

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Valerie Elaine Caproni

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

United States District Judge for the Southern District of New York

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.

2980 Fairview Park Drive, M/S 12161A
Falls Church, Virginia 22042

Residence: Washington, DC

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

1955; Lee County, Alabama

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.

1976 – 1979, University of Georgia School of Law; J.D. (*summa cum laude*), 1979

1973 – 1976, Tulane University Newcomb College; B.A. (*magna cum laude* with departmental honors), 1976

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

2011 – Present
Northrop Grumman Corporation
2980 Fairview Park Drive

M/S 12161A
Falls Church, Virginia 22042
Vice President and Deputy General Counsel

2003 – 2011
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535
General Counsel

2001 – 2003
Simpson Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017
Counsel

1998 – 2001
Securities and Exchange Commission
Pacific Regional Office
5670 Wilshire Boulevard
Los Angeles, California 90036
Regional Director

1992 – 1998
Office of the United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Chief, Criminal Division (1994 – 1998)
Chief, Organized Crime & Racketeering Unit (1993 – 1994)
Chief, Special Prosecutions Unit (1993)
Assistant United States Attorney, Criminal Division (1992)

1989 – 1992
New York State Urban Development Corp. (now Empire State Development)
633 Third Avenue
New York, New York 10017
General Counsel and Senior Vice President – Legal

Note: by virtue of being General Counsel of UDC, I also served as General Counsel of various subsidiaries of UDC, including Hudson River Park Conservancy, 42nd Street Redevelopment Corp. and Queens West Development Corp. There may have been other subsidiaries as well, but those listed above were the primary operating subsidiaries with which I was affiliated.

1985 – 1989
Office of the United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney, Criminal Division

1980 – 1985
Cravath, Swaine & Moore
825 Eighth Avenue
New York, New York 10019
Litigation Associate

1979 – 1980
Hon. Phyllis Kravitch
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, NW
Atlanta, Georgia 30303
Judicial law clerk

Summer 1978
Smith, Cohen, Ringel, Kohler & Martin (Disbanded)
Atlanta, Georgia
Summer associate

Summer 1977
Araguel, Sanders & Carter (Disbanded)
Columbus, Georgia
Summer associate

Summer 1976
Brookhaven YMCA
1175 Martin Luther King Jr. Boulevard
Columbus, Georgia 31906
Lifeguard and swimming instructor

Summer 1976
Moose Lodge
Phenix City, Alabama
Lifeguard and swimming instructor

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

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

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

AAG Award for Special Achievement in Supporting NSD's National Security Mission (2011)

Intelligence Community Legal Award for Attorney of the Year (2011)

Intelligence Community Legal Award for Team of the Year (2007)

Presidential Rank Award for Meritorious Executive (2005)

Attorney General's Award for Distinguished Service (1997)

Stimson Medal from the Association of the Bar of the City of New York (1996)

Special Achievement Award from the Department of Justice in recognition of Sustained Superior Performance of Duty (1987)

Order of the Coif (1980)

Outstanding Woman Law Student Award from the Georgia Association of Women Lawyers (1979)

Academic scholarship at University of Georgia School of Law (1977 and 1978)

Research editor, *Georgia Law Review* (1978 – 1979)

Winner of 2nd year intramural moot court competition at University of Georgia School of Law (1978)

Staff member, *Georgia Law Review* (1977 – 1978)

Winner of 1st year intramural moot court competition at University of Georgia School of Law (1977)

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

American Bar Association (early 1980s, 2011 – present)

 Standing Committee on Law and National Security (2012 – Present)

In or around 1997 or 1998, I participated in a bar committee that was recommending changes to the local rules governing criminal procedure for the Southern and Eastern Districts of New York.

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.

Georgia, 1980 (currently inactive)
New York, 1981
Virginia (as corporate counsel), 2012

There have been no lapses in membership, although my Georgia bar membership is currently inactive.

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

United States Court of Appeals for the Fifth Circuit, 1981
United States Court of Appeals for the Second Circuit, 1986
United States District Court for the Southern District of New York, 1982
United States District Court for the Eastern District of New York, 1983
United States District Court for the Northern District of New York, 1989
United States District Court for the Western District of New York, 1989

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.

Cornell Club, New York (2011 – present)

Eastern District Association (2001 – present)
Executive Board Member

University of Georgia Law School Alumni Association Council (1994 – 1999)
Out of state representative

University of Georgia School of Public and International Affairs Board of Visitors (2012 – 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 the best of my knowledge, no organization listed in response to 11a 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 those policies.

12. Published Writings and Public Statements:

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

Valerie Caproni & Steve Siegel, *National Security Letters*, in *Patriots Debate: Contemporary Issues in National Security Law*, American Bar Association Standing Committee on Law and National Security (2012). Copy supplied.

Letter to the Editor, N.Y. Times, April 1, 2011. Copy supplied.

Valerie Caproni, *Why I Support Georgia Law*, *The Georgia Advocate*, Summer/Spring 2008. Copy supplied.

Surveillance and Transparency, 11 *Lewis & Clark L. Rev.* 1087 (2007) (transcription of oral remarks at conference). Copy supplied.

Asset Freezes in SEC Enforcement Actions, paper presented at the 2002 ABA White Collar Crime Conference. Copy supplied.

With Co-Authors, *Developments in Georgia Law: Debtor Creditor Rights*, 12 *Georgia L. Rev.* 814 (1978). Copy supplied.

With Douglas Levine, Edgar O'Neal, Peter McDonald and Gray Garwood, *Seating Position, Instructor's Eye Contact Availability, and Student Participation in a Small Seminar*, 103 *J. of Soc. Psychol.* 315 (1977). Copy supplied.

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

The Attorney General's Guidelines for Domestic FBI Operations, September 2008. Copy supplied.

The Attorney General's Guidelines Regarding the Use of FBI Confidential Human Sources (December 13, 2006). Copy supplied.

The Attorney General's Supplemental Guidelines for Collection, Retention, and Dissemination of Foreign Intelligence (November 29, 2006). The Guidelines are classified.

Report of the Department of Justice's Task Force on Intellectual Property, October 2004. I played no role in drafting the report, but reviewed and commented on it prior to its release. Copy supplied.

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

In my official capacity I have testified, made official statements and communicated with public bodies and public officials on a number of occasions relating to matters of public policy or legal interpretation. To the extent I retained my talking points, prepared statements or correspondence or could find any record of such communications, that information has been provided. To the extent I did not retain records of the communication, the tenor and basic themes would be similar to the testimony, statements and communications listed below.

Letter to Congressman Darrell Issa, Chair of the House Committee on Oversight and Government Reform, on behalf of Northrup Grumman Corporation, October 24, 2012. Copy supplied.

Statement for the Record, Oral Statement and testimony provided at a hearing before the House Judiciary Committee, Subcommittee on Crime, Terrorism, and Homeland Security (February 17, 2011). Copy supplied.

Testimony before the Portland, Oregon, City Council regarding the FBI's Joint Terrorism Task Force, February 15, 2011. Video of the hearing is available at www.portlandonline.com/index.cfm?c=49508&a=338704.

Statement for the Record, Oral Statement and testimony provided at a hearing before the House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, regarding the Inspector General's report "A Review of the Federal Bureau of Investigation's Use of Exigent Letters and Other Informal Requests for Telephone Records" (April 14, 2010). Copy supplied.

Testimony provided at a classified hearing before the Senate Select Committee on Intelligence regarding legislative sunsets contained in the USA Patriot Act and the FISA Amendments Act (May 21, 2009). I have no notes, transcript or recording.

Joint Statement for the Record, Oral Statement and testimony provided at a hearing before the Senate Select Committee on Intelligence regarding the New Attorney General Guidelines for Domestic Intelligence Collection (September 23, 2008) and subsequent correspondence with the Committee (December 15, 2008). Copy supplied.

Statement for the Record, Oral Statement and testimony provided at a hearing before the Senate Judiciary Committee regarding Coercive Interrogation Techniques (June 10, 2008). Copy supplied.

Statement for the Record, Oral Statement and testimony provided at a hearing before the House Judiciary Committee, Subcommittee on the Constitution, Civil Rights, and Civil Liberties, regarding the National Security Letters Reform Act of 2007 (April 15, 2008). Copy supplied.

Testimony provided at a classified hearing before the Senate Select Committee on Intelligence regarding efforts to modernize the Foreign Intelligence Surveillance Act (September 20, 2007). I have no notes, transcript or recording.

Statement for the Record, Oral Statement and testimony provided at a hearing before the House Judiciary Committee regarding the Inspector General's Independent Report on the Federal Bureau of Investigation's Use of National Security Letters (March 20, 2007). Copy supplied and video is available at <http://www.c-spanvideo.org/program/BIU>.

Statement for the Record, Oral Statement and testimony provided at a hearing before the Senate Select Committee on Intelligence regarding the USA Patriot Act (May 24, 2005). Copy supplied.

Testimony provided at a classified hearing before the Senate Select Committee on Intelligence regarding the USA Patriot Act (April 21, 2005). I have no notes, transcript or recording.

Testimony provided at a classified hearing before the Senate Judiciary Committee regarding the USA Patriot Act (April 12, 2005). I have no notes, transcript or recording.

Testimony provided at a closed hearing before the House Permanent Select Committee on Intelligence regarding interrogation techniques (July 14, 2004). I have no notes, transcript or recording.

Testimony provided at a classified hearing before the Senate Select Committee on Intelligence regarding the Federal Bureau of Investigation's use of certain tools provided by the USA Patriot Act (October 23, 2003). I have no notes, transcript or recording.

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

In my official capacity I have participated in many panel discussions at many conferences. To the extent I retained my talking points or prepared speeches, they have been provided. To the extent I did not retain notes of my speech and do not have a record of a particular speech, the tenor and basic themes would be similar to the speeches listed below.

October 5, 2012: Spoke to students at University of Georgia School of Law, Athens, GA. Notes supplied.

November 11, 2011: Guest lecturer at New York University Law School, New York, NY. I discussed the rules that govern the FBI's use of informants. I have no notes, transcript recording. I was invited by Adjunct Professors John Gleeson and James Orenstein, 225 Cadman Plaza East, Brooklyn, NY 11201.

November 10, 2011: Panelist at New York University law School Alumni Association Fall Lecture, "You Are Here: Location Data, Tracking Technology, and Consumer Privacy Law," New York, NY. Video available at: <http://www.youtube.com/watch?v=HI44AQBkiy0>.

November 2, 2011: Panelist at Union of International Lawyers Annual Congress, Miami, FL. Notes supplied.

August 19, 2011: Panelist at a meeting of the Federal Public Defenders and the United States Attorneys from the Ninth Circuit; the meeting occurred following the Ninth Circuit Judicial Conference, San Diego, CA. My recollection is that I addressed the FBI's policy regarding recording interviews and took questions

from the attendees. This was a very informal event. I have no notes, transcript or recording.

May 17, 2011: Panelist at The Brookings Institution, Reforming the Electronic Communications Privacy Act, Washington, DC. Transcript supplied and video is available at:

http://www.youtube.com/watch?v=gxSRTmS0MU&feature=player_embedded.

April 27, 2011: Guest lecturer at Fordham University Law School, New York, NY. I discussed the FBI's role in national security matters. I have no notes, transcript or recording. I was invited by Adjunct Professor Andrew Weissmann, 935 Pennsylvania Avenue, NW, Washington, DC 20535.

March 3, 2011: Panelist at ABA Homeland Security Conference, Washington, DC. I discussed the FBI's role in national security matters. I have no notes, transcript or recording. The sponsor of the conference was the American Bar Association, 321 North Clark Street, Chicago, IL 60654.

November 9, 2010: Speaker at a "train the trainer" course at the National Advocacy Center. The subject of the course was joint prosecutor-law enforcement training regarding discovery obligations in criminal cases. I have no notes, transcript or recording. The sponsoring organization was the Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

October 18, 2010: Guest lecturer at New York University School of Law, New York, NY. Notes supplied.

May 6, 2010: Panelist for "Prosecution and Defense Perspectives: Admissibility of Forensic Evidence and the Impact of the NAS Report," Joint Judicial Conference, District of Columbia Courts, Washington, DC. The panel was comprised of criminal law practitioners (defense and prosecution), and the panelists discussed the use of forensic evidence in criminal trials. I have no notes, transcript or recording. The sponsoring organization was the Judicial Conference of the District of Columbia Courts, 500 Indiana Avenue, NW, Washington, DC 20001.

April 19, 2010: Guest lecturer at Fordham University Law School. I was a guest speaker along with the Assistant Attorney General for National Security. We fielded questions about national security issues and careers in the Department of Justice and the Federal Bureau of Investigation. I have no notes, transcript or recording. I was invited by Adjunct Professor Andrew Weissmann, 935 Pennsylvania Avenue, NW, Washington, DC 20535.

March 12, 2010: Law in The 21st Century: Enduring Traditions, Emerging Challenges, Mercer University, Macon, GA. A video of the speech is available at <http://www.youtube.com/watch?v=RwxunAYKzmw>.

March 5, 2010: Guest lecturer at New York University Law School, New York, NY. I discussed the FBI's role in national security. I have no notes, transcript or recording. I was invited by Professor Sam Rascoff, New York University School of Law, 139 MacDougal Street, New York, NY 10012.

March 4, 2010: Panelist at ABA Homeland Security Conference, Washington, DC. Notes supplied.

February 22, 2010: Luncheon Speaker at Federal Bar Association, Capitol Hill Chapter, Washington, DC. Notes supplied.

November 3, 2009: Guest lecturer at the National War College, Washington, DC. Notes supplied.

October 29, 2009: Speaker at National Security Higher Education Advisory Board, FBI Headquarters, Washington, DC. I briefed the members of the Board on the impact on college campuses of the then-new Attorney General Guidelines for FBI Domestic Operations and the FBI's Domestic Investigations and Operations Guide. I have no notes, transcript or recording. The sponsoring organization was the Federal Bureau of Investigation, 935 Pennsylvania Avenue, NW, Washington, DC 20535.

June 11, 2009: Luncheon Speaker at Fulton County Women's Bar Association, Atlanta, GA. Notes supplied.

June 2, 2009: Speaker at Creating the Future, Computers Freedom & Privacy Conference 2009, The Future of Security v. Privacy, Washington, DC. Notes supplied and video available at: <http://www.c-spanvideo.org/program/PrivacyandTe>.

May 17, 2009: Commencement Speech, Cleveland State University Law School, Cleveland, OH. Speech supplied.

May 8, 2009: Panelist at ABA's Section on Business Law, Criminal Justice Section and Center for Continuing Legal Education, "What the Government Expects from Companies," Washington, DC. Transcript supplied.

May 1, 2009: Law Day Speaker, Dallas Bar Association, Dallas, TX. Speech supplied.

April 16, 2009: Suzette Talarico Lecture, "Current Challenges for the FBI: View from the General Counsel," Political Science Department, University of Georgia, Athens, GA. Notes supplied.

March 19, 2009: Panelist at The Future of the Forensic Sciences: A Symposium, "The Prosecutors' Perspective," Cleveland-Marshall College of Law, Cleveland State University, Cleveland, Ohio. Video is available at <http://mediasite.ulib.csuohio.edu/mediasite/Viewer/?peid=c64a197e208f4c649dbb93d47ca9d1821d>.

February 26, 2009: Speaker at University of Georgia Alumnae Meeting, Atlanta, GA. Notes supplied.

December 2, 2008: Speaker at Harvard Law School Forum, Cambridge, MA. Audio of the speech is available at <http://www.law.harvard.edu/news/2008/12/fbi-general-counsel-.html>.

November 13-14, 2008: Panelist at National Association of Minority and Women Owned Law Firms Annual Meeting, Dallas, TX. I have no recollection of the nature of my remarks. I have no notes, transcript or recording. The sponsoring organization was National Association of Minority and Women Owned Law Firms, 735 North Water Street, Suite 1205, Milwaukee, WI 53202.

March 25, 2008: Panelist at "Behind the Blindfold of Justice: Security, Individual Rights and Minority Communities after 9/11" conference at Yale Law School, New Haven, CT. Notes supplied.

January 17, 2008: Speaker at ABA Homeland Security Conference, Washington, DC. Notes supplied.

November 14, 2007: Panelist at "Privacy in the Age of National Security," hosted by The Center on Law and Security, NYU Law School, New York, NY. Notes supplied.

October 23, 2007: Panelist at Joint American Banking Association/American Bar Association Conference, Washington, DC. Notes supplied.

September 21, 2007: Panelist at American University Law School Symposium, "Left Out in the Cold? The Chilling of Speech, Association and the Press in Post-9/11 America," Washington, DC. Speech supplied.

April 20, 2007: Speaker at Lewis & Clark Law School Conference, Portland, OR. I have no notes, transcript, or recording, but my remarks were substantially the same as the 2007 article supplied in response to Question 12a.

March 29, 2007: Panelist for the ABA Standing Committee on National Security, Responding to The Department of Justice Inspector General's Report on the Use of National Security Letters, Washington, DC. The Section's newsletter, which substantially summarized my remarks, is supplied. The full audio is available in

two parts at http://www.abanet.org/natsecurity/multimedia/WS_30059_pt1.rm and http://www.abanet.org/natsecurity/multimedia/WS_30059_pt2.rm)

February 15, 2007: Speaker at civil rights conference in Norfolk, VA. Notes supplied.

January 18, 2007: Panelist at ABA Homeland Security Conference, Washington, DC. Notes supplied.

October 11, 12, 2006: Speaker at Law Enforcement Executive Development Seminar, Rogersville, AL. My recollection is that I discussed First Amendment issues as they affect law enforcement employees. I have no notes, transcript or recording. The sponsor of this event was Federal Bureau of Investigation, 935 Pennsylvania Ave., NW, Washington, DC 20535.

June 15, 2006: Speaker at Arizona Bar Conference, Phoenix, AZ. I have no recollection of what I discussed. I have no notes, transcript or recording. The sponsor of the conference was the State Bar of Arizona, 4201 North 24th Street, Suite 100, Phoenix, AZ 85016.

April 24, 2006: Speaker at conference hosted by FBI, local law enforcement and civil rights community, Birmingham, AL. Notes supplied.

February 14, 2006: Speaker at Youth Leadership Forum, Arlington, VA. Notes supplied.

November 23, 2005: Speaker at NYU – Europe and the United States: A Transatlantic Dialogue, New York, NY. I have no notes, transcript or recording, but NYU Law School coverage is supplied. The event was co-sponsored by the Hauser Global Law School, a program of New York University School of Law, and the Center on Law and Security, both at 139 MacDougal Street, New York, NY 10012.

November 17, 2005: Speaker at graduation of Citizen's Academy, sponsored by the Federal Bureau of Investigation's New York Office, Brooklyn, NY. I have no notes, transcript or recording. The sponsor of the event was Federal Bureau of Investigation, 26 Federal Plaza, New York, NY 10278.

November 3, 2005: Panelist at ABA, University of Virginia and Duke University Conference, "National Security in a Changed World," Arlington, VA. Notes supplied.

September 27, 2005: Participant at "Debate on the Proposed Federal Law to Create a Reporter/Source Privilege: Good Policy or an Impediment to Justice," Cleveland State University, Cleveland-Marshall College of Law, Cleveland, OH. I discussed the then-current Department of Justice regulations concerning

subpoenas to members of the media. I have no notes, transcript or recording. Although there is an internet link to the presentations on Cleveland-Marshall Law School's website, it appears to be non-functional. The sponsoring organization was Cleveland-Marshall College of Law, 1801 Euclid Avenue, Cleveland, OH 44115.

April 29, 2005: Speaker at a meeting of the New York Chapter of Infoguard, New York, NY. I discussed the national security mission of the FBI. I have no notes, transcript or recording. The sponsor of the event was the New York office of the Federal Bureau of Investigation, 26 Federal Plaza, New York, NY 10278.

April 21, 2005: Speaker at breakfast meeting of the ABA International Section, California Chapter, Los Angeles, CA. Notes supplied.

April 19, 2005: Speaker at Smithsonian Associates presentation, Washington, DC. Notes supplied.

March 22, 2005: Panelist at Emerging Issues in National and International Security Conference, "They Want Your Secrets: Personal Information Privacy in the Post-9/11 World," American University Law School, Washington, DC. Notes supplied and video is available at <http://www.c-spanvideo.org/program/186015-2>.

March 2-4, 2005: Panelist at ABA White Collar Crime Conference, Las Vegas, NV. Notes supplied.

April 21, 2004: Speaker at Sidley Austin Brown & Wood LLP Women & Leadership Program: "Privacy in the Era of Homeland Security," Washington, DC. Notes supplied.

February 17 or 18, 2003: Panelist at Federal Bar Council annual meeting, Maui, HI. I have no notes, transcript or recording. The sponsor of the meeting was the Federal Bar Council, 123 Main St., Suite L100, White Plains, NY 10601.

November 3, 2002: Panelist at PLI conference on securities enforcement in New York, NY. I have no notes, transcript or recording. Based on press reports of the conference, it appears that I discussed the impact on companies of the fallout from the Enron implosion. Press coverage supplied. The sponsor of the conference was the Practising Law Institute, 810 Seventh Avenue, New York, NY 10019.

June 3, 2002: Panelist at Stanford University Director's College, Stanford, CA. I likely discussed the Securities and Exchange Commission's enforcement priorities. I have no notes, transcript or recording. The sponsor of the event was Stanford Law School, Stanford University, Stanford, CA 94305.

February 28, 2002: Panelist at ABA White Collar Crime Conference, Miami, FL. I have no notes, transcript or recording. My written submission for the

conference (paper supplied in response to Question 12a) discussed SEC asset forfeiture. My recollection is that the panel included attorneys from the SEC and from private practice and featured a wide ranging discussion of the priorities and tactics of the SEC's Enforcement Division. The sponsor of the event was the American Bar Association, 321 North Clark Street, Chicago, IL 60654.

June 20-21, 2001: Speaker at California CPA Conference, San Francisco and Los Angeles, CA. Notes supplied.

June 13, 2001: Speaker at Director's Roundtable Event, Calgary, Canada. Notes supplied.

May 18, 2001: Panelist at Rocky Mountain Securities Conference, Denver, CO. Notes supplied.

May 10, 2001: Panelist at an ABA Conference, Scottsdale, AZ. Notes supplied.

March 9, 2001: Panelist at American Bar Association White Collar Crime Conference, San Francisco, CA. I discussed the Securities and Exchange Commission's enforcement priorities. I have no notes, transcript or recording. The sponsor of the conference was the American Bar Association, 321 North Clark Street, Chicago, IL 60654.

February 20, 2001: Panelist at an event hosted by PricewaterhouseCoopers, Palo Alto, CA. Notes supplied.

January 31, 2001: Speaker at Director's Roundtable Event, Orange County, CA. Notes supplied.

October 20 & 22, 2000: Panelist at conferences jointly sponsored by SEC and NASDAQ regarding Regulation FD, Los Angeles and San Francisco, CA. Notes supplied.

September 26, 2000: Panelist at ABA White Collar Crime Section meeting (LA Chapter), Los Angeles, CA. Notes supplied.

September 21-22, 2000: Speaker at AICPA Conference, Las Vegas, NV. Notes supplied.

August 10-11, 2000: Panelist at Advanced Securities Law Workshop, San Diego, CA. Notes supplied.

July 28, 2000: Panelist at PLI conference, Securities Law and The Internet: Doing Business in a Rapidly Changing Marketplace, San Francisco, CA. Notes supplied.

May 30, 2000: Speaker at Director's Roundtable Event, Vancouver, Canada. Notes supplied.

May 20, 2000: Speaker at SEC and Financial Regulation Institute, Pasadena, CA. Notes supplied.

May 11-12, 2000: Panelist at Business Trial Lawyers and Damages Expert Conference, Palm Springs, CA. Notes supplied.

April 18, 2000: Guest lecturer at University of Southern California School of Law, Los Angeles, CA. I discussed the Securities and Exchange Commission and its enforcement priorities. I have no notes, transcript or recording. I was invited by Professor Jennifer Arlen, who is currently on faculty at New York University School of Law, 139 MacDougal Street, New York, NY 10012.

February 24-25, 2000: Panelist at 20th Annual Northwest Securities Institute, Portland, OR. Notes supplied.

January 26-28, 2000: Panelist at Securities Regulation Institute, San Diego, CA. Notes supplied.

November 17, 1999: Speaker at Know Fraud event in Phoenix, AZ. I have no notes, transcript or recording, but press coverage is supplied. I do not recall who the actual sponsor of the event was (I believe I was invited to speak by the Postal Inspector in Phoenix, AZ).

October 7, 1999: Speaker at a seminar, San Francisco, CA. I discussed the Securities and Exchange Commission's priorities. I have no notes, transcript or recording. The sponsor of the event was Association of Western Securities Management, address unknown.

September 14, 15 & 16, 1999: Speaker at a series of Director's Roundtable events in La Jolla, Newport Beach and Los Angeles, CA. I discussed enforcement priorities of the Securities and Exchange Commission. I have no notes, transcript or recording. The sponsor of the event was Director's Roundtable, 1222 South Genesee Avenue, Los Angeles, CA 90019.

May 12, 1999: Speaker at American Society of Corporate Secretaries, Burbank, CA. Notes supplied.

February 26, 1999: Panelist at annual "SEC Speaks" Conference, Washington, D.C. I have no notes, transcript or recording, but press coverage is supplied. The sponsor of the conference was the Practising Law Institute, 810 Seventh Avenue, New York, NY 10019.

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

Profile in Simpson Thacher's Women's Connection, July 2012. Copy supplied.

Federal Dogs, University of Georgia, Georgia Magazine, March 2012. Copy supplied.

Charlie Savage, *F.B.I. Focusing on Security Over Ordinary Crime*, N.Y. Times, August 24, 2011. Copy supplied.

Matt Apuzzo and Adam Goldman, *With CIA Help, NYPD Moves Covertly in Muslim Areas*, Associated Press, August 23, 2011. Copy supplied.

Charlie Savage, *F.B.I. Agents Get Leeway to Push Privacy Bounds*, N.Y. Times, June 12, 2011. Copy supplied.

Barton Gellman, *Cover Story: Is the FBI Up to the Job 10 Years After 9/11?*, Time, May 12, 2011. Copy supplied.

Charlie Savage, *F.B.I. Casts Wide Net Under Relaxed Rules for Terror Inquiries*, Data Show, N.Y. Times, March 27, 2011. Copy supplied.

Martin Kaste, All Things Considered, *Web Wiretaps Raise Security, Privacy Concerns*, NPR, February 22, 2011. Audio is available at <http://www.npr.org/2011/02/22/133966151/web-wiretaps-raise-privacy-concerns>.

Ken Dilanian, *Report Details FBI Violations in Gathering Intel*, Chicago Tribune, January 31, 2011. Copy supplied.

Ken Dilanian, *FBI Involved in Hundreds of Violations in National Security Investigations*, L.A. Times, January 30, 2011. Copy supplied.

Noam Cohen, *Twitter Shines a Spotlight on Secret F.B.I. Subpoenas*, N.Y. Times, January 9, 2011. Copy supplied.

Charlie Savage, *Officials Push to Bolster Law on Wiretapping*, N.Y. Times, October 18, 2010. Copy supplied.

Ellen Nakashima, *U.S. Seeks Ways to Wiretap the Internet*, Washington Post, September 28, 2010. Copy supplied.

Charlie Savage, *U.S. Tries to Make It Easier to Wiretap the Internet*, N.Y. Times, September 27, 2010. Copy supplied.

Lolita C. Baldor, *Report: U.S. Would Make Internet Wiretap Easier*, Washington Times, September 27, 2010. Copy supplied.

William K. Rashbaum, *One U.S. Prosecutor in Brooklyn Is Behind Many Terrorism Convictions*, N.Y. Times, July 6, 2010. Copy Supplied.

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Lois Weiss, *Legal Barrier Lifted for Hunter's Point; Waterfront Project in Queens*, New York, Real Estate Weekly, October 9, 1991. Copy supplied.

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Robin Topping, *12 Arrested in Phone Bribery Scheme*, Newsday, January 18, 1989. Copy supplied.

Leslie Gevirtz, Domestic News, UPI, October 4, 1988. Copy supplied.

Leonard Buder, *2 Officers Charged in Ft. Wadsworth Assault*, N.Y. Times, August 27, 1988. 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, approximately what percent were:

jury trials: _____ %
bench trials: _____ % [total 100%]

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

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature 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 (3) 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:
- 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 never been a judge.

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

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

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

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

I have not held 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;

Upon graduation from law school, I clerked for Judge Phyllis Kravitch, U.S. Court of Appeals for the 11th Circuit, from June 1979 through August 1980.

- 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.

1980 – 1985
Cravath, Swaine & Moore
825 Eighth Avenue
New York, New York 10019
Litigation Associate

1985 – 1989
Office of the United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201
Assistant United States Attorney, Criminal Division

1989 – 1992
New York State Urban Development Corp. (now Empire State Development)
633 Third Avenue
New York, New York 10017
General Counsel and Senior Vice President – Legal

Note: by virtue of being General Counsel of UDC, I also served as General Counsel of various subsidiaries of UDC, including Hudson River Park Conservancy, 42nd Street Redevelopment Corp. and Queens West Development Corp. There may have been other subsidiaries as well, but those listed above were the primary operating subsidiaries with which I was affiliated.

1992 – 1998
Office of the United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201
Chief, Criminal Division (1994 – 1998)
Chief, Organized Crime & Racketeering Unit (1993 – 1994)
Chief, Special Prosecutions Unit (1993)
Assistant United States Attorney, Criminal Division (1992)

1998 – 2001
Securities and Exchange Commission
Pacific Regional Office
5670 Wilshire Boulevard
Los Angeles, California 90036
Regional Director

2001 – 2003
Simpson Thacher & Bartlett
425 Lexington Avenue
New York, New York 10017
Counsel

2003 – 2011
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Washington, DC 20535
General Counsel

2011 – Present
Northrop Grumman Corporation
2980 Fairview Park Drive
M/S 12161A
Falls Church, Virginia 22042
Vice President and Deputy General Counsel

- 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.

The general character of my law practice has changed significantly over the years.

At Cravath, Swaine & Moore, where I practiced from 1980 through 1985, I was a civil litigator. My practice involved almost entirely defense work on behalf of large national and multi-national companies. Although I had no particular area of specialization, I worked on a number of libel, antitrust and securities matters.

When I became an AUSA in 1985, my practice shifted from being entirely civil and largely defensive to being entirely criminal. I had no particular area of specialization, although I prosecuted a number of narcotics cases.

The character of my law practice changed again when I went “in house” as the General Counsel of the Urban Development Corp. (UDC) in 1989. UDC (now Empire State Development) is a New York state special benefit corporation and was at the time responsible for many economic development activities in New York State. The character of my law practice thus shifted from criminal law back to civil law issues. I had no particular area of specialization, but my practice included administrative law, banking and bankruptcy law, environmental and land use, real estate and products liability. My primary responsibility was to provide legal advice to the executives and directors of the corporation.

When I returned to the United States Attorney’s Office in 1992, the character of my law practice shifted back to criminal law. During this stint I became part of the administration of the office, ultimately serving as Chief of the Criminal Division where I supervised the work of approximately 100 prosecutors. I again had no particular area of specialization, although the cases I personally handled were largely civil rights and racketeering matters.

In 1998, I became the Regional Director of the SEC’s Pacific Regional Office, and the character of my legal practice changed again. At the SEC, my practice was devoted entirely to enforcement of federal securities laws, both from an enforcement and regulatory perspective.

My return to private practice at Simpson Thacher & Bartlett in 2001 brought another shift in the character of my practice. While at Simpson, my focus was on white collar criminal defense.

The character of my law practice changed again in 2003 when I returned to an “in house” practice when I became General Counsel of the Federal Bureau of Investigation (FBI). I had no particular area of specialization, but my practice included employment law, civil litigation (tort claims, constitutional litigation and Freedom of Information Act litigation),

administrative law, procurement law, national security law, criminal procedure, science and technology law, asset forfeiture, Privacy Act and constitutional law. In this position, my primary responsibility (in addition to leading a division of approximately 300 employees) was to provide legal advice and counsel to executive management.

The final shift in the character of my legal practice came with my move from the FBI to Northrop Grumman Corp. (Northrop) in 2011. At Northrop I am responsible for supervision of all litigation and internal investigations. My area of specialization is civil litigation and investigations (both internal and responding to government inquiries). My practice involves setting strategy and tactics in cases and investigations that affect Northrop and ensuring that the company's outside counsel execute those plans appropriately.

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

At Cravath, Swaine & Moore, my typical clients were large national and multi-national companies. I had no particular area of specialization beyond being a litigator.

When I became an AUSA in 1985, my only client was the U.S. government. At this time I had no particular area of specialization, although I prosecuted a number of narcotics cases, including narcotics cases involving members and associates of Italian organized crime.

When I became the General Counsel of the Urban Development Corp. (UDC) in 1988 my only client was UDC. At UDC, my areas of practice included administrative law, banking and bankruptcy law, environmental law, real estate, securities, eminent domain and products liability. I supervised an in-house staff of approximately 20 lawyers as well as many outside law firms.

When I returned to the United States Attorney's Office in 1992, my only client was again the U.S. government, and I again specialized in federal criminal prosecution.

In 1998, when I joined the Securities and Exchange Commission, my client was the Commission. At the SEC, my practice was devoted entirely to enforcement of federal securities laws.

My clients at Simpson Thacher & Bartlett, which I joined in 2001, were large national and multinational corporations and some individuals. I specialized in white collar defense.

As General Counsel of the Federal Bureau of Investigation (FBI), which I joined in 2003, my only client was the FBI, a component of the Department of Justice that operates inside and outside the United States with approximately 35,000 employees and a budget in excess of \$7 billion. My practice areas included employment law, civil litigation (almost exclusively as the defendant in tort or employment actions), procurement law, administrative law, Freedom of Information Act litigation, national security law, criminal procedure, science and technology law, asset forfeiture, Privacy Act and constitutional law.

I became Deputy General Counsel of Northrop Grumman Corp. (Northrop) in 2011, and my only client is Northrop. Significant practice areas include government contracts, bid protests, employment law, products liability, False Claims Act, environmental and intellectual property.

- 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.

Through my entire career I have been involved in litigation, either directly or supervising others. When I was an Assistant U.S. Attorney (1985-1989, 1992-1998), I appeared in court frequently. When I was an associate at Cravath, Swaine & Moore (1980-1985), I appeared in court occasionally. In all other positions (1989-1992, 1998-present), I have not appeared in court at all.

Please note that the percentages reported below treat national security matters, including matters handled by the Foreign Intelligence Surveillance Court (FISC), as criminal matters.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 90% |
| 2. state courts of record: | 8% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 2% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 50% |
| 2. criminal proceedings: | 50% |

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

I have tried 15 to 20 cases to verdict. In most, I was sole counsel. In three or four, I was chief counsel. In two cases, I tried the case with another individual, and we shared equal responsibility for the case. In addition to those trials, I “second seated” (*i.e.*, I supervised trial preparation and trial by the assigned AUSA, who was lead counsel) approximately 10-15 cases, all of which proceeded to verdict.

- i. What percentage of these trials were:
 - 1. jury: 99%
 - 2. non-jury: 1%
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

My only practice before the Supreme Court came when I was counsel for a number of *amici curiae* in *Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60 (1983). A copy of the brief is 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. *United States v. Nelson and Price*, 94 CR 823 (DGT) (EDNY), 68 F.3d 583 (2d Cir. 1995); 921 F. Supp. 105 (E.D.N.Y. 1996); 90 F.3d 636 (2d Cir. 1996); 277 F.3d 164 (2d Cir. 2002).

This was a federal criminal civil rights prosecution against two defendants growing out of the slaying of Yankel Rosenbaum, an orthodox Jew, in Crown Heights, Brooklyn. Nelson stabbed Rosenbaum several times, apparently in response to the exhortation of Price to “get the Jew.” Price incited the riot that led to the stabbing of Rosenbaum and numerous other acts of violence.

I represented the United States as co-counsel with Alan Vinegrad from approximately 1993, when we commenced the federal investigation following the acquittal of Nelson in state court, through the appeal of the convictions in 2002 (I participated as a Special Assistant U.S. Attorney as I was no longer an AUSA at that point). I was involved in all aspects of the original federal investigation and first trial, including two interlocutory appeals, and the direct appeal of the convictions. The convictions from the first federal trial were reversed on appeal based on errors in jury selection. The defendants were retried and convicted; I did not participate in the retrial.

The case was tried in the Eastern District of New York before Hon. David G. Trager.

Co-counsel: Alan Vinegrad
Covington and Burling
620 Eighth Avenue
New York, NY 10018
212-841-1022

Opposing counsel: Darrell Paster (for defendant Price)
321 West 89th Street
New York, NY 10024
646-337-7700

Anthony Ricco (for defendant Price)
20 Vesey Street, Suite 400
New York, NY 10007
212-791-3919

Trevor Headley (for defendant Nelson)
26 Court Street, Suite 3500
Brooklyn, NY 11242
212-596-7340

Christine Yaris (for defendant Nelson)
Deceased

2. *United States v. Malpeso, Gallagher and Amato*, 93 CR 1365(S-2) (RJD) (EDNY), 115 F.3d 155 (2d Cir. 1997).

This was one of a series of racketeering prosecutions brought against members and associates of the Colombo Organized Crime Family, who participated in an internecine war that was fought on the streets of New York in 1991 and 1992 for control of the family. This particular case was against members of the “Orena faction” (*i.e.*, the faction aligned with Victor Orena) and focused primarily on two events in which teenagers who were not involved in the war were shot. In one incident (known as the “Bagel Store shooting”), the victim was killed; in the second incident (known as the “Avenue P shooting”), an unintended victim was seriously wounded. The defendants at trial

included a soldier in the family (who sent the gunman to the bagel store and provided one of the guns used in the Avenue P shooting), an acting captain (who was an accessory after the fact to the Bagel Store shooting), and an associate (who was one of the Avenue P gunmen). All of the defendants were convicted at trial, although there was a hung jury on certain counts against defendant Malpeso. The convictions were affirmed on appeal.

I was lead counsel for the investigation, trial and appeal. I represented the United States in this matter from the beginning of the investigation through the appeal to the Second Circuit.

The case was tried in the Eastern District of New York before Hon. Raymond J. Dearie.

Co-counsel: Sung-Hee Suh
Shulte, Roth & Zabel
919 Third Avenue
New York, NY 10022
212-756-2418

Opposing counsel: Margaret Alverson (for defendant Malpeso at trial)
260 Madison Avenue
New York, NY 10016
212-213-0511

Judd Burstein (for defendant Malpeso on appeal)
1790 Broadway, Suite 1501
New York, NY 10019
212-974-2400

Gerald Shargel (for defendant Gallagher at trial)
1790 Broadway, Suite 1501
New York, NY 10022
212-446-2323

John Pollok (for defendant Gallagher on appeal)
Hoffman & Pollok
260 Madison Avenue
New York, NY 10016
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3. *United States v. Orena and Amato*, 92 CR 351 (JBW) (EDNY), 956 F. Supp. 1071 (E.D.N.Y. 1997).

This case was among the first in a series of cases that arose out of the Colombo Family War, described in the discussion of the *Malpeso* case, *supra*, to be tried. After Orena and Amato were convicted at trial, they moved for a new trial arguing that the government had violated its obligations under *Brady* by not disclosing to the defendants that Gregory Scarpa, Sr., one of the belligerents on the other side of the war, was a long time informant for the Federal Bureau of Investigation (FBI). That allegation, which spawned other allegations (including that an FBI agent was a co-conspirator who actively fomented the war for his own career enhancement), was at the core of a number of motions for new trial, including from these two defendants. In this litigation there was a full evidentiary hearing at which the defendants were allowed to pursue fully their allegations against the government. To facilitate a complete airing of the issue, the government immunized Scarpa's "handling agent," who had previously invoked his Fifth Amendment right not to testify, so that the defendants could cross-examine him. The court denied the motions for new trial, holding that the government had not violated the defendants' rights under *Brady*.

I was involved only in the post-trial litigation in this matter, beginning in approximately 1994 and continuing through the resolution of the post-trial motions in 1997. In the post-trial litigation, responsibilities were jointly shared among three AUSAs.

The case was tried in the Eastern District of New York before Hon. Jack B. Weinstein.

Co-counsel: Andrew Weissmann
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4. *United States v. Persico et al.*, 92 CR 351 (CPS) (EDNY), 1997 WL 867788 (E.D.N.Y. 1997); 145 F.3d 551 (2d Cir. 1998).

This is another in the series of cases that arose out of the Colombo Family War. As with the *Orena* case discussed above, following their conviction at trial, the defendants moved for new trials based on allegations, *inter alia*, that the government violated *Brady* and its progeny by not disclosing that Gregory Scarpa, Sr., one of the defendants' co-conspirators, had been a long time informant for the FBI. As was true in the *Orena* post-trial litigation, the defendants' allegations were far reaching and included allegations that Scarpa's handler was complicit in the murders Scarpa committed during the war. No evidentiary hearing was held in this case, but there was extensive briefing of the issues. The district court held that as to three defendants the government had violated *Brady*, and the court ordered a new trial as to those defendants. The government appealed that decision, and it was reversed by the Second Circuit Court of Appeals.

I was the first line supervisor of the trial. A number of AUSAs were involved in the post-trial litigation. My involvement is best described as lead counsel for the post-trial litigation (excluding sentencing and direct appeal of the criminal convictions but including the successful appeal from the order granting a new trial to three defendants).

The case was tried in the Eastern District of New York before Hon. Charles P. Sifton.

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5. *United States v. Brady et al.*, 92 CR 792 (ILG) (EDNY), 817 F. Supp. 321 (E.D.N.Y. 1993); 26 F.3d 282 (2d Cir. 1994).

This is another in the series of cases arising from the Colombo Family War. In this case, ten members of the Persico faction (*i.e.*, the faction loyal to the imprisoned boss of the family, Carmine Persico) were indicted on racketeering charges for their involvement in the war. Of the ten defendants, five pled guilty prior to trial; five were convicted after trial. The convictions were affirmed on appeal, and post-conviction litigation seeking new trials as a result of the so-called “Scarpa issue” (discussed in the description of the *Orena* and *Persico* cases, *supra*) was resolved in the government’s favor.

I became co-counsel on this case shortly before trial in late 1992. My co-counsel and I tried the case. He argued the direct appeal from the convictions, and I handled all post-conviction litigation other than the direct appeal.

The case was tried in the Eastern District of New York before Hon. I. Leo Glasser.

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Martin Geduldig (for defendant Brady)
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Stuart Rubin (for defendant Pontillo)
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718-802-0778

6. *United States v. Scarpa et al.*, 87 CR 760 (ILG) (EDNY), 701 F. Supp. 379 (E.D.N.Y. 1988); 691 F. Supp. 635 (E.D.N.Y. 1988); 848 F. Supp. 354 (E.D.N.Y. 1994); 913 F.2d 993 (2d Cir. 1990); and 897 F.2d 63 (2d Cir. 1990).

This was a racketeering prosecution against Gregory Scarpa, Jr., and nine members of his crew. Scarpa was a member of the Colombo Organized Crime Family and, with his crew, operated an extremely lucrative and violent drug organization. The crew sold hundreds of thousands of dollars worth of marijuana, primarily at the College of Staten Island, sold cocaine and heroin at locations in Brooklyn, attempted to bribe police officers to protect their Staten Island operation, and extorted a "street tax" from other drug dealers in Brooklyn. At the time of the indictment, Scarpa fled and remained a fugitive until after his co-defendants had been tried and convicted. Thereafter, Scarpa was found, tried and convicted.

I was responsible for the investigation of this matter beginning in 1986. I remained responsible through the trials, which I conducted with another AUSA as lead counsel. My co-counsel handled the direct appeal of the convictions, and I handled certain post-conviction litigation that occurred in the mid-1990s.

The case was tried in the Eastern District of New York before Hon. I. Leo Glasser.

Co-counsel: Jerome C. Roth
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Opposing counsel: Stanley Meyer (for defendant Granato)
Deceased

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Alan Brenner (for defendant L. DeCarlo)
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Joseph Benfante (for defendant Scarpa)
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Ivan Fisher (for defendant M. Parlagreco)
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New York, NY 10021
212-517-5000

David Wikstrom (for defendant J. Parlagreco)
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New York, NY 10279
212-248-5511

Larry Bronson (for defendant Meli)
Current contact information unknown

7. *United States v. Casso*, 90 CR 446 (FB) (EDNY), 9 F. Supp. 2d 199 (E.D.N.Y. 1998).

Casso was a member of the administration of the Luchese Organized Crime Family. He pled guilty to racketeering and murder charges and entered into a cooperation agreement with the United States. Casso continued to commit crimes in prison and was not truthful about his conduct when confronted. Ultimately, the government determined that it would not make a motion for a downward departure for him at sentencing, based on his substantial breaches of the cooperation agreement.

I was the first line supervisor of the underlying criminal case at the time Casso pled guilty in 1993 or 1994. I continued to play an active role in dealing with Casso's cooperation, up through and including the decision not to make a motion for a downward departure in connection with his sentencing. I was co-counsel with another AUSA at Casso's sentencing, at which time we litigated the government's right to decline to make a motion for a downward departure.

The matter was litigated in the Eastern District of New York before Hon. Fred Block.

Co-counsel: George Stamboulidis
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Opposing counsel: Matthew Brief
Brief Carmen & Kleiman
805 Third Avenue, 11th Floor
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212-832-5570

8. *Broadway 41st Street Realty Corp. v. UDC, et al.*, 89 Civ. 3213 (PKL) (SDNY), 733 F. Supp. 735 (S.D.N.Y. 1990)

This was one of many lawsuits brought in connection with the planned redevelopment of Times Square while I was General Counsel of UDC. In this case, project opponents, who owned land within the project area against which UDC had filed a condemnation petition, sued UDC, New York City and the designated developer in federal court to enjoin the pending condemnation on the grounds, *inter alia*, that it no longer served the public interest to proceed with the project and, therefore, the use of the power of eminent domain was inappropriate. The defendants successfully moved to dismiss the case on abstention grounds.

As General Counsel of UDC, I participated in all strategic decisions in the litigation and reviewed, edited and approved all briefs filed in the action. I was involved in the case from the time it was filed in 1989 until it was dismissed in 1990.

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Saul Morgenstern (outside counsel for UDC)
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Joseph Petillo (staff attorney at UDC)
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Robert Pfeffer (for New York City)
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Jo Davis (for the developer)
Formerly employed by Kaye Scholer
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Opposing counsel: Jonathan Polonsky
Kirkpatrick Townsend & Stockton
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212-775-8703

9. *Bolger v. Youngs Drug Products Corp.*, 463 U.S. 60 (1983).

I represented a group of organizations as *amicus curiae* when this case was appealed from the D.C. Circuit to the Supreme Court. I was involved in the litigation only in the Supreme Court.

The case revolved around the constitutionality of a federal statute, 39 U.S.C. § 3001(e)(2), which defined as nonmailable any nonsolicited advertisements for contraceptives. An earlier unconnected case had declared the statute to be unconstitutional on First Amendment grounds as it applied to mailings from entities with no commercial interest in the materials. The Postal Service accepted that ruling, but continued to enforce the law as it applied to mailings in which the mailer had a commercial interest.

My clients argued that the statute was unconstitutional as applied to commercial speech regarding contraception. That position was upheld by the Supreme Court.

I was the primary drafter of the brief.

Co-counsel: Robert Joffe
(now deceased)
Cravath, Swaine & Moore
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212-474-1000

Paula Schaap
(last known address)
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New York, NY
Phone number unknown

Opposing counsel: David Strauss (then an Assistant Solicitor General)
University of Chicago
School of Law

1111 East 60th Street, Room 422
Chicago, IL 60637
773-702-9494

10. *Securities and Exchange Commission v. Jakob*, EDCV-00-687 VAP(Mcx)
(CDCA).

This was a civil action brought against the perpetrator of an internet hoax that led to a dramatic drop in the share price of Emulex, a Southern California company. Jakob had created a short position in Emulex because he believed the price would fall. Instead, the price rose. In order to cover his short position, Jakob created a phony press release that purported to be from Emulex. The phony press release announced that Emulex was under investigation by the Securities and Exchange Commission for accounting irregularities, the Chief Executive Officer had resigned, and the company would be restating its earnings. Jakob emailed the phony press release to a press release distribution company, which released it to the public. Upon release of the phony press release, the share price of Emulex dropped about \$61 per share in the approximately 15 minutes before trading was halted. During that time, Jakob covered his short position and purchased additional Emulex shares, which he sold several days later at a profit. After the hoax was revealed and trading recommenced, the stock price largely recovered. During the period of the hoax, Emulex lost almost \$2.2 billion in market value; Jakob profited by approximately \$241,000. Less than a week after the hoax, the SEC filed suit against Jakob, and, in a parallel criminal proceeding, Jakob was arrested and charged criminally. Jakob eventually consented to the entry of a permanent injunction prohibiting him from violating the security laws and was ordered to disgorge all unlawful gains and losses avoided and to pay a civil penalty. He pled guilty to the parallel criminal charges.

The case was brought in the Central District of California before Hon. Virginia Phillips.

My role was to supervise the investigation and litigation of the matter. My involvement began the day of the hoax in 2000 and ended with his consent to entry of judgment against him in 2001.

Co-counsel:

Kelly Bowers
Securities and Exchange Commission
5670 Wilshire Boulevard
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323-965-3924

Cliff Hyatt
Current contact information unknown
Last known address:
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213-972-4500

Opposing Counsel: Joel Levine
695 Town Center Drive, Suite 875
Costa Mesa, CA 92626
714-662-4462

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.)

I have never engaged in lobbying activities.

At the FBI, among the most significant legal activities in which I engaged that did not involve litigation was the negotiation and successful implementation of new Attorney General Guidelines for Domestic FBI Operations. In order to respond to the calls from Congress and others, including the 9/11 and Weapons of Mass Destruction Commissions, for the FBI to become a “domestic intelligence agency,” the FBI needed new investigative guidelines. I led the work from the FBI’s side, and I also played a lead role in briefing the new guidelines to Congress and others.

At UDC, I was substantially involved in the negotiations for the Commodities Exchange Project. At the time, the commodities exchanges were collectively housed in inadequate space in the World Trade Center. In response to their threat to relocate to New Jersey to obtain adequate space, which would have cost New York State thousands of jobs and millions of dollars in annual tax revenue, the State of New York and the City of New York pledged \$100 million and use of UDC’s extraordinary powers to assist them in obtaining a suitable new facility. During the course of the negotiations, one of the most significant issues was whether the public money would flow to the project even if there was litigation pending. (The participants in this project were all aware that the 42nd Street Redevelopment Project had been delayed for years by serial litigation brought by project opponents.) Although the particular project with which I was involved was never built (the four exchanges could ultimately not agree among themselves), I provided substantial advice and counsel to my client in order that it could decide whether to agree to take the aggressive stance of agreeing to fund the project in the face of litigation (the financial risk of which would have fallen almost entirely on the public partners).

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

I have never 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.

I do not have any plans 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, (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.

The only parties that might present a conflict of interest would be the FBI and Northrop Grumman. To the extent a case involving either were assigned to me, I would examine whether the litigation arises from facts with which I have had personal or supervisory involvement. If I had personal or supervisory involvement, I would not participate in such matters as a judge.

- 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 would follow the Code of Conduct for United States Judges, as well as any other applicable ethics rules or statutes.

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 provided *pro bono* representation to an indigent prisoner who had filed (as I recall) more than 10 cases against various police officers in New York City. Judge Eugene Nickerson (now deceased), Eastern District of New York, appointed Cravath, Swaine & Moore as counsel for him, and the matter was assigned to me. With a colleague, we reviewed all of the matters and persuaded the prisoner to drop many of the actions; we agreed to pursue two that had facial validity. Both cases proceeded to bench trial; both were resolved against the plaintiff.

I provided *pro bono* representation to several organizations in connection with an amicus in the Supreme Court in connection with *Bolger v. Youngs Drugs*. I was the primary drafter of the brief that was filed in the Supreme Court.

I was part of a team of attorneys from Cravath, Swaine & Moore who provided *pro bono* representation to Dignity New York, a gay rights group, in connection with litigation over the proposal of the City of New York to prevent any group from occupying the area directly in front of St. Patrick's Cathedral during the annual Gay Pride Parade in New York City. The district court's injunction against the City's plan for the parade was reversed by the Second Circuit Court of Appeals. Subsequent litigation (after I was no longer involved in the matter) resulted in a trial and a ruling against the City. That decision was affirmed by the Second 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.

I made contact with Senator Gillibrand's office through a mutual friend in early 2011. In Spring 2012, the White House Counsel, who was aware of my desire to serve as a district court judge, inquired whether I remained interested. At around the same time, staff from Senator Gillibrand's office inquired whether I remained interested in serving as a judge, and on June 8, 2012, I met with Senator Gillibrand. A couple of weeks later, I was informed by Senator Gillibrand's staff

that she would be sending my name along with others to the White House for vetting. Since June 22, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 31, 2012, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. On November 14, 2012, the President submitted my nomination to the Senate.

- 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.

AFFIDAVIT

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

11/14/12
(DATE)

Valerie Caproni
(NAME)

Michelle D. Jackson
(NOTARY)

