 600-6916

Edward L. Dowd, Jr.
Dowd Bennett
7676 Forsyth Boulevard, Suite 1900
St. Louis, MO 63105
(314) 889-7301; (314) 330-5160

Principal counsel for the opposing parties:

John Bray, Mark Brown
King & Spalding
1700 Pennsylvania Avenue, N.W., Suite 900
Washington D.C. 20006
(202) 737-0500; (202) 626-5443

Chilton Varner
King & Spalding
1180 Peachtree Street, NE, Suite 1600
Atlanta, GA 30309
(404) 572-4789

Roger Heidenreich
Dentons
101 South Hanley Road, Suite 600
St. Louis, MO 63105
(314) 259-5805

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities

you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As an Assistant United States Attorney at the U.S. Attorney's Office for the Eastern District of Missouri, I led, with an attorney from the Civil Rights Division, the investigation of the August 9, 2014, officer-involved shooting in Ferguson, Missouri. There was unprecedented political strife, social unrest, and media attention associated with the case. The investigation proved exhaustive and impartial. The investigation's findings were summarized in an 86-page report released by the United States Attorney General at a national press conference on March 4, 2015.

I have not lobbied for any client or organization, although I testified on behalf of the Attorney General of Missouri in support of a statute prohibiting carjacking at a hearing before the Missouri State Senate Judiciary and Civil and Criminal Jurisprudence Committee in Jefferson City, Missouri, on February 3, 2020.

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

Seminar on the Office of the Attorney General, University of Missouri School of Law, Fall 2024. The course is an introduction to the Office of the Missouri Attorney General, its statutory responsibilities and limitations, its various civil and criminal sections, and to lawyers and judges who previously served at the Office. The students submitted and presented a paper on a topic of particular interest covered during the course of the seminar. A schedule and syllabus for the course are provided in Appendix 19.

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

When I turn 65, I will be eligible for a pension from the State of Missouri based on my years of state employment. The amount of the pension is indeterminable at this point.

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

I hope to continue to teach the *Seminar on the Office of the Attorney General* at the University of Missouri School of Law.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees,

dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

My wife and I own stock in numerous publicly traded companies. If I was assigned to a case involving any of those companies, I would either recuse myself or sell the stock pursuant to 26 U.S.C. § 1043.

As long as I teach at the University of Missouri School of Law, I would recuse from any case in which it is a party.

If confirmed, I will recuse in any litigation where I have ever personally played a role. Cases most likely to present conflicts of interest would be those related to my prior service as a government lawyer. If confirmed, I would recuse myself in any such matter in which, during my government service, I had participated as counsel, advisor, or material witness or had expressed an opinion concerning the merits. See 28 U.S.C. § 455(b)(3).

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

When confronted with any potential conflict of interest issue, I will comply with the Code of Conduct for United States Judges and applicable statutes, including 28 U.S.C. § 455. I will be guided by Eighth Circuit precedent, procedures, and policies.

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

As a practicing attorney (1998 – 2021), I spent most of my career in public service as a law clerk at the United States Court of Appeals for the Eighth Circuit (1998 – 1999), an Assistant United States Attorney at the U.S. Attorney’s Office for the Eastern District of Missouri (2002 – 2017), and First Assistant Attorney General and Deputy Attorney General at the Missouri Attorney General’s Office (2019 – 2021), where I could not provide pro bono legal services. As a judge (2021 – present), I likewise cannot provide pro bono legal services. I nonetheless routinely volunteer my time to promote and enhance the legal system by teaching at judicial conferences and continuing legal education programs, judging moot court competitions, and speaking to students, bar associations, police associations, and civic and community groups about civil and criminal law, and trial and appellate procedure. I also engaged in the Appellate Judges Service Project for LifeWise StL/HeadStart, in which I volunteered to read books to pre-kindergarten aged children in St. Louis, Missouri, on September 18, 2024.

26. **Selection Process:**

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

On November 26, 2024, I met with Senator Schmitt’s General Counsel regarding the judicial vacancies on the United States District Court for the Eastern District of Missouri. On December 18, 2024, I submitted my application for one of the vacancies to the office of Senator Schmitt. On February 4, 2025, I submitted my application to the office of Senator Hawley. On February 12, 2025, I interviewed with attorneys from the White House Counsel’s Office in Washington, D.C. On March 26, 2025, the White House Counsel’s Office informed me that the President was considering me for one of the vacancies. Since then, I have communicated regularly with the Justice Department’s Office of Legal Policy in completing this questionnaire and other related materials.

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

No.

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		9	407	Notes payable to banks-secured (auto)		17	234
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	395	848	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		16	079
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		321	564
Real estate owned – see schedule		950	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		72	171				
Cash value-life insurance							
Other assets itemize:							
-MOSERS 2011 Judicial Pension Plan		24	548				
-MSEP 2011 State Employee Pension Plan		17	811				
-Missouri Deferred Compensation 457 Plan		76	314	Total Liabilities		354	877
-Missouri Deferred Compensation 401 Plan		2	876	Net Worth	2	194	098
Total Assets	2	548	975	Total Liabilities and Net Worth	2	548	975
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

Abbott Laboratories	\$10,293.43
American Fundamentals Investors	16,841.23
American New Perspective CL	38,242.47
Amphenol Corp. CL	8,983.57
BCE Inc.	5,074.11
Berkshire Hathaway Inc.	26,588.00
Bloomin Brands Inc.	1,539.58
Boeing Co.	5,440.78
Booking Holdings Inc.	34,319.82
Broadcom Inc.	78,492.89
Cisco Systems Inc.	9,069.11
Columbia Overseas Value CL	32,672.25
Comcast Corp.	8,399.69
ConocoPhillips	5,120.49
Dimensional ETF	11,485.50
Emerson Electric Co.	10,370.87
Enbridge Inc.	10,701.46
Equity Residential	4,389.52
Flowers Foods Inc.	3,836.20
FMC Corp.	5,083.35
Ford Motor Co.	4,468.71
General Dynamics Corp.	7,706.30
Hartford World Bond CL	18,982.48
Illinois Tool Works Inc.	9,544.61
Invesco Exchange-Traded FD TR	10,622.37
Invesco Exchange-Traded FD TR	23,374.87
Invesco Exchange-Traded FD TR	5,359.61
JH Freedom 529 Blue Chip Growth CL	1,560.36
JH Freedom 529 Blue Chip Growth CL	15,587.10
JH Freedom 529 Multimanager Lifestyle Growth CL	2,824.32
JH Freedom 529 Multimanager Lifestyle Growth CL	14,604.15
John Hancock Blue Chip Growth CL	5,238.50
John Hancock Bond CL	2,378.44
John Hancock Bond CL	27,222.93
John Hancock Bond CL	2,276.72
John Hancock Disciplined Value International CL	26,758.58
John Hancock Disciplined Value CL	37,374.34
John Hancock Disciplined Value Mid Cap CL	34,185.80
John Hancock Disciplined Value Mid Cap CL	391.33
John Hancock Disciplined Value Mid Cap CL	4,091.59
John Hancock Disciplined Value Emerging Markets Equity CL	13,370.19
John Hancock Exchange Traded Mid Cap ETF	11,633.29

John Hancock Exchange Traded Multifactor Mid Cap ETF	2,682.11
John Hancock Fundamental Large Cap CL	17,739.92
John Hancock Fundamental Large Cap CL	34,636.64
John Hancock Fundamental Large Cap CL	586.32
John Hancock Global Shareholder Yield CL	7,383.62
John Hancock Global Shareholder Yield CL	33,458.45
John Hancock High Yield CL	14,807.66
John Hancock High Yield CL	1,799.90
John Hancock International Growth CL	22,952.20
John Hancock International Growth CL	4,987.48
John Hancock Investment Grade Bond CL	22,883.62
John Hancock Investment Grade Bond CL	2,110.75
John Hancock Small Cap CL	19,417.05
John Hancock Small Cap CL	2,892.78
John Hancock Strategic Income Opportunities CL	8,080.35
John Hancock US Global Leaders Growth CL	28,826.70
John Hancock US Global Leaders Growth CL	448.22
John Hancock US Global Leaders Growth CL	4,671.55
JPMorgan Chase & Co.	6,166.10
Kenvue Inc.	10,886.24
Keysight Technologies Inc.	10,340.64
Lord Abbett Bond Debenture CL	22,960.21
Lord Abbett Bond Debenture CL	2,001.49
Lord Abbett Short Duration Income CL	1,053.45
Lord Abbett Short Duration Income CL	23,323.17
Lord Abbett Short Duration High Yield CL	15,878.32
Lord Abbett Total Return CL	4,906.52
Lowes Companies Inc.	15,817.79
Medtronic PLC	14,048.87
Mondelez International Inc.	8,575.22
Nextera Energy Inc.	4,885.27
Novartis	8,488.31
Nvidia Corp.	70,549.15
Pfizer Inc.	6,701.03
Pfizer Inc. PFE	2,118.22
PGIM Total Return Bond CL	33,066.86
Proctor & Gamble Co.	12,453.63
Putnam Core Equity CL	20,091.01
S&P Global, Inc.	10,065.71
Salesforce Inc.	20,476.61
Servicenow Inc.	23,364.62
Shell PLC	9,318.90
South Bow Corp.	1,855.66
TC Energy Corp.	9,359.29
Thermo Fischer Scientific Inc.	4,250.80
T Rowe Price Blue Chip Growth CL	27,295.50

Truist Financial Corp.	11,446.21
Vanguard FTSE Developed Markets ETF	3,960.58
Vanguard FTSE Emerging Markets	14,729.71
Vanguard Index Trust Small Cap ETF	2,261.78
Vanguard Mid Cap ETF	4,279.86
Vertex Pharmaceuticals Inc.	8,541.65
Vertiv Holding LLC	4,679.40
Victory Integrity Small Mid Cap Value CL	15,688.94
Victory RS Small Cap Growth CL	10,534.45
Victory Sycamore Established Value CL	36,126.52
Wells Fargo & Co.	12,794.19
Welltower Inc.	11,941.82
Total Listed Securities	<u>\$1,395,848.83</u>

Real Estate Owned

Personal Residence	\$600,000
Cabin and acreage	<u>350,000</u>
Total Real Estate Owned	<u>\$950,000</u>

Real Estate Mortgages Payable

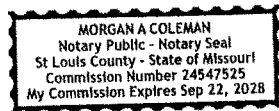
Personal Residence – Mortgage	<u>\$321,564.74</u>
Total Real Estate Mortgages Payable	<u>\$321,564.74</u>

AFFIDAVIT

I, Cristian M. Stevens, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

4/29/2025
(DATE)

[Signature]
(NAME)



Morgan A. Coleman
(NOTARY)

Senator Richard J. Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Cristian M. Stevens
Nominee to be U.S. District Judge for the Eastern District of Missouri
June 11, 2025

1. In 1997, you wrote an article for the *Missouri Law Review* defending the imposition of enhanced criminal sentencing for crack cocaine versus powder cocaine. You concluded the draconian discrepancy is “beneficial” to Black communities. In fact, the crack-powder cocaine sentencing disparity has disproportionately impacted people of color, with 81 percent of those convicted of federal crack offenses from 2015 to 2019 being Black. I led the *Fair Sentencing Act of 2010*, a bipartisan compromise which significantly reduced the sentencing disparity from 100:1 to 18:1. In 2018, President Trump signed into law the *First Step Act*, which made the Fair Sentencing Act’s reduction in the disparity retroactive. The success of this bipartisan effort proved that we could be smart on crime and achieve accountability without excessive punishment and incarceration.

Given the well-documented lack of justification for the crack cocaine sentencing disparity, its devastating impact on marginalized communities, and the harm it has caused to public trust in our justice system, do you still stand by this law review article?

Response: The article summarized the positions of proponents and opponents of the crack cocaine sentencing provisions established by Congress. I did not conclude the sentencing provisions were “beneficial” to black communities. The article stated, based on statistical analysis and the positions of proponents of the sentencing provisions, that “there even may be evidence to suggest that the sentencing provisions in fact are beneficial to black communities hardest hit by the crack epidemic,” and “the sentencing provisions may be seen as beneficial to the vast majority of blacks who do not deal in any way with crack cocaine, but are victimized by those who do.” Note, *Criticism of Crack Cocaine Sentences Is Not What It Is Cracked Up To Be: A Case of First Impression Within the Ongoing Crack vs. Cocaine Debate*, 62 Mo. L. Rev. 869, 894 (Fall 1997). A major point of the article was that “Congress is best suited to weigh the policy considerations relating to a particular quantity or ratio for the sentencing of crack cocaine and powder cocaine offenses. . . . Opponents of the current sentencing provisions are best advised to lobby Congress, not the courts. Congress, as an elected body, will be more cognizant of the concerns of its constituencies.” *Id.* at 889-90. That you led the *Fair Sentencing Act of 2010*, a bipartisan compromise which significantly reduced the sentencing disparity from 100:1 to 18:1, and that President Trump signed into law the *First Step Act*, which made the Fair Sentencing Act’s reduction in the disparity retroactive, proves my point.

2. During your tenure as a federal prosecutor in the Eastern District of Missouri, you—alongside DOJ attorneys from the Civil Rights Division—led the investigation of the August 9, 2014, officer-involved shooting in Ferguson, Missouri that resulted in the death

of Michael Brown. As part of that review, the Justice Department found that the evidence did not support federal civil rights charges against Ferguson Police Officer Darren Wilson. However, DOJ also found that the Ferguson Police Department had engaged in a pattern or practice of conduct that violated the First, Fourth, and Fourteenth Amendments of the Constitution. Specifically, the report found that Ferguson police officers routinely violated the Fourth Amendment in stopping people without reasonable suspicion, arresting them without probable cause, and using unreasonable force against them.

a. What did you learn about the state of policing in Ferguson, Missouri during your time working on that investigation?

Response: The investigation of the August 9, 2014, officer-involved shooting was separate and apart from the pattern and practice investigation conducted by DOJ. I did not work on the pattern and practice investigation and have not otherwise studied the state of policing in Ferguson during the time of the investigation.

b. How will that experience inform your work as a district judge, if confirmed?

Response: Please see my response to Question 2.a.

3. Between June 2017 and June 2018, you provided similar presentations on internal investigations, *see e.g.*, *Lessons from Ferguson: What Corporate Counsel Should Know About Internal Investigations* (June 29, 2017); and *Lessons from High Profile Investigations: From Ferguson and Greitens to Corporate Investigations* (June 1, 2018 and June 19, 2018). The June 2017 version includes a lesson in the slide deck that you later removed from the 2018 versions of the presentation: “(5) Consider making enough information available for fair-minded observers to assess the issue.”

a. Why did you remove this lesson from the later versions of your presentation on the same topic?

Response: As disclosed in the Senate Judiciary Questionnaire, I provided similar presentations on internal investigations on June 19, 2017; June 1, 2018; June 19, 2018; November 5, 2018; and November 16, 2018. The first such presentation, on June 19, 2017, included five lessons, the fifth being “(5) Consider making enough information available for fair-minded observers to assess the issue.” As I recall, this fifth lesson was not included in other presentations due to time constraints, and not for any substantive reason. The last such presentation, on November 16, 2018, again included five lessons, the fifth being “(5) Consider making enough information available for fair-minded observers to assess the issue.” I also included a similar fifth lesson in an award-winning legal article, *Internal Investigations: Lessons Learned*

for Corporate Counsel and the Investigating Lawyer, Journal of the Missouri Bar (May/June 2018).

b. Do you think investigators in similar cases moving forward should provide the public with “enough information” to assess the issue? Why or why not?

Response: As I explained in the above-referenced presentations, investigators should consider making enough information available for fair-minded observers to assess the issue while the investigation is ongoing. Also, as I stated in the related article, “citizens and consumers should be given the opportunity to consider relevant information. To be sure, not everyone will have an open mind, partisans will be unaffected by inconvenient truths, and honest opinions will differ. The best that can be hoped for is an appeal to fair-minded citizens and consumers in a free society who conscientiously seek accurate information to inform their opinions.” *Internal Investigations: Lessons Learned for Corporate Counsel and the Investigating Lawyer*, Journal of the Missouri Bar 138, 141 (May/June 2018).

4. In January 2024, you served on a panel with other jurists at a Federalist Society event to discuss “the importance of judicial independence through the lens of recent attacks on the judiciary.” Your notes from this event suggest your disapproval of commentary on judges from Democratic members of Congress and certain national media outlets.

Do you believe that recent commentary from Republican politicians and conservative media outlets attacking judges who have ruled against the Trump Administration are inappropriate and put the lives of judges and their families at risk?

Response: My notes do not suggest my disapproval of commentary on judges from Democratic members of Congress and certain national media outlets. The presentation recounted: a member of the U.S. Senate declared at a 2020 rally outside the Supreme Court building that Justices Kavanaugh and Gorsuch “have unleashed a whirlwind, and you will pay the price” and stated, “You won’t know what hit you if you go forward with these awful decisions;” protests at justices’ residences after *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022); an assassination attempt against Justice Kavanaugh at his residence; threats to murder a U.S. District Judge in the Eastern District of Missouri and blow up the Thomas F. Eagleton U.S. Courthouse; and racist and abusive threats against a Missouri judge in Jackson County. The presentation did not address commentary from politicians and media outlets on judges and their decisions, which generally is protected speech under the First Amendment. As a nominee to a U.S. District Court, I think expressing a belief regarding political commentary would be inappropriate, particularly considering this is a highly debated political issue and could arise in a future case.

5. On Memorial Day, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as “USA HATING JUDGES” and “MONSTERS”,

who "...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY..."¹

- a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" "...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY..."?**

Response: As a nominee to a U.S. District Court, I think expressing my views on political issues and commentary would be inappropriate, particularly considering this is a highly debated political issue and could arise in a future case.

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding the president's commentary would be inappropriate, particularly considering this is a highly debated political issue and could arise in a future case.

- 6. In addition to the President's own attacks on judges, his adviser Stephen Miller recently took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup"² and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."³**

- a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?**

Response: As a nominee to a U.S. District Court, I think expressing whether I agree with commentary of a presidential advisor would be inappropriate, particularly considering this is a highly debated political issue and could arise in a future case.

- b. Do you believe this rhetoric endangers the lives of judges and their families?**

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding commentary of a presidential advisor would be inappropriate, particularly considering this is a highly debated political issue and could arise in a future case.

- c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?**

Response: As a long-time Assistant United States Attorney at the U.S. Attorney's Office for the Eastern District of Missouri, First Assistant Attorney General and

¹ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), <https://truthsocial.com/@realDonaldTrump/posts/114573871728757682>.

² Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), <https://x.com/StephenM/status/1927874604531409314>.

³ Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), <https://x.com/StephenM/status/1928065122657845516>.

Deputy Attorney General for the Criminal Division to then-Attorney General Eric Schmitt, and a sitting judge on the Missouri Court of Appeals, I expect commentary about, and criticism of, my decisions. As disclosed in the Senate Judiciary Questionnaire, I have had my likeness published many times.

7. Did President Trump lose the 2020 election?

Response: As I recall, there were various legal challenges to the results of the 2020 presidential election. Joe Biden was certified as the winner of the 2020 presidential election and served four years as president.

8. Where were you on January 6, 2021?

Response: I do not recall where I was on January 6, 2021. I recall that I was not in Washington, D.C.

9. Do you denounce the January 6 insurrection?

Response: The question draws the legal conclusion that the events of January 6, 2021, were an insurrection. As a nominee to a U.S. District Court, I think expressing a personal opinion and drawing a legal conclusion regarding the events of January 6, 2021, would be inappropriate, particularly considering this is a highly contested political issue that has resulted in criminal prosecutions and other litigation in the federal courts.

10. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: The pardon power is reserved to the President pursuant to Article II, Section 2 of the Constitution. As a nominee to a U.S. District Court, I think expressing an opinion on the political question of whether I believe pardons should have been given would be inappropriate, particularly considering this is a highly contested political issue that has resulted in criminal prosecutions and other litigation in the federal courts.

11. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarming, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Litigants have many options, including criticizing the order and appealing it. In some circumstances, defying a court order is necessary to appeal it, as Justice

Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100 (2009), recognizes.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor's opinion for the Court put it, "Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions." *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). "Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment." *Id.*

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Pursuant to the Constitution and statute, all three branches of the federal government are sworn to uphold the Constitution. Pursuant to Article II, Section 1, Clause 8 of the Constitution, the President swears to "preserve, protect and defend the Constitution of the United States." Pursuant to 5 U.S.C. Section 3331, members of Congress swear to "support and defend the Constitution of the United States." Pursuant to 28 U.S.C. Section 453, federal judges swear to "faithfully and impartially discharge and perform all the duties incumbent upon [them] . . . under the Constitution and laws of the United States." In *Marbury v. Madison*, 1 Cranch (5 U.S.) 137 (1803), the U.S. Supreme court decided it had the power of judicial review to refuse to apply a law the text of which was contrary to the written Constitution. Chief Justice John Marshall famously wrote for the Court, "It is emphatically the province and duty of the judicial department to say what the law is." *Id.* at 177.

12. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: I am not familiar with the term "non-party injunctions." Even if I were familiar with that term, as a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether non-party injunctions are constitutional would be inappropriate, particularly considering that similar issues are currently being litigated

in the Supreme Court and other courts. If I am confirmed to be a lower court judge, I will follow the Supreme Court's ruling.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: I am not familiar with the term "non-party injunctions." Even if I were familiar with that term, as a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether non-party injunctions are a legitimate exercise of judicial power would be inappropriate, particularly considering that similar issues are currently being litigated in the Supreme Court and other courts. If I am confirmed to be a lower court judge, I will follow the Supreme Court's ruling.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: I am not familiar with the term "non-party injunctions." Even if I were familiar with that term, as a nominee to a U.S. District Court, I think speculating about whether, and attempting to identify circumstances in which, it is ever appropriate for a district judge to issue a non-party injunction would be inappropriate, particularly considering that similar issues are currently being litigated in the Supreme Court and other federal courts. If I am confirmed to be a lower court judge, I will follow the Supreme Court's ruling.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: I am not familiar with the term "non-party injunctions," but I am confident I have never sought one in my years of litigation experience.

13. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

14. Does the U.S. Constitution permit a president to serve three terms?

Response: The 22nd Amendment states, in part, "No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . ." As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether the U.S. Constitution permits a president to serve three terms would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

15. When, if ever, may a lower court depart from Supreme Court precedent?

Response: A lower court may never depart from directly controlling Supreme Court precedent. See *Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989) (“If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions.”); see also *Bosse v. Oklahoma*, 137 S.Ct. 1 (2016) (per curiam).

16. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: In the Eighth Circuit, a three-judge panel of the court cannot overturn a published and binding decision of another panel. Only the court *en banc* can overturn the court’s own precedent.

17. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: The Supreme has held its decisions “remain binding precedent until we see fit to reconsider them, regardless of whether subsequent cases have raised doubts about their continuing validity.” *Hohn v. United States*, 524 U.S. 236, 252-53 (1998).

18. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

- a. *Brown v. Board of Education*
- b. *Plyler v. Doe*
- c. *Loving v. Virginia*
- d. *Griswold v. Connecticut*
- e. *Trump v. United States*
- f. *Dobbs v. Jackson Women’s Health Organization*
- g. *New York State Rifle & Pistol Association, Inc. v. Bruen*
- h. *Obergefell v. Hodges*
- i. *Bostock v. Clayton County*
- j. *Masterpiece Cakeshop v. Colorado*
- k. *303 Creative LLC v. Elenis*
- l. *United States v. Rahimi*
- m. *Loper Bright Enterprises v. Raimondo*

Response: As a nominee to a U.S. District Court, I think that opining on whether a U.S. Supreme Court case correctly was decided would be inappropriate. That said, I have observed that prior nominees have expressed the opinion that *Brown v. Board of Education* and *Loving v. Virginia* were correctly decided and I agree. If confirmed, I will faithfully follow *Brown v. Board of Education* and *Loving v. Virginia*, and other applicable Supreme Court precedents.

19. With respect to constitutional interpretation, do you believe judges should rely on the “original meaning” of the Constitution?

Response: With respect to constitutional interpretation, I would begin by reviewing the relevant text and looking for and faithfully following any Eighth Circuit and Supreme Court precedent interpreting that text. If precedent did not supply the answer, I would look to the relevant text and consider the original public meaning to determine its meaning.

20. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: Please see my response to Question 19.

21. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

Response: The Supreme Court has found a constitutional right to same-sex marriage in *Obergefell v. Hodges*, 576 U.S. 644 (2015). If confirmed, I will faithfully follow *Obergefell* and any other applicable Supreme Court precedent.

22. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: The Supreme Court has found a constitutional right to marry persons of a different race in *Loving v. Virginia*, 388 U.S. 1 (1967). If confirmed, I will faithfully follow *Loving* and any other applicable Supreme Court precedent.

23. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: The Fourteenth Amendment states, in pertinent part, “nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

24. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has, for example, applied heightened scrutiny to gender classifications and has found a right to same-sex marriage. *See, e.g., Obergefell v. Hodges*, 576 U.S. 644 (2015); *United States v. Virginia*, 518 U.S. 515 (1996). I would faithfully follow those precedents and other applicable Supreme Court precedent.

25. Do you believe that judges should be “originalist” and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my response to Question 19.

26. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my response to Question 19.

27. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The First Amendment states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

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

Response: According to the Supreme Court, a law regulating speech is “content-based” if, on its face, it draws a distinction based on the message conveyed by the speaker. *See, e.g., Boos v. Barry*, 485 U.S. 312 (1988). The Supreme Court also has identified as “content-based” laws that facially are “content-neutral,” but cannot be justified without reference to the content of the speech or were adopted in opposition to the message the speech conveys. *See, e.g., Ward v. Rock Against Racism*, 491 U.S. 781 (1989).

29. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: True threats, for the purpose of the First Amendment, are serious expressions conveying that a speaker means to commit an act of unlawful violence and are not protected speech. *Virginia v. Black*, 538 U.S. 343, 359 (2003). Most recently, the Supreme Court decided in *Counterman v. Colorado*, 600 U.S. 66 (2023), that a prosecutor must prove that a criminal defendant had some subjective understanding of his statements’ threatening nature for the statements to be true threats and therefore unprotected speech under the First Amendment.

30. Is every individual within the United States entitled to due process?

Response: The Fifth Amendment provides, in relevant part, “No person shall ... be deprived of life, liberty, or property, without due process of law.” The question in most cases is less about whether due process applies and more about how much process is due.

31. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: My understanding is that the United States has a number of extradition treaties that might apply. To the extent the question is asking about recent political or legal disputes, as a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether U.S. citizens can be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized would be inappropriate, particularly considering this is a question of law that may arise in the future.

32. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether every person born in the United States is a citizen under the Fourteenth Amendment would be inappropriate, particularly considering this issue currently is being litigated in the federal courts.

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether the citizenship or immigration status of the parents of an individual born in the United States is relevant for determining whether the individual is a citizen under the Fourteenth Amendment would be inappropriate, particularly considering this issue currently is being litigated in the federal courts.

33. **Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.**

Response: I believe having the best judges on the federal bench is important. In my experience, choosing judges based on merit results in the best judges, as well as diversity on the bench.

34. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to

judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: If confirmed, I will faithfully apply the *First Step Act*, as I would any other federal statute.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: If confirmed, I will be guided by the sentencing factors in 18 U.S.C. Section 3553 and the Sentencing Guidelines.

35. The Federalist Society seeks to “reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law.”

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of “traditional values”?

Response: I did not write the comments, and I would not speculate as to the author’s meaning.

b. President Trump wrote on Truth Social that the Federalist Society gave him “bad advice” on “numerous Judicial Nominations.” He also wrote that Leonard Leo is a “sleazebag” who “probably hates America.” If you are not familiar with this post, please refer to it in the footnote.⁴

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

Response: I am not aware of any advice the Federalist Society provided to President Trump in his first term. Additionally, as a nominee to a U.S. District Court, I think commenting on the political question of whether the Federalist Society provided President Trump with bad advice during his first term would be inappropriate.

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

⁴ Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

Response: I do not recall knowing Leonard Leo. Moreover, as a nominee to a U.S. District Court, I think wading into political disputes would be inappropriate.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: Yes.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I am not aware of every individual associated with the Federalist Society, and I have a number of friends and acquaintances who are members of the Federalist Society. I am not aware of having talked with any individual associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi, during my selection process, other than casual conversations with friends or acquaintances who are also members of the Federalist Society.

i. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: I have been asked to give speeches at events hosted by the Federalist Society. I disclosed those speeches in the Senate Judiciary Questionnaire.

d. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: I do not recall ever having been paid honoraria by the Federalist Society.

36. The Teneo Network states that its purpose is to “Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: I am not aware of every individual associated with the Teneo Network, and I am not aware of having spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo, during my selection process.

- b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?**

Response: No.

37. The Heritage Foundation states that its mission is to “formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense.” Heritage Action, which is affiliated with the Heritage Foundation, seeks to “fight for conservative policies in Washington, D.C. and in state capitals across the country.”

- a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.**

Response: I am not aware of every individual associated with the Heritage Foundation or Heritage Action, and I am not aware of having spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action during my selection process.

- b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Were you ever involved in or asked to contribute to Project 2025 in any way?**

Response: No.

- d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?**

Response: No.

38. The America First Policy Institute (AFPI) states that its “guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.**

Response: I am not aware of every individual associated with AFPI, and I am not aware of having spoken to or corresponded with any individuals associated with AFPI during my selection process.

- b. **Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?**

Response: No.

39. The America First Legal Institute (AFLI) states that it seeks to “oppose the radical left’s anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.**

Response: I am not aware of every individual associated with AFLI, and I am not aware of having spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein, during my selection process.

- b. **Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. **Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?**

Response: No.

40. The Article III Project is an organization which claims that, “The left is weaponizing the power of the judiciary against ordinary citizens.”

- a. **During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will**

Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: I am not aware of every individual associated with the Article III Project, and I am not aware of having spoken to or corresponded with any individuals associated with these organizations, including Mike Davis, Will Chamberlain, or Josh Hammer, during my selection process.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

41. The Alliance Defending Freedom (ADF) states that it is “the world’s largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights.”

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: I am not aware of every individual associated with ADF, and I am not aware of having spoken to or corresponded with any individuals associated with ADF during my selection process.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

42. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed “to the Constitution and the Founders’ vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary.” It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

- a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.**

Response: I am not aware of every individual associated with these organizations, and I am not aware of having spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino, during my selection process.

- b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?**

Response: No.

- c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?**

Response: No.

- d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.**

Response: I am not aware of any such donations. As a nominee to a U.S. District Court, I think expressing any concerns, or a personal opinion, about whether I would find problematic outside groups or special interests making undisclosed donations would be inappropriate.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. Section 455, the Code of Conduct for United States Judges, and any other applicable laws and rules.

- f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?**

Response: Please see my responses to Questions 42.d and 42.e.

Senator Mike Lee
Questions for the Record

Cristian M. Stevens, to be United States District Judge for the Eastern District of Missouri

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

Response: When interpreting the Constitution, I would begin by reviewing the text of the relevant constitutional provision and looking for and faithfully following any Eighth Circuit and Supreme Court precedent interpreting that text. If precedent did not supply the answer, I would look to the text of the relevant constitutional provision and consider the original public meaning to determine its meaning.

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

Response: The Supreme Court has looked at several criteria to determine whether a particular group is a suspect class, such that laws affecting that group must survive strict scrutiny, pursuant to the right to equal treatment in the Due Process Clause of the Fifth Amendment and the Equal Protection Clause of the Fourteenth Amendment. Those criteria include that the group historically has been subjected to discrimination, the group exhibits obvious, immutable, or distinguishing characteristics that defines it as a discrete group, and the group is a discrete and insular minority or politically powerless.

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

Response: The checks and balances and separation of powers incorporated into the structure of the Constitution by the Founders delineate, counter, and blend the powers of the legislative, executive, and judicial branches of government established in Articles I, II, and III. While the separation of powers delineates, and therefore limits, the powers of each branch, checks and balances such as the president’s power under Article I to nominate Article III judges and the Senate’s prerogative to provide its advice and consent on the president’s judicial nominees counter and blend, and therefore further limit, the powers of each branch of government. The checks and balances and separation of powers in the Constitution’s structure serve the role of preserving the liberty of the governed against government tyranny, as explained much more eloquently in James Madison’s The Federalist No. 47: “Ambition must be made to counteract ambition.”

4. **How would you evaluate a case in which one branch assumed an authority not granted it by the text of the Constitution?**

Response: I would begin by reviewing the text of the Constitution and relevant precedent of the Eighth Circuit and the Supreme Court. If those did not resolve the

issue, I would look to the history and tradition surrounding the constitutional provisions implicated to determine their original public meaning. As a nominee to a U.S. District Court, I think otherwise commenting on a hypothetical situation in which one branch assumed an authority not granted it by the text of the Constitution would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

5. How would you explain the difference between judicial review and judicial supremacy?

Response: In *Marbury v. Madison*, 1 Cranch (5 U.S.) 137 (1803), the U.S. Supreme court decided it had the power of judicial review to refuse to apply a law the text of which was contrary to the written Constitution. Chief Justice John Marshall famously wrote for the Court, “It is emphatically the province and duty of the judicial department to say what the law is.” *Id.* at 177. As I understand it, “judicial supremacy” is the concept that the judicial branch is superior to the executive and legislative branches and therefore may generally strike down laws that are contrary to constitutional law expounded by the courts, particularly pursuant to the judicial philosophy of a “living” Constitution.

Nomination of Cristian Matthew Stevens
 Nominee to the United States District Court for the Eastern District of Missouri
 Questions for the Record
 Submitted June 11, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

- 1. In 2010, you donated \$180 to Ed Martin’s congressional campaign. What is your relationship with Ed Martin?**

Response: I do not recall donating \$180 to Ed Martin’s congressional campaign in 2010. I was a law clerk to Judge Pasco M. Bowman II, chief judge of the Eighth Circuit U.S. Court of Appeals, from 1998 to 1999. I believe Ed Martin clerked for Judge Bowman in a later year.

- 2. You said in your questionnaire that you have been a member of the Federalist Society since 1999. Recently, President Trump said he was “so disappointed” with the Federalist Society’s “bad advice” on nominees, calling Leonard Leo a “sleazebag” and a “bad person who, in his own way, probably hates America.”**

- a. Do you agree with President Trump that Leonard Leo is a “sleazebag”? Why or why not?**

Response: I do not recall knowing Leonard Leo. Additionally, as a nominee to a U.S. District Court, I think wading into a political dispute by commenting on it would be inappropriate.

- b. Do you agree with President Trump that Leonard Leo is a “bad person who, in his own way, probably hates America”? Why or why not?**

Response: I do not recall knowing Leonard Leo. As a nominee to a U.S. District Court, I think wading into a political dispute by commenting on it would be inappropriate.

- 3. Have you had any conversations with members of the Trump administration concerning your personal views on any policy or case law? If so, please describe those conversations with specificity.**

Response: No.

- 4. Do you believe it is appropriate to impeach judges solely for ruling against the executive branch?**

Response: As a nominee to a U.S. District Court, I think expressing a belief on this hypothetical political question would be inappropriate.

- 5. Please explain your understanding of existing case law regarding:**

a. The executive branch's obligation to comply with federal court orders.

Response: Treatises and cases have identified circumstances where a party can raise a defense to compliance with a court, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum Contempt §§ 56–65. In some circumstances, defying a court order is necessary to appeal it, as Justice Sotomayor's majority opinion in *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009), recognizes.

b. Remedies available to a federal court to ensure executive branch compliance with a court order.

Response: Courts have a variety of methods to ensure compliance by any litigant with court orders. A common one is discovery sanctions. Courts sometimes draw adverse inferences from discovery failures or require one party to cover the costs of others. In more extreme cases, courts can dismiss a case or engage in contempt proceedings.

c. Federal government lawyers' duty of candor to federal courts before which those lawyers appear.

Response: Any lawyer representing any party has a duty of candor to the courts.

d. The president's legal obligations under the Constitution's Take Care Clause.

Response: The Constitution provides that the President "shall take Care that the Laws be faithfully executed." I am not familiar with any Supreme Court case definitively interpreting this provision of the Constitution.

e. The limits of the executive branch's power under the anti-commandeering doctrine.

Response: The Supreme Court has held that Congress cannot compel the States or their officials to participate in federal regulatory programs, partly based on separation-of-powers concerns and their impact on the executive branch. *Printz v. United States*, 521 U.S. 898, 922–23, 935 (1997).

f. The president's ability or inability to impound congressionally appropriated funds.

Response: As I understand it, the president recently sent a rescission package to Congress and the House of Representatives voted in favor of the rescission package. Beyond that, as a nominee to a U.S. District Court, I think expressing a legal opinion regarding the president's ability or inability to impound congressionally appropriated funds would be inappropriate, particularly considering this has become a highly contested political issue and is being litigated in the federal courts.

g. The federal government's ability to enact laws or regulations that burden Second Amendment rights.

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion regarding the federal government's ability to enact laws or regulations that burden Second Amendment rights would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

h. The federal government's ability to enact generally applicable laws that are not motivated by animus but nonetheless burden religious practices.

Response: In *Employment Division v. Smith*, the Supreme Court concluded that as a constitutional matter, government may enact neutral, generally applicable laws even if they burden religious practice. That decision proved controversial, and Congress passed the Religious Freedom Restoration Act in response, subjecting those laws to strict scrutiny. Under the *Lukumi* and *Tandon* decisions, a government regulation is not neutral or generally applicable if, though facially nondiscriminatory, it is gerrymandered to target a religion, as in *Lukumi*, or if it "treat[s] any comparable secular activity more favorably than religious exercise," as in *Tandon* (emphasis in original).

6. As a practicing attorney, have you ever sought a nationwide injunction or similar relief in federal court, or, as a judge, have you ever issued a nationwide injunction or similar relief? If yes, please list and describe each case.

Response: No.

a. Have you ever publicly voiced support or opposition regarding a federal court's issuance of a nationwide injunction or similar relief? If yes, please describe.

Response: No.

b. Do you believe that a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'etat?

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding whether a federal judge issuing a nationwide injunction or similar relief against the executive branch is equivalent to a coup d'etat would be in appropriate, particularly considering that nationwide injunctions currently are being litigated in the Supreme Court and other federal courts.

c. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection?

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding whether a federal judge who issues a nationwide injunction or similar relief against the executive branch is equivalent to insurrection would be in appropriate, particularly

considering that nationwide injunctions currently are being litigated in the Supreme Court and other federal courts.

d. Do you believe that a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge?

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding whether a federal judge who issues a nationwide injunction or similar relief against the executive branch is an activist judge would be in appropriate, particularly considering that nationwide injunctions currently are being litigated in the Supreme Court and other federal courts.

7. Please describe your understanding of natural law.

Response: As I understand it, natural law is a philosophical concept that there exist inherent laws and moral principles, which are fundamental and universal, exist independently of legislated law, and can be discovered through logic and reason. Philosophers such as Socrates, Plato, St. Thomas Aquinas, Thomas Hobbes, and John Locke expounded on various natural law theories. As I recall, Justice Thomas, also a practicing Roman Catholic, was asked extensively about natural law at his confirmation hearing.

a. What authority does natural law carry in federal case law?

Response: Because the federal government is a government of limited, enumerated powers, federal law generally is constitutional and statutory. The Supreme Court has held there is no general federal common law, such that in diversity jurisdiction cases federal courts are to apply applicable state law. *See Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938). Accordingly, natural law would carry authority in a federal case only to the extent it was incorporated into the U.S. Constitution, federal statutes, or applicable state law.

b. When do you think it is appropriate for a federal judge to rely on natural law?

Response: Please see my response to Question 7.a.

c. If confirmed, do you plan to incorporate natural law into your decisions?

Response: Please see my response to Question 7.a.

8. Please describe your understanding of originalism.

Response: Originalism is the concept that the text of the U.S. Constitution is to be interpreted according to its original public meaning.

a. Do you consider yourself an originalist?

Response: With respect to constitutional interpretation, I would begin by reviewing the relevant text and looking for and faithfully following any Eighth Circuit and Supreme Court precedent interpreting that text. If precedent did not supply the answer, I would look to the relevant text and consider the original public meaning to determine its meaning.

b. Do you believe that people who do not support or adhere to originalism do not like America?

Response: Generally no, but I do not know all people who do not support or adhere to originalism.

c. Based on your understanding of originalism, was *Citizens United v. Federal Election Commission* an originalist decision? Why or why not?

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion regarding whether the Supreme Court's decision in *Citizens United* was an originalist decision would be inappropriate. The case is precedent of the Supreme Court and would be binding on me as a U.S. District Court judge.

d. Based on your understanding of originalism, was *Trump v. United States* an originalist decision? Why or why not?

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion regarding whether the Supreme Court's decision in *Trump v. United States* was an originalist decision would be inappropriate. The case is precedent of the Supreme Court and would be binding on me as a U.S. District Court judge.

9. Please describe your understanding of textualism.

Response: Textualism is the concept that a statute is to be interpreted according to the plain meaning of its text. As Justice Kagan publicly acknowledged nearly ten years ago, "we're all textualists now."

a. Do you consider yourself a textualist?

Response: With respect to constitutional and statutory interpretation, I would begin by reviewing the relevant text and looking for and faithfully following any Eighth Circuit and Supreme Court precedent interpreting that text. If precedent did not supply the answer, I would look to the relevant text and consider the original public meaning to determine its meaning.

b. How should a court analyzing a federal statute account for the "Findings" or "Purposes" sections of such statutes?

Response: Please see my response to Question 9.a. Also, in various contexts, the Supreme Court has addressed whether Congress's findings are sufficient to support exercises of its enumerated powers. *See, e.g., Shelby County v. Holder*, 570 U.S. 529 (2013); *United States v. Morrison*, 529 U.S. 598 (2000); *City of Boerne v. Flores*, 521 U.S. 507 (1997). If confirmed, I would faithfully follow applicable Supreme Court precedent regarding how to account for Congress's findings and purposes when analyzing a federal statute.

10. Please describe your understanding of the different roles of district and appellate courts with respect to fact-finding.

Response: District courts, as trial courts, engage in fact-finding. Appellate courts generally review district courts' findings of fact for clear error.

a. What deference should courts grant facts found by Congress when reviewing legislation expanding or limiting individual rights?

Response: Please see my response to Question 9.b.

b. Separate from legal holdings, are lower courts bound to adhere to factual findings by the Supreme Court?

Response: A lower court may never depart from directly controlling Supreme Court precedent. *See Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."); *see also Bosse v. Oklahoma*, 137 S.Ct. 1 (2016) (per curiam). That said, trial courts generally make findings of fact and appellate courts review those findings for clear error.

c. What standard will you use to determine when it is appropriate to depart from otherwise binding appellate case law because of differences in the facts of a case?

Response: A lower court may never depart from directly controlling Supreme Court precedent. *See Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989) ("If a precedent of this Court has direct application in a case, yet appears to rest on reasons rejected in some other line of decisions, the Court of Appeals should follow the case which directly controls, leaving to this Court the prerogative of overruling its own decisions."); *see also Bosse v. Oklahoma*, 137 S.Ct. 1 (2016) (per curiam).

11. If confirmed, how will you conduct historical analyses under *New York State Rifle & Pistol Association v. Bruen*?

Response: Please see my response to Question 8.a.

a. As part of these historical analyses, will you solicit input from amici curiae?

Response: I would generally accept input from amici curiae.

b. How will you assess the veracity of historical claims made by parties?

Response: Please see my response to Question 8.a.

c. How will you assess the veracity of historical claims made by amici curiae?

Response: Please see my response to Question 8.a.

12. The U.S. Sentencing Commission recently prioritized the “[c]ompilation and dissemination of information on court-sponsored programs relating to diversion, alternatives-to-incarceration, and reentry.” Courts can tailor these programs to meet specific needs of defendants before them. These include programs focused on mental health, substance use disorder, veterans, and juveniles.

a. Do you support the use of programs such as these?

Response: In making sentencing decisions, I will follow the sentencing factors in 18 U.S.C. Section 3553 and the Sentencing Guidelines.

b. If confirmed, what steps will you take to participate in or support programs such as these within the jurisdiction to which you would be confirmed?

Response: Please see my response to Question 12.a.

13. If confirmed, will you attend, to the extent possible, any trainings provided by the Federal Judicial Center for newly appointed judges—including on abiding with federal ethics laws and the Code of Conduct for United States Judges?

Response: If confirmed, I expect to attend training provided by the Federal Judicial Center for newly appointed judges, including on federal ethics laws and the Code of Conduct for United States Judges.

14. If confirmed, you will be called upon to maintain impartiality, which requires being open to legal arguments that may lead to outcomes you dislike.

c. If confirmed, what steps will you take to ensure that you are exposed and open to a range of ideological and legal viewpoints outside of the courtroom—in particular, those that you do not agree with?

Response: If confirmed to the U.S. District Court, I will not consider ideological viewpoints. I anticipate I will be exposed to and open to different legal viewpoints outside of the courtroom at continuing legal education seminars and other legal education opportunities.

- d. During your time as a legal professional, including as a sitting judge, if applicable, what steps have you taken to ensure that you are exposed and open to a range of ideological and legal viewpoints—in particular, those that you do not agree with?**

Response: As a legal professional and a sitting judge, I do not consider ideological viewpoints. I am exposed to and open to different legal viewpoints as presented in opposing parties' legal briefs and oral arguments, and as part of the adversarial process generally.

- e. If confirmed, do you plan to hire qualified law clerks who do not share your ideological or legal viewpoints?**

Response: If confirmed, I plan to hire the best qualified law clerks.

- 15. If confirmed, do you plan to “boycott” the hiring of law clerks from any specific schools? If so, which schools and why?**

Response: No.

- f. Do you believe such boycotts are appropriate?**

Response: As a nominee to a U.S. District Court, I think expressing a belief on the appropriateness of the hypothetical hiring practices of others would be inappropriate.

- 16. If confirmed, you will be responsible for managing and exercising authority over law clerks and other court personnel.**

- g. What professional experience do you have overseeing and managing others?**

Response: As a judge on the Missouri Court Appeals, I manage my law clerks, judicial assistant, and other court personnel. As first assistant attorney general to then-Attorney General Eric Schmitt, I managed approximately 150 lawyers and a large legal staff. As deputy attorney general for the criminal division under then-Attorney General Schmitt, I also managed lawyers and legal staff. As a partner at Armstrong Teasdale, I managed associate attorneys and legal staff.

- h. How do you plan to recruit and hire law clerks?**

Response: I plan to receive and review applications from qualified applicants, consider input from their references and other members of the bench and bar, and hire the best qualified applicants.

- 17. If confirmed, do you have plans to integrate artificial intelligence into your work as a federal judge? If so, how?**

Response: If confirmed, I do not have plans to integrate artificial intelligence into my work as a federal judge.

18. Have you ever deleted any posts or publications originally published under your name or an account associated with you? If so, please provide those posts or publications in full.

Response: I do not recall ever deleting any posts or publications originally published under my name or an account associated with me.

19. Have you ever asked for your name to be removed from any publication which previously bore your name? If so, please provide these publications in full.

Response: I do not recall ever asking for my name to be removed from any publication which previously bore my name.

20. Have you ever been accused, in any setting, of the following? If so, please describe the accusation with specificity, the actions you took in response, and how the accusation was resolved.

a. Sexual harassment?

Response: No.

b. Sex-based discrimination?

Response: No.

c. Race-based discrimination?

Response: No.

d. Discrimination on the basis of national origin?

Response: No.

e. Discrimination on the basis of religion?

Response: No.

f. Workplace misconduct of any kind?

Response: No.

21. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe your conversations with them with specificity.

a. Leonard Leo

Response: No.

b. Carrie Severino

Response: No.

c. Mike Davis

Response: No.

d. The Article III Project

Response: No.

22. Do the Fifth and Fourteenth Amendments protect individuals' substantive, as well as procedural, rights?

Response: The Supreme Court has found the Fifth and Fourteenth Amendments to protect substantive, as well as procedural, rights many times. If confirmed, I will follow applicable Supreme Court precedent.

23. What rights does the Constitution protect that are not expressly enumerated in the Constitution?

Response: The Supreme Court has found various rights not expressly enumerated in the Constitution. If confirmed, I will follow applicable Supreme Court precedent.

24. Is it ever lawful for the President to punish lawyers because of who they represent or what positions they take? If so, when?

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion regarding whether, and attempting to identify any circumstance in which, it is ever lawful for the President to punish lawyers because of who they represent or what positions they take would be in appropriate, particularly considering that similar issues currently are being litigated in the federal courts.

25. Can the federal government deport immigrants with lawful status solely because of those immigrants' expression of a political view?

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion regarding whether the federal government can deport immigrants with lawful status solely because of those

immigrants' expression of a political view would be in appropriate, particularly considering that similar issues currently are being litigated in the federal courts.

26. What protections does the Constitution offer to safeguard the freedom of the press?

Response: The First Amendment states, in part, "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ."

27. Can the federal government fire its employees for the sole reason that they espouse a disfavored political opinion?

Response: The Supreme Court has addressed the First Amendment rights of public employees in cases including *Pickering v. Board of Ed. of Township High School Dist. 205*, 391 U.S. 563 (1968); *Garcetti v. Ceballos*, 547 U.S. 410 (2006); and *Kennedy v. Bremerton School District*, 597 U.S. 507 (2022). If confirmed, I would follow those and any other relevant precedents of the Supreme Court and the Sixth Circuit. Consistent with the Code of Conduct for United States Judges and the positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on abstract legal issues or hypotheticals.

28. Do you agree that campaign finance donor disclosure requirements "impose no ceiling on campaign-related activities" and "do not prevent anyone from speaking," as Justice Kennedy wrote for an 8-1 majority in *Citizens United*?

Response: As a nominee to a U.S. District Court, I think commenting on whether I agree with a U.S. Supreme Court case would be inappropriate. I will faithfully follow Supreme Court precedent.

29. Was *Korematsu v. United States* egregiously wrong the day it was decided?

Response: The Supreme Court has stated that "*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—has no place in law under the Constitution." *Trump v. Hawaii*, 585 U.S. 667, 710 (2018).

a. Do you agree with Chief Justice Roberts that "[t]he forcible relocation of U.S. citizens to concentration camps, solely and explicitly on the basis of race, is objectively unlawful"?

Response: I would follow *Trump v. Hawaii*, just as I would follow every other binding precedent of the Supreme Court, including the Supreme Court's determination that *Korematsu* "was gravely wrong."

30. The Seventh Amendment ensures the right to a jury "in suits at common law."

a. What role does the civil jury play in our constitutional system?

Response: A civil jury has the role of finder of fact in a civil case. That role is important because it guarantees litigants a jury of their peers, as opposed to a government official.

b. Should the Seventh Amendment be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses?

Response: The rights enumerated in the Bill of Rights generally apply as against the federal government, not private parties to a contract. I have not studied whether the Seventh Amendment should be a concern to judges when adjudicating issues related to the enforceability of mandatory pre-dispute arbitration clauses.

c. Should an individual's Seventh Amendment rights be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act?

Response: The rights enumerated in the Bill of Rights generally apply as against the federal government, not private parties to a contract. I have not studied whether an individual's Seventh Amendment rights should be a concern to judges when adjudicating issues surrounding the scope and application of the Federal Arbitration Act.

31. Did Joe Biden win the 2020 presidential election?

Response: As I recall, there were various legal challenges to the results of the 2020 presidential election. Joe Biden was certified as the winner of the election and served four years as president.

32. Yes or no: Was the U.S. Capitol attacked by a violent mob on January 6, 2021?

Response: As a nominee to a U.S. District Court, I think commenting on this issue would be inappropriate, particularly considering it is a highly contested political issue from which litigation has arisen.

a. Where were you on January 6, 2021?

Response: I do not recall where I was on January 6, 2021. I do recall that I was not in Washington, DC on January 6, 2021.

33. Yes or no: Does the 22nd Amendment permit a president to be elected more than twice?

Response: The 22nd Amendment states, in part, "No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . ."

Senate Judiciary Committee
Nomination Hearing
June 4, 2025
Questions for the Record
Senator Amy Klobuchar

For Cristian Matthew Stevens, nominee to be U.S. District Judge for the Eastern District of Missouri

1. Chief Justice John Roberts wrote in his most recent end-of-year report that disregarding federal court rulings is “dangerous” and “must be soundly rejected.”

- **Do you agree with Chief Justice Roberts that any suggestion of disregarding a court’s ruling “must be soundly rejected”?**

Response: As a nominee to a U.S. District Court, I think addressing whether any suggestion of disregarding any court’s ruling “must be soundly rejected” would be inappropriate in a hypothetical situation. Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor’s opinion for the Court put it, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). “Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment.” *Id.*

2. Our criminal justice system must ensure the fair administration of justice and keep our communities safe. Many on this Committee have been working for years to reform our sentencing laws, including giving trial court judges additional discretion.

- **How will you approach sentencing decisions?**

Response: I will be guided by the sentencing factors set forth in 18 U.S.C. Section 3553 and the Sentencing Guidelines.

- **Will you commit to sentencing in a fair manner that is consistent across all similarly situated defendants?**

Response: I expect to sentence criminal defendants in a fair manner consistent with the sentencing factors set forth in 18 U.S.C. Section 3553 and the Sentencing Guidelines.

**Nomination of Cristian Stevens to the
United States District Court for the Eastern District of Missouri
Questions for the Record
Submitted June 11, 2025**

QUESTIONS FROM SENATOR COONS

- 1. At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

Response: No.

- a. At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

Response: No.

- 2. How would you describe your judicial philosophy?**

Response: Regarding statutory and constitutional interpretation, I would begin by reviewing the relevant text of the statute or Constitution and apply any applicable precedent of the Supreme Court or the Eighth Circuit construing that text. If such precedent did not resolve the issue, I would consider the original public meaning of the text to determine its meaning.

- 3. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?**

Response: If I were confirmed, with respect to substantive due process under the Fourteenth Amendment, I would faithfully apply the standards set forth in applicable Supreme Court precedent, including *Obergefell v. Hodges*, 576 U.S. 644 (2015), and *Washington v. Glucksberg*, 521 U.S. 702, 720-21 (1997).

- a. Would you consider whether the right is expressly enumerated in the Constitution?**

Response: Yes. I would consider whether the right is expressly enumerated in the Constitution in accordance with any applicable precedent of the Supreme Court. See *Timbs v. Indiana*, 586 U.S. 146 (2019) (Excessive Fines Clause of Eighth Amendment); *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010) (Second Amendment).

- b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?**

Response: Yes. I would consider whether the right is deeply rooted in the nation's history and tradition in accordance with any applicable precedent of the Supreme Court. See *Timbs*, 586 U.S. 146; *Obergefell*, 576 U.S. 644; *Glucksberg*, 521 U.S. at 710-23.

- c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?**

Response: Yes. I would faithfully apply any applicable precedent of the Supreme Court and the Eighth Circuit. In the absence of binding precedent, I would consider any relevant decisions of other circuits for their persuasive value.

- d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?**

Response: Yes.

- e. What other factors would you consider?**

Response: I would consider any other relevant factors identified in the applicable precedent of the Supreme Court and the Eighth Circuit.

- 4. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.**

Response: No.

5. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

a. When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?

Response: If I am confirmed, I would faithfully apply any applicable precedent of the Supreme Court and the Eighth Circuit governing the consideration of such evidence.

b. What is the role of sociology, scientific evidence, and data in judicial analysis?

Response: If confirmed, I would faithfully apply any applicable precedent of the Supreme Court and the Eighth Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge is governed by Federal Rule of Evidence 702 and the applicable precedent interpreting that rule.

6. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission recently finalized an amendment to supervision guidelines implementing certain parts of the bill; this amendment will go in effect in November.

a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes.

b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Yes.

c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: I expect to review and consider all applicable statutes and the Sentencing Guidelines in making sentencing and supervised release decisions.

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

Response: As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding the remedy to be applied in the hypothetical situation that the President violates his constitutional duty to faithfully execute the laws would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

8. Is President Trump eligible to be elected President for a third term?

Response: The 22nd Amendment states, in part, “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . .” As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether a president is eligible to be elected for a third term would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

9. Who won the 2020 U.S. Presidential Election?

Response: As I recall, there were various challenges to the results of the 2020 U.S. Presidential Election. Joe Biden was certified as the winner of the 2020 election and served four years as president.

10. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: This barebones hypothetical provides insufficient information to assess the question. The question does not provide the content of the “viewpoint,” describe what the purported punishment is, or how it is carried out. As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether it would be constitutional for the president to punish a private person for a viewpoint that person expresses in a newspaper op-ed would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

11. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: The question asks about current alleged political disputes. It would be improper for a judicial nominee to promise or forecast how he or she would rule in a case that might come before him or her.

12. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding this issue would be inappropriate, particularly considering that similar issues currently are being litigated in the federal courts.

13. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court has found a right to the use of contraceptives. *See Eisenstadt v. Baird*, 405 U.S. 438, 453-54 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). If confirmed, I would faithfully apply the applicable precedent of the Supreme Court.

14. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: As a nominee to a U.S. District Court, I think expressing a personal opinion and drawing a legal conclusion regarding whether or not I agree that there is a constitutional right to privacy that protects the right to IVF would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

15. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: The Supreme Court recently decided that immigrants subject to deportation pursuant to the Alien Enemies Act are entitled to some process, particularly regarding notice. As a nominee to a U.S. District Court, I think expressing my belief regarding whether immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims would be inappropriate, particularly considering similar issues currently are being litigated in the federal courts.

16. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Moral values not otherwise incorporated or reflected in applicable statutes or legal precedent would not play a role in determining whether a challenged law or regulation is unconstitutional or otherwise illegal.

17. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: If confirmed, I will endeavor to objectively apply the law to the facts in rendering decisions. In many cases, the practical consequences of a particular ruling do not play a role in a judge's rendering a decision. However, in some cases, for example, in considering a temporary restraining order, a judge is expected to consider whether the petitioner will suffer immediate irreparable injury unless the court issues the requested order. I would follow applicable Supreme Court and Eighth Circuit precedent to determine what role, if any, the practical consequences of a particular ruling should play in rendering a decision in any given case.

18. What role, if any, should empathy play in a judge's decision-making process?

Response: If confirmed, I will endeavor to objectively apply the law to the facts in my decision-making process. Empathy is an admirable human trait, which should not drive a judge's decision-making process but may help a judge better understand the positions of the parties.

19. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: If confirmed, I will endeavor to objectively apply the law to the facts in my decision-making process. We all accumulate different personal life experiences, which should not drive a judge's decision-making process but may give a judge wisdom to make grounded, well informed decisions.

20. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a superior court? Please explain.

Response: Please see my response to Question 4.

21. In your Senate Judiciary Questionnaire, you disclosed that you are a member of the Federalist Society, a group whose members often advocate an "originalist" interpretation of the Constitution. In his opinion for the unanimous Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), Chief Justice Warren wrote that although the "circumstances surrounding the adoption of the Fourteenth Amendment in 1868 . . . cast some light" on the amendment's original meaning, "it is not enough to resolve the problem with which we are faced. At best, they are inconclusive We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws." 347 U.S. at 489, 490-93. Do you consider *Brown* to be consistent with originalism even though the Court in *Brown* explicitly rejected the notion that the original meaning of the Fourteenth Amendment was dispositive or even conclusively supportive?

Response: This topic has been the subject of scholarly debate. *See, e.g.*, Michael W. McConnell, *Originalism and the Desegregation Decision*, 81 Va. L. Rev. 947, 1140 (1995) (“This Article shows . . . that school segregation was understood during Reconstruction to violate the principles of equality of the Fourteenth Amendment.”). For a nominee to a U.S. District Court, this remains an academic question. *Brown* is landmark Supreme Court precedent reversing the separate-but-equal framework of *Plessy v. Ferguson*, 163 U.S. 537 (1896). If I am confirmed as a U.S. District Judge, I will faithfully follow *Brown* and other applicable Supreme Court precedent.

- a. Should the public’s understanding of a constitutional provision’s meaning at the time of its adoption ever be dispositive when interpreting that constitutional provision today?**

Response: Please see my response to Question 2.

- b. Does the public’s original understanding of the scope of a constitutional provision constrain its application decades later?**

Response: Please see my response to Question 2.

- c. What sources would you employ to discern the contours of a constitutional provision?**

Response: Please see my response to Question 2.

- 22. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?**

Response: The Supreme Court has squarely recognized that individuals do sometimes have to violate an order so that they can appeal. As Justice Sotomayor’s opinion put it, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). “Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment.” *Id.* It is theoretically possible that I might issue an order that discusses *Mohawk*. Beyond that, as a nominee to a U.S. District Court, I think attempting to identify any circumstance in which I would ever inform parties before me that they do not need to comply with my orders would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

- a. Under what circumstances would you tell a party they could decide not to comply with your orders?**

Response: As a nominee to a U.S. District Court, I think attempting to identify any circumstance in which I would tell a party it could decide not to comply with my orders would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

b. What would you do if a party refuses to comply with one of your orders?

Response: I would consider any factors identified in applicable Supreme Court and Eighth Circuit precedent.

23. Discuss your proposed hiring process for law clerks.

Response: As a sitting judge, I have been hiring law clerks for nearly four years. Before that, I also routinely hired new lawyers as the first assistant attorney general to then-Attorney General Eric Schmitt. The process largely is the same. I receive and review applications from candidates, obtain input from references and fellow members of the bench and bar, and meet with the candidates for in-person interviews.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: No. There is no need for my law clerks to be protected under Title VII of the Civil Rights Act of 1964 prohibiting employment discrimination.

24. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: In some cases, oral argument by a junior lawyer would not be appropriate. I would consider orders in appropriate individual cases allowing junior lawyers to argue.

a. How else would you support the skills development of junior lawyers appearing before you?

Response: I would encourage junior lawyers to come to court as much as practicable to watch court proceeding and observe the different styles and approaches of practicing lawyers. I expect to continue giving continuing legal education presentations and other presentations teaching skills development for junior lawyers, more experienced lawyers, and judges. I take my role as a mentor and example to junior lawyers seriously, particularly considering the diminishing opportunities for young lawyers to appear in court.

**Questions for the Record for Judge Cristian M. Stevens
Submitted by Senator Richard Blumenthal
June 11, 2025**

1. The House Republican-authored budget reconciliation bill currently pending in the Senate includes a provision that would limit federal judges' ability to hold government officials in contempt. The bill would prohibit federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or temporary restraining orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key enforcement tool.

a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

Response: As a nominee to a U.S. District Court, I think expressing a belief regarding pending legislation and the hypothetical effect of that legislation, if enacted, would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

b. Do you believe that federal judges should be limited in their ability to hold government officials in contempt?

Response: Please see my response to 1.a.

2. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of executive defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: Yes.

ii. What powers would you have to enforce those orders?

Response: The powers to enforce orders would depend on the order and the circumstances requiring its enforcement. Some powers to enforce orders are sanctions, such as monetary sanctions or striking pleadings, and the contempt power. As a nominee to a U.S. District Court, I think commenting on a hypothetical situation of what powers I would use to enforce orders would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

b. Does there exist a legal basis for state executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: As a nominee to a U.S. District Court, I think attempting to identify a hypothetical legal basis for state executive officials to defy federal court orders would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

c. Does there exist a legal basis for federal executive officials to defy federal court orders? If so, what basis and in which circumstances?

Response: As a nominee to a U.S. District Court, I think attempting to identify a hypothetical legal basis for federal executive officials to defy federal court orders would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

d. What would make a court order unlawful?

Response: As a nominee to a U.S. District Court, I think attempting to identify a hypothetical situation in which a court order would be unlawful would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Generally speaking, if a party believes a court order to be unlawful, the party would request emergency relief, *e.g.*, in the form of a writ, or pursue the appellate process. As a nominee to a U.S. District Court, I think recommending what process a party should follow in the hypothetical situation in which the party believes a court order to be unlawful would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my response to 2.d.i.

3. Were you in Washington, D.C. on January 6, 2021?

Response: No.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

**Senator Mazie K. Hirono
Questions for the Record
Cristian M. Stevens**

Nominee to the U.S. District Court for the Eastern District of Missouri

1. As part of my responsibility as a member of this committee, to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
 - a. **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?**

Response: No.

- b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

Response: No.

2. Federal district court judges have the power to issue court orders. If confirmed for this position, you will issue many such orders.

- a. **As a federal district court judge, what tools would be at your disposal to ensure compliance with your court orders? Please list all such tools with which you are familiar.**

Response: If I am confirmed as a federal district court judge, the tools at my disposal to ensure compliance with my court orders would depend on the order issued and the circumstances requiring compliance. Tools at my disposal to ensure compliance with my court orders include sanctions, such as monetary sanctions or striking pleadings, and the contempt power. The U.S. Supreme Court has cautioned that the exercise of the contempt power should be limited to the "least possible power adequate to the end proposed." *United States v. Wilson*, 421 U.S. 309, 319 (1975) (internal quotation omitted). As a nominee to a U.S. District Court, I think commenting on a hypothetical situation of what tools I would use to ensure compliance with my court orders would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- i. **When should each of these tools be used?**

Response: Please see my response to Question 2.a.

- b. **Is it ever permissible for a party in a case to disregard a court order?**

Response: As a nominee to a U.S. District Court, I think commenting on a hypothetical situation of whether it is ever permissible for a party in a case to

disregard a court order would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

i. How should a federal judge respond if a party disregards an order issued by the judge?

Response: As a nominee to a U.S. District Court, I think commenting on a hypothetical situation of how a federal judge should respond if a party disregards an order issued by the judge would be inappropriate, particularly considering that this is an incomplete hypothetical regarding the nature of the party's conduct, the order disregarded, whether this is civil or criminal contempt, and whether it is direct or indirect contempt. Also, this is an abstract question of law that may arise in a future case.

ii. Is the President of the United States allowed to disregard a court order?

Response: As a nominee to a U.S. District Court, I think drawing a legal conclusion from a hypothetical situation of whether the President is allowed to disregard a court order would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

iii. Would the response(s) outlined in response to question (i) be appropriate if the President disregarded a court order? Why or why not?

Response: Please see my response to Question 2.b.i.

c. What does it mean for a judge to hold a party in contempt of court?

Response: Contempt of court is a finding by the court that a party has disobeyed a court order. Contempt of court may be civil or criminal and may be direct or indirect. For example, Federal Rule of Civil Procedure 70 provides that a court may hold a party in contempt if the court's judgment requires the party to perform a specific act and the party fails to do so within the specified time.

i. Do federal judges have the authority to hold the federal government in contempt of court?

Response: Generally speaking, federal judges have been known to hold federal officials in contempt of court, although sanctions are exceedingly rare. Also, the U.S. Supreme Court does not appear to have decided the issue and there is very little law on the subject. In some situations, the federal government and/or federal officials may have sovereign immunity for official acts. As a nominee to a U.S. District Court, I think further drawing any legal conclusions regarding whether federal judges have the authority to hold the federal government in contempt of court would be

inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

1. If so, where does that authority come from?

Response: The U.S. Supreme Court has said that the authority of a court to hold a party in contempt is inherent. *See Ex parte Robinson*, 86 U.S. (19 Wall) 505, 510 (1873) (“The moment the courts of the United States were called into existence and invested with jurisdiction over any subject, they possessed of this power.”). Contempt power may also come from, and be constrained by, statute or rule. *See, e.g.*, 18 U.S.C. Section 401; Federal Rule of Criminal Procedure 42.

2. If not, why not?

Response: Please see my response to Question 2.c.i.

ii. What tools does a judge possess to punish contumacious conduct?

Response: Contumacious conduct is conduct that is willfully disobedient of a court order, which may result in a finding of contempt of court. Therefore, please see my response to Question 2.a.

1. Do those tools apply when the federal government or individual federal officers or employees are held in contempt?

Response: Please see my response to Question 2.c.i.

2. If not, why not?

Response: Please see my response to Question 2.c.i.

**Nomination of Cristian M. Stevens
 Nominee to be U.S. District Judge for the Eastern District of Missouri
 Questions for the Record
 Submitted June 11, 2025**

QUESTIONS FROM SENATOR CORY A. BOOKER

1. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."¹

- a. **Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?**

Response: As a nominee to a U.S. District Court, I think that commenting on the political question of the ABA's practice of conducting peer evaluations of the professional qualifications of a president's nominees to become federal judges would be improper.

- b. **How many years of legal experience in the practice of law does the ABA recommend a federal judicial nominee have prior to their nomination?**

Response: The ABA is not among the bar associations of which I am a member, and I am not aware of the ABA's recommendations.

2. **How would you characterize your judicial philosophy?**

Response: When interpreting the Constitution or a statute, I would begin by reviewing the relevant text and looking for and faithfully following any Eighth Circuit and Supreme Court precedent interpreting that text. If precedent did not supply the answer, I would look to the relevant text and consider the original public meaning to determine its meaning.

3. **Do you consider yourself an originalist? If so, what do you understand originalism to mean?**

¹ Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), <https://www.justice.gov/ag/media/1402156/dl?inline>.

Response: Please see my response to Question 2.

4. **Do you consider yourself a textualist? If so, what do you understand textualism to mean?**

Response: Please see my response to Question 2.

5. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Some federal judges consider legislative history when analyzing the meaning of a statute.

- a. **If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?**

Response: The Supreme Court has made clear that, when the text of a statute is not ambiguous, consulting legislative history is unnecessary. *See Whitfield v. United States*, 543 U.S. 209, 215 (2005) (stating that when the meaning of statutory text is plain and unambiguous, a court need not accept a party's invitation to consider the legislative history). If confirmed, I would faithfully apply relevant precedent of the Eighth Circuit and the Supreme Court regarding the consultation and citation of legislative history.

6. According to a Brookings Institution study, Black people and white people use drugs at similar rates, yet Black people are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.² Notably, the same study found that whites are actually *more likely* than Black people to sell drugs.³ This disparity still persists. Even though rates of illicit drug use do not substantially differ by race and ethnicity,⁴ a 2023 study reports that one in four people arrested for drug law violations were Black, although Black people make up only 14 percent of the U.S. population.⁵

These statistics are reflected in our nation's prisons and jails. Black people are roughly five times more likely than white people to be incarcerated in state prisons.⁶ In my home

² Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility/>.

³ *Id.*

⁴ SUBSTANCE ABUSE & MENTAL HEALTH SERVICES ADMINISTRATION, BEHAVIORAL HEALTH BY RACE AND ETHNICITY: RESULTS FROM THE 2021–2023 NATIONAL SURVEYS ON DRUG USE AND HEALTH 6 (2024).

⁵ Nazgol Ghandnoosh, Ph.D. & Celeste Barry, *One in Five: Disparities in Crime and Policing*, THE SENTENCING PROJECT 18 (Nov. 2, 2023), <https://www.sentencingproject.org/press-releases/new-report-on-racial-disparities-in-policing-and-crime-from-the-sentencing-project/>.

⁶ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (Oct. 13, 2021), <https://www.sentencingproject.org/app/uploads/2022/08/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>.

state of New Jersey, “the rate of imprisonment among Black people is more than nine times” that of white people.⁷

a. To what do you attribute the statistics above?

Response: I am not familiar enough with these statistics, how the Brookings Institution and Substance Abuse & Mental Health Services Administration determined the relative use and sale of drugs by white and black individuals, or how the use and sale of drugs is reflected in the prison and jail populations nationwide and in New Jersey, where presumably inmates may be incarcerated for reasons other than drug crimes and in my experience rarely are incarcerated for drug possession only, to be able to reliably attribute these statistics. Any definitive answer would be speculation.

7. **According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁸ What do you attribute this to?**

Response: Please see my response to Question 6.a.

8. **A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.⁹ What do you attribute this to?**

Response: I am not familiar enough with these statistics to be able to reliably attribute these demographic differences, and any definitive answer would be speculation.

9. **What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?**

Response: The question assumes implicit racial bias in our criminal justice system. Racial bias, implicit or otherwise, has no place in our criminal justice system. Federal judges should consider each criminal case on its merits and each criminal defendant individually, and not as a member of any racial or ethnic group, pursuant to our system of individual liberty and justice.

10. **Do you believe it is valuable for America to have demographic diversity in the judicial branch? If not, please explain your views.**

⁷ *Id.* at 9.

⁸ Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁹ U.S. SENTENCING COMM’N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

Response: I believe it is critical for America to have the best judges and judicial staff in the judicial branch. In my experience, focusing on individual merit results in both the best judges and judicial staff, as well as diversity.

- 11. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?**

Response: As a sitting judge, I have not encountered this situation to the best of my knowledge. As a nominee to a U.S. District Court, I think commenting on the hypothetical issue of a person who requests to be referred to in accordance with his or her gender identity would be inappropriate, particularly considering this is an incomplete hypothetical regarding what you mean by "transgender" and "that person's gender identity." Also, this is a highly litigated political issue that may arise in a future case.

- 12. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?**

Response: As a nominee to a U.S. District Court, I think attempting to identify circumstances under which it would be acceptable for an executive branch official to ignore or defy a federal court order would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ if confirmed to the federal bench to determine whether that official should be held in contempt?**

Response: Please see my response to Question 12.

- b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges?**

Response: Please see my response to Question 12.

- 13. Does the president have the power to ignore or nullify laws passed by Congress?**

Response: Under the Presentment Clause in Article I, the President has the power to veto bills passed by Congress, subject to a veto override and other limitations. Beyond those circumstances, as a nominee to a U.S. District Court, I think drawing a legal conclusion about whether the president has the power to ignore or nullify laws passed by Congress would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- 14. Does the president have the power to withhold funds appropriated by Congress?**

Response: As I understand it, the President recently sent a rescission package to the House of Representatives to rescind certain funds previously appropriated by Congress, and the House of Representatives voted in favor of rescinding those funds. As a nominee to a U.S. District Court, I think otherwise drawing a legal conclusion about whether the president has the power to withhold funds appropriated by Congress would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

15. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: The Supremacy Clause of the U.S. Constitution, Article VI, Clause 2, states, “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?

Response: Based on recent press reports regarding the rescinding of Executive Branch guidance related to EMTALA preemption, as a nominee to a U.S. District Court, I think that commenting on whether I agree with the legal conclusion that EMTALA supersedes conflicting state laws would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

16. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court recently decided that non-citizens present in the United States subject to deportation pursuant to the Alien Enemies Act were entitled to some process in the form of notice. I will faithfully follow the relevant precedent of the Eighth Circuit and the Supreme Court. As a nominee to a U.S. District Court, I think that further commenting on the hypothetical situation of whether the Fifth Amendment applies to non-citizens present in the United States would be inappropriate, particularly considering this is a question of law currently being litigated and may arise in a future case.

17. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: In *Whitman v. American Trucking*, the Supreme Court held that the text of the Constitution “permits no delegation” but that no delegation has occurred when Congress “lay[s] down by legislative act an intelligible principle to which the person or body

authorized to act is directed to conform.” 531 U.S. 457, 472 (2001) (brackets omitted). I will faithfully follow the relevant precedent of the Eighth Circuit and the Supreme Court.

g

18. **Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?**

Response: As a nominee to a U.S. District Court, I think that opining on whether a U.S. Supreme Court case correctly was decided generally would be inappropriate. That said, I have observed that prior nominees have expressed the opinion that *Brown v. Board of Education* was correctly decided and I agree. If confirmed, I will faithfully follow *Brown v. Board of Education* and other applicable Supreme Court precedents.

19. **Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.**

Response: If confirmed as a U.S. District Court judge, I would be bound by *Griswold v. Connecticut*, in which the Supreme Court extended constitutional protection to the use of contraception, and would faithfully follow *Griswold* and any applicable Supreme Court precedents.

20. **Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.**

Response: If confirmed as a U.S. District Court judge, I would be bound by *Lawrence v. Texas*, in which the Supreme Court overruled *Bowers v. Hardwick*, 478 U.S. 186 (1986), and held that the Texas criminal statute at issue “furthers no legitimate state interest which can justify its intrusion into the personal and private life of the individual,” and would faithfully follow *Lawrence* and any applicable Supreme Court precedents.

21. **Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.**

Response: If confirmed as a U.S. District Court judge, I would be bound by *Obergefell v. Hodges*, in which the Supreme Court found a right of same-sex couples to marry, and would faithfully follow *Obergefell* and any applicable Supreme Court precedents.

22. **Do you believe that President Trump won the 2020 election? Please describe the facts and holding of this case.**

Response: As I recall, there were various legal challenges to the results of the 2020 election. President Joe Biden was certified as the winner of the 2020 election and served four years as president.

23. **The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”¹⁰**

¹⁰ U.S. CONST. amend. XXII.

- a. **Do you agree that President Trump was elected to the office of the President in the 2016 election?**

Response: Yes.

- b. **Do you agree that President Trump was elected to the office of the President in the 2024 election?**

Response: Yes.

- c. **Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?**

Response: The 22nd Amendment states, in part, “No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. . . .” As a nominee to a U.S. District Court, I think drawing a legal conclusion regarding whether a president is eligible to be elected for a third term would be inappropriate, particularly considering this is an abstract question of law that could arise in the future.

24. **Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?**

Response: No. As a nominee to a U.S. District Court, I think that opining on whether past Supreme Court decisions were correctly decided would be inappropriate. That said, I have observed that prior nominees have expressed the opinion that *Brown v. Board of Education* was correctly decided and I agree. I discussed my observation with officials with the Justice Department’s Office of Legal Policy and expressed that I intended to respond as I did to Question 18.

25. **Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.**

Response: No.

26. **Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.**

Response: No.

27. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

28. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

29. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

30. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

31. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

32. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

33. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

34. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

a. Enrique Tarrio

Response: No.

b. Stewart Rhodes

Response: No.

c. Kelly Meggs

Response: No.

d. Kenneth Harrelson

Response: No.

e. Thomas Caldwell

Response: No.

f. Jessica Watkins

Response: No.

g. Roberto Minuta

Response: No.

h. Edward Vallejo

Response: No.

i. David Moerschel

Response: No.

j. Joseph Hackett

Response: No.

k. Ethan Nordean

Response: No.

l. Joseph Biggs

Response: No.

m. Zachary Rehl

Response: No.

n. Dominic Pezzola

Response: No.

o. Jeremy Bertino

Response: No.

p. Julian Khater

Response: No.

- 35. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: Not to my knowledge. I am not aware of every individual convicted and later pardoned of offenses related to the events of January 6, 2021.

- 36. Have you ever been demoted, terminated, or experienced any other adverse employment action?**

Response: No.

- a. If yes, please describe the events that led to the adverse employment action.**

Response: Not applicable.

- b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.**

Response: I affirm that, since becoming a legal adult, I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

- 37. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?**

Response: I expect to fully comply with any and all financial reporting requirements, including filing timely annual financial disclosure reports and periodic transaction reports.

38. Article III Project (A3P) “defends constitutionalist judges and the rule of law.”

According to Mike Davis, Founder & President of A3P, “I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today’s Democrats have become. They’re Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems.”¹¹

- a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: I am not aware of everyone who is an official from or directly associated with A3P, and I am not aware of having discussed any aspect of my nomination to the federal bench with any officials from or anyone directly associated with A3P, or of anyone doing so on my behalf.

- b. Are you currently in contact with anyone associated with A3P? If so, who?**

Response: I am not aware of everyone associated with A3P, and I am not aware of currently being in contact with anyone associated with A3P.

- c. Have you ever been in contact with anyone associated with A3P? If so, who?**

Response: I am not aware of everyone associated with A3P, and I am not aware of ever being in contact with anyone associated with A3P.

39. According to its Form 990 filed in 2024,¹² the mission of The Concord Fund (formerly known as the Judicial Crisis Network and the Judicial Confirmation Network) “is to promote the vision of liberty and justice in America, fidelity to the principles of federalism and the rule of law, to educate and organize citizens in this mission, and to encourage reforms that achieve these ends.”

- a. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.**

Response: I am not aware of everyone who is an official from or directly associated with The Concord Fund, and I am not aware of having discussed any aspect of my nomination to the federal bench with any officials from or anyone directly associated with The Concord Fund, or of anyone doing so on my behalf.

¹¹ See <https://www.article3project.org/about>.

¹² The Concord Fund, Form 990 (filed on May 13, 2024), available at <https://projects.propublica.org/nonprofits/organizations/202303252/202411359349301886/full>.

b. Are you currently in contact with anyone associated with The Concord Fund? If so, who?

Response: I am not aware of everyone associated with The Concord Fund, and I am not aware of currently being in contact with anyone associated with The Concord Fund.

c. Have you ever been in contact with anyone associated with The Concord Fund? If so, who?

Response: I am not aware of everyone associated with The Concord Fund, and I am not aware of ever being in contact with anyone associated with The Concord Fund.

40. Please describe the selection process that led to your nomination to be a United States federal judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: On November 26, 2024, I met with Senator Eric Schmitt's general counsel regarding the judicial vacancies on the U.S. District Court for the Eastern District of Missouri. On December 18, 2024, I submitted my application for one of the vacancies to Senator Schmitt's office. On February 4, 2025, I submitted my application to Senator Josh Hawley's office. On February 12, 2025, I interviewed with attorneys from the White House Counsel's Office in Washington D.C. On March 26, 2025, the White House Counsel's Office informed me that President Trump was considering me for one of the vacancies. Since that time, I have communicated regularly with the Justice Department's Office of Legal Policy in completing the Senate Judiciary Questionnaire and other related materials in preparation for a hearing on my nomination before the Senate Judiciary Committee. On June 4, 2025, I appeared for a hearing before the Committee and answered questions from its members.

41. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: The guidance from the Justice Department's Office of Legal Policy for answering questions 13 and 17 of the Senate Judiciary Questionnaire was to provide current contact information for the attorneys involved in my most significant cases. The guidance for answering question 13 was to list ten significant cases I have had as an appellate judge, even if I did not "preside" over them at trial, and to provide written opinions that contain substantive legal analysis. The guidance for answering question 17 informed me that senators may highly value trial experience and recommended listing several trials among my most significant cases.

a. Who?

Response: Office of Legal Policy.

b. What advice did they give?

Response: Please see my response to Question 41.

c. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: Please see my response to Question 41.

42. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: I am not aware of everyone who is an official from or directly associated with the Article III Project, and I am not aware of having talked with any officials from or anyone directly associated with the Article III Project during my selection process, or of anyone doing so on my behalf.

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

Response: I am not aware of everyone who is an official from or directly associated with the Federalist Society, and I have a number of friends who are members of the Federalist Society. I am not aware of having talked with any officials from or anyone directly associated with the Federalist Society during my selection process, or of anyone doing so on my behalf, other than casual conversations with friends who are also members of the Federalist Society.

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

Response: I do not recall the dates of all interviews or communications I have had with the White House staff or the Justice Department. From what I recall: On February 12, 2025, I interviewed with attorneys from the White House Counsel's Office in Washington, D.C. On March 26, 2025, the White House Counsel's Office informed me that President Trump was considering me for one of the vacancies. Since that time, I have communicated regularly with the Justice Department's Office of Legal Policy in completing the Senate Judiciary Questionnaire and other related materials in preparation for a hearing on my nomination before the Senate Judiciary Committee. On May 6, 2025, the White House Counsel's Office informed me to expect a call from President Trump. On May 6, President Trump called me from "the beautiful oval office" and congratulated me and my family on my nomination. On May 7, the Office of Legal Policy confirmed my completed Senate Judiciary Questionnaire was submitted to the Senate Judiciary

Committee. On June 4, 2025, I appeared for a hearing before the Committee. On June 11, 2025, the Office of Legal Policy emailed Questions for the Record to me for my review and response. I continue to communicate with the Office of Legal Policy in preparing my responses to the Questions for the Record.

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

Response: The Office of Legal Policy informed me I would be receiving Questions for the Record after the hearing before the Senate Judiciary Committee on June 4, 2025. On the evening of June 11, 2025, the Office of Legal Policy emailed the Questions for the Record, including these written questions, to me for my review and response. I have answered these written questions by reviewing the U.S. Constitution and Supreme Court precedent, previous nominees' responses to Questions for the Record, and my Senate Judiciary Questionnaire.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

June 4, 2025

Questions for Judge Stevens:

- 1. Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

Response: As a nominee to a U.S. District Court, I think attempting to identify any and all hypothetical situations in which party may defy a court order would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case. Treatises and cases have identified a number of circumstances where compliance with a court order is not required, such as if the court lacked jurisdiction or if compliance was impossible. *E.g.*, 17 Corpus Juris Secundum §§ 56–65. The Supreme Court has identified additional circumstances, such as where an order must be violated to be appealed. As Justice Sotomayor’s opinion for the Court put it, “Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions.” *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). “Such sanctions allow a party to obtain postjudgment review without having to reveal its privileged information. Alternatively, when the circumstances warrant it, a district court may hold a noncomplying party in contempt. The party can then appeal directly from that ruling, at least when the contempt citation can be characterized as a criminal punishment.” *Id.*

- 2. Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: As a sitting judge, I do not advise clients. As a nominee to a U.S. District Court, I think attempting to identify any and all hypothetical situations in which a practicing lawyer would advise a client to ignore or defy a court order would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- 3. Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge’s decision or order?**

Response: As a nominee to a U.S. District Court, I think expressing a legal opinion about the appropriateness of such conduct would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- 4. In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about**

700

policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?

Response: No.

Questions for the Record

Sen. Adam Schiff (CA)

Cristian M. Stevens, Nominee to the United States District Court for the Eastern District of Missouri

1. You have been a member of the Federalist Society since 1999. President Trump recently decried the Federalist Society for its “bad advice” on judicial nominations and called Leonard Leo, its Co-Chairman, a “real sleazebag.”

- a. Did the Federalist Society, or any current or former members of the Federalist Society, recommend you to the White House for nomination to the United States District Court for the Eastern District of Missouri?

Response: My understanding is Senator Hawley and Senator Schmitt recommended me to the White House for nomination to the United States District Court for the Eastern District of Missouri. I am not aware whether the Federalist Society or any current or former members of the Federalist Society recommended me to the White House for nomination to the United States District Court for the Eastern District of Missouri.

- b. Do you believe the Federalist Society provided “bad advice” to President Trump on judicial nominations?

Response: I am not aware of what advice the Federalist Society provided to President Trump on judicial nominations. Even if I had knowledge of that advice, as a nominee to a U.S. District Court, I think expressing a belief on the political question of whether the Federalist Society provided bad advice to President Trump on judicial nominations would be inappropriate.

2. The Republican-sponsored spending bill contains a provision that would impede the ability of federal judges to enforce contempt orders. The provision states: “No court of the United States may enforce a contempt citation for failure to comply with an injunction or temporary restraining order if no security was given when the injunction or order was issued.” In your estimation, would this provision, if enacted, impede your ability as a future United States District Judge to enforce contempt orders against the government or government officials?

Response: As a nominee to a U.S. District Court, I think expressing my estimation of pending legislation and the hypothetical effect of that legislation, if enacted, would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

3. **Given your previous position as an Assistant U.S. Attorney for the Eastern District of Missouri and your work for the Missouri Attorney General's office, do you commit to faithfully abiding by all relevant conflict of interest and judicial disqualification policies and procedures during your potential tenure as a District Judge in the Eastern District of Missouri?**

Response: As a U.S. District Judge, I would be guided by the relevant conflict of interest and judicial disqualification policies and procedures found in the canons of judicial ethics and Eighth Circuit and Supreme Court precedent interpreting the canons.

4. **The governing statute of the United States Marshals Service requires: "the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States." Additionally, the "primary . . . mission" of the Service is to "provide for the security and to obey, execute, and enforce all orders of the United States District Courts . . . [.]"** 28 U.S.C. § 566.

- a. **Based on the Service's governing statute, would it be unlawful for an executive branch official to command the Service to disregard, or otherwise not execute, any "writ[], process [or] order[]" issued by a United States District Judge?**

Response: "Ordinarily, the marshals and the federal courts which they serve have a close and harmonious relationship." *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985) (Stevens, J., dissenting). *Id.* at 43–44 (Stevens, J., dissenting). "Open disputes between the marshals and the courts are rare, and appropriately so." *Id.* at 44. But sometimes "administrative problems" come up. *Id.* "Customarily such problems are resolved on a voluntary, cooperative basis, either in the individual court or circuit, or in high-level discussions between the Executive and Judicial Branches." *Id.* at 44. *Pennsylvania Bureau of Correction v. U.S. Marshals Service* was "an exceptional case" because it "involve[d] a dispute between the Marshals Service and a Federal District Court." *Id.* at 43. In resolving that dispute, the Supreme Court held, "at least in the absence of an express finding of exceptional circumstances, that neither a magistrate nor a district court has authority to order the Marshals to transport state prisoners to the federal courthouse to testify in an action brought by a state prisoner under 42 U.S.C. § 1983 against county officials." *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985).

As a nominee to a U.S. District Court, I think that drawing a legal conclusion regarding this hypothetical scenario would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

- b. If the Service were to obey an executive branch command to disregard, or otherwise not execute, one of your orders, what other mechanisms would you consider employing, as a United States District Judge, to ensure compliance?**

Response: As a nominee to a U.S. District Court, I think that drawing a legal conclusion regarding this hypothetical scenario, assuming its unlawfulness, and identifying potential mechanisms I would consider employing to ensure compliance would be inappropriate, particularly considering this is an abstract question of law that may arise in a future case.

A P P E N D I X

The following submissions are available at:

<https://www.govinfo.gov/content/pkg/CHRG-119shrg61981/pdf/CHRG-119shrg61981-add1.pdf>

Submitted by Ranking Member Durbin:

People for the American Way (PFAW), letter 2

