

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Marina Garcia Marmolejo (former name: Marina Lerma)

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

United States District Judge for the Southern District of Texas

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: Reid Davis LLP
4301 Westbank Drive
Building B, Suite 230
Austin, Texas 78746
(512) 647-6100

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

1971; Nuevo Laredo, Tamaulipas, Mexico

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.

1993 – 1996, St. Mary’s University School of Law; J.D., 1996

1995 – 1996, St. Mary’s University Graduate School; M.A., 1996

1989 – 1992, University of the Incarnate Word; B.A., 1992

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.

2009 (November) – Present

Reid Davis LLP
4301 Westbank Drive
Building B, Suite 230
Austin, Texas 78746
Partner

2009

Diamond McCarthy LLP
6504 Bridgepoint Parkway, Suite 400
Austin, Texas 78230
Of Counsel (July 2009)
Partner (August – November 2009)

2007 – 2009

Thompson & Knight LLP
4040 Broadway, Suite 615
San Antonio, Texas 78209
Of Counsel

1999 – 2007

United States Attorney's Office
Southern District of Texas
1100 Matamoros, 2nd Floor
Laredo, Texas 78042
Assistant United States Attorney

1999

Law Offices of Jesus M. Dominguez
902 Market Street
Laredo, Texas 78040
Affiliated Attorney

1998 – 1999

Federal Public Defender's Office
Southern District of Texas
1501 Matamoros
Laredo, Texas 78042
Assistant Federal Public Defender

1996 – 1998

Federal Public Defender's Office
Western District of Texas
2205 Veterans Blvd, Suite A2
Del Rio, Texas 78840
Assistant Federal Public Defender

1993 – 1996
St. Mary's University School of Law
One Camino Santa Maria
San Antonio, Texas 78228
Research Assistant to Professor Raul M. Sanchez

1993
United Independent School District
201 Lindenwood
Laredo, Texas 78045
Substitute Teacher

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

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

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.

Outstanding Service, Immigration and Customs Enforcement (2007)
Outstanding Service, Drug Enforcement Administration (2006)
Outstanding Service, Federal Bureau of Investigation (2003, 2006)
Outstanding Service, Office of the Inspector General, Dep't of Homeland Security (2005)
Michael T. Shelby U.S. Attorney's Sisyphus Award (2002, 2004, 2005)
Director's Award for Superior Performance as an AUSA (2002)
Service Recognition, Nuevo Laredo, Tamaulipas Rotary Club (2002)
Tejano Achievers Award, Laredo LULAC Council (2000)
Associate Editor, *St. Mary's Law Journal* (1994 – 1996)
Member, Phi Delta Phi Honor Society (1996)
Member, Alpha Chi Honor Society (1992)
Member, Alpha Lambda Delta Honor Society (1990)

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.

Association of Defense Counsel, Inc.
College of The State Bar of Texas
Laredo Women's Bar Association
National Association of Criminal Defense Lawyers
National Association of Assistant United States Attorneys

Texas State Bar Association
Young Lawyers' Association of Laredo, Texas

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.

Texas, 1996

There has been no lapse in membership.

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

United States Court of Appeals for the Fifth Circuit, 1996
United States District Court for the Southern District of Texas, 1999
United States District Court for the Western District of Texas, 1996
Supreme Court of Texas, 1997

My bar membership in the United States District Court for the Southern District of Texas lapsed for a seven-month period from July 2008 to February 2009 because of paperwork issues during my move from Laredo to San Antonio, Texas. There has been no other 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.

Alexander High School Law Magnet Program Advisory Board (2005)
Literacy Volunteers of America (1993)

- 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.

I am not a member of any organization that currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

As a student at the University of the Incarnate Word in San Antonio, Texas, I wrote for the student newspaper, The Logos. I have list and supplied copies of the articles of which I have retained a copy:

Bookstore Renovations Promise Better Service, Attractive Décor, Vol. 92 No. 5 THE LOGOS, Dec. 6, 1991.

Ballet School Alumni Join Students to Celebrate Timeless Children's Tale, Vol. 92 No. 5 THE LOGOS, Dec. 6 1991.

Nutcracker's Storyline Composed by Russian Commissioned to Create Ballet Based on Play, Vol. 92, No. 5 THE LOGOS, Dec. 6 1991

Golden Harvest Scheduled for Nov. 9 Volunteers Set Goal at Six Tons of Food, Vol. 92, No. 4 THE LOGOS, Oct. 31, 1991.

Although I do not remember and have been unable to identify any other published material I have written or edited, there may be others that I been unable to remember or identify.

- 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.

Critique, Review of the U.S. Department of State's Country Reports on Human Rights Practices 1994, Lawyers Committee for Human Rights. I assisted Professor Raul Sanchez with research and editing of a critique of U.S.

Department's Country Reports on Human Rights Practices as they pertained to Mexico in 1994. Copy supplied.

Although I do not remember and have been unable to identify any other reports, memoranda, or policy statements that I prepared or to which I contributed, there may be others that I been unable to remember or identify.

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

None that I recall or have been able to identify.

- 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.

"Immigration Consequences of Criminal Convictions," Presented at the State Bar of Texas 35th Annual Advanced Criminal Law Course, July 20-23, 2009, Dallas, Texas. Published article and PowerPoint presentation supplied.

"Litigation Fundamentals: Closing Arguments," Telephonic CLE presentation on behalf of the ABA, July 16, 2009, San Antonio, Texas. Co-presented with Attorneys Lamont Jefferson and Lori Massey. I have no notes, transcript, or recording.

"The Thin Green Line: When is an Environmental Violation Considered a Crime?" Co-presented with Attorney Scott D. Deatherage to BNSF Railway in 2008, 2650 Lou Menk Drive, Fort Worth, Texas 76131. PowerPoint presentation supplied.

Although I do not remember and have been unable to identify any other speeches or talks I have delivered, there may be others that I been unable to remember or identify.

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

I have searched my files and publicly-available Internet databases to identify all interviews I have given, but there may be others I have been unable to recall or identify. Clips supplied for all newspaper interviews.

Univision "Aqui y Ahora." The television interview focused on corruption issues along the U.S./Mexico border and specifically documented a case I had prosecuted involving a Border Patrol Agent named Juan Alfredo Alvarez. The interview was conducted in Spanish and was televised in 2008. I have no transcript or recording.

"Accused ex-broker free in lieu of bond," SAN ANTONIO EXPRESS NEWS, Sept. 27, 2008.

"Plea deal reached in sex trafficking case for S.A. man," SAN ANTONIO EXPRESS NEWS, Feb. 26, 2008.

"Truck Driver Goes on Trial for Alleged Smuggling," LAREDO MORNING TIMES, May 11, 2000.

Jacque Crouse, "Western District issues its first video sentences," SAN ANTONIO EXPRESS NEWS, February 27, 1998, at 2B.

"School Bars Boy Accused of Killing," AUSTIN AMERICAN-STATESMAN, Nov. 18, 1995.

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:

I have not served as a judge.

- 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 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 never held a paid position with any political campaign organization or political entity.

I have occasionally allowed my name to be used on public lists of supporters. I recall doing so for Karen Sage, candidate for the 299th District Court of Texas. I may have done so for other candidates I cannot specifically recall or identify.

16. Legal Career: Answer each part separately.

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

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

I did not serve as a clerk to a judge.

- 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.

1996 – 1998
Federal Public Defender's Office
Western District of Texas
2205 Veterans Blvd, Suite A2
Del Rio, Texas 78840
Assistant Federal Public Defender

1998 – 1999
Federal Public Defender's Office
Southern District of Texas
1501 Matamoros
Laredo, Texas 78042
Assistant Federal Public Defender

1999
Law Offices of Jesus M. Dominguez
902 Market Street
Laredo, Texas 78040
Affiliated Attorney

1999 – 2007
United States Attorney's Office
Southern District of Texas
1100 Matamoros, 2nd Floor
Laredo, Texas 78042
Assistant United States Attorney

2007 – 2009
Thompson & Knight LLP
4040 Broadway, Suite 615
San Antonio, Texas 78209
Of Counsel

2009
Diamond McCarthy LLP
6504 Bridgepoint Parkway, Suite 400
Austin, Texas 78230
Of Counsel (July 2009)
Partner (August – November 2009)

2009 (November) – Present
Reid Davis LLP
4301 Westbank Drive
Building B, Suite 230
Austin, Texas 78746
Partner

- 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.

I have not served as a mediator or arbitrator in any 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.

I have dedicated the vast majority of my legal career to public service and have successfully practiced on both sides of the bar. I began my legal career as an Assistant Federal Public Defender and then spent eight years as an Assistant United States Attorney. Since 2007, I have gained experience in civil and commercial litigation as an attorney in private practice.

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

As an Assistant Federal Public Defender (1996 – 1999), I represented indigent clients who were charged with federal crimes, both felonies and misdemeanors. As an Assistant United States Attorney (1999 – 2007), I represented the government in federal criminal investigations and prosecutions. In private practice (2007 – present), I have represented a broad range of clients including corporate entities, financial institutions, business owners, and individuals who have sought guidance on criminal, civil, and immigration matters.

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

I estimate that 98% of my criminal and civil practice involved litigation. As an Assistant Federal Public Defender and Assistant United States Attorney, I had daily court appearances, motions hearings, and trials. Since entering private practice in 2007, I have appeared in court occasionally.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 95%
 - 2. state courts of record: 5%
 - 3. other courts:
 - 4. administrative agencies:

ii. Indicate the percentage of your practice in:

1. civil proceedings: 20%
2. criminal proceedings: 80%

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 over 30 jury trials to verdict (approximately half as sole counsel and half as associate counsel).

i. What percentage of these trials were:

1. jury: 98%
2. non-jury: 2%

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

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

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. Rubio*, 321 F.3d 517 (5th Cir. 2003). July - August 2000. U.S. District Judge George P. Kazen. Case affirmed on appeal. I was one of three AUSAs co-assigned to prosecute this Hobbs Act public corruption investigation and prosecution of officials of and others connected to the District Attorney's Office in Laredo, Texas. The Jury returned verdicts of guilty against all five defendants (25 out of 27 charged counts) following a five week trial.

My co-counsel were AUSAs Don DeGabrielle and Trey Martinez. Defense counsel included Jose Luis Ramos (for Mr. Rubio Sr.), 107 Garza, Rio Grande City, Texas 78482, Tel: (956) 487-3597; Luis Antonio Figueroa (for Mr. Rodriguez), 1319 Convent, Laredo, Texas, Tel: (956) 724-2889; Salvador Tellez (for Mr. Mendoza), 1102 Scott, Laredo, Texas, Tel: (956) 722-0008; and John Convery (for Mr. Rubio), 1005 South Alamo Street, San Antonio, Texas 78210, Tel: (210) 738-9060.

2. *United States v. Cisneros*, 72 Fed. Appx. 161, 2003 WL 21954210 (5th Cir. 2003). December 2001. U.S. District Judge George P. Kazen. Case affirmed on appeal. I was one of two AUSAs co-assigned to prosecute this case, which was part of a Hobbs Act public corruption investigation and prosecution involving the District Attorney's Office in Laredo, Texas. Jury convicted Mr. Cisneros following a four-day trial. The U.S. Court of Appeals for the Fifth Circuit provided further guidance on necessary elements to sustain Hobbs Act conviction adding that depletion of victim's assets was not a requisite element of the crime.

My co-counsel was AUSA Dixie Morrow. Defense counsel was Oscar Pena Sr., 1720 Matamoros St., Laredo, Texas 78040, Tel: (956) 722-5167.

3. *United States v. Dimas*, 108 Fed. Appx. 927, 2004 WL 2029761 (5th Cir. 2004). May 2002. U.S. District Judge George P. Kazen. Case affirmed on appeal. I was one of two AUSAs co-assigned to prosecute this case, which was part of a Hobbs Act public corruption investigation and prosecution involving the District Attorney's Office in Laredo, Texas. The defendant had been employed as a criminal investigator at the District Attorney's Office. He was convicted by a jury for his role in the conspiracy.

My co-counsel was AUSA Dixie Morrow. Defense counsel was Eduardo Jaime, 1800 Victoria St., Laredo, Texas 78040, Tel: (956) 725-9714.

4. *United States v. Botello*, 108 Fed. Appx. 979, 2004 WL 2095639 (5th Cir. 2004). December 2002. U.S. District Judge George P. Kazen. I was one of two AUSAs co-assigned to prosecute defendants for possession and distribution of 540 pounds of marijuana. The case involved cooperating defendants and consensual tape recordings. Following a three-day trial, the jury returned guilty verdicts as to both defendants on the conspiracy charges. The case was affirmed on appeal.

My co-counsel was AUSA Noelle Dimarco. Defense counsel included Fernando Sanchez (for Mr. Botello), 401 E. Hillside 2nd floor, Laredo, Texas 78041, Tel: (956) 722-0707; and Oscar A. Vela, Jr. (for Mr. Vasquez), 1800 Victoria St., Laredo, Texas 78040, Tel: (956) 725-9714.

5. *United States v. Hernandez*, 202 Fed. Appx. 708, WL 2930198 (5th Cir. 2006). August 2004. U.S. District Judge Keith P. Ellison. I was the sole prosecutor charging this multi-Defendant case stemming from Organized Crime Drug Enforcement Task Force (OCDETF) investigation of the Julian Ramirez drug trafficking organization. The case involving drug and money seizures, cooperating defendants, taped conversations,

and controlled deliveries. The jury trial lasted seven days. One Defendant was granted a Rule 29 by Judge Ellison during the trial. The other three defendants were found guilty by the jury. All convictions have been affirmed on appeal.

Defense counsel included Luis Antonio Figueroa (for Mr. Hernandez), 1319 Convent, Laredo, Texas, Tel: (956) 724-2889; David Almaraz (for Mr. Wildenborg), 1802 Houston St., Laredo, Texas, Tel: (956) 727-3828; Alonzo Ramos (for Mr. Thomas), 1102 Scott Suite 5B, Laredo, Texas, Tel: (956) 712-1259; and Javier Montemayor (for Mr. Morales) 1814 Victoria, Laredo, Texas, Tel: (956) 726-8811.

6. United States v. Peña Hinojosa, No. 06-CR-123-2 (S.D. Tex.). April 2006. U.S. District Judge Donald Walter, sitting by designation. I was the sole prosecutor charging this drug trafficking case, for conspiracy to distribute and possession of 140 pounds of cocaine. The case was part of large-scale Organized Crime Drug Enforcement Task Force (OCDETF) investigation. Following a four-day trial the jury found the primary defendant guilty and his co-defendant not guilty.

Defense counsel were Salvador Tellez (for Mr. Peña Hinojosa), 1102 Scott, Laredo, Texas, Tel: (956) 722-0008; and Oscar O. Peña (for Mr. Saldaña), 1720 Matamoros St., Laredo, Texas 78040, Tel: (956) 722-5167.

7. United States v. Ramirez-Olivas, No. 06-CR-123-4 (S.D. Tex.). April 2006. U.S. District Judge George P. Kazen. I was the sole prosecutor charging this drug trafficking case, for conspiracy to distribute and possession of 791 pounds of marijuana. Following a four-day trial, the jury found the defendant guilty.

Defense counsel were Teresa Hunter and Amador Gutierrez, 1010 Juarez, Laredo, Texas, Tel: (956) 722-8065.

8. United States v. Garcia, No. 05-CR-1659 (S.D. Tex.). May 2006. U.S. District Judge George P. Kazen. I was the sole prosecutor charging this drug trafficking case, for conspiracy to distribute and possession of more than 1,413 kilograms of marijuana. Law enforcement considered the defendant the direct link to the source of narcotics supply in Mexico. Following a four-day trial, the jury found the defendant guilty and Judge Kazen sentenced him to 30 years imprisonment.

Defense counsel was J. Eduardo Peña, 1102 Scott St., Laredo, Texas 78040, Tel: (956) 722-9854.

9. United States v. Obregon, No. 07-CR-452 (S.D. Tex.). August 2007. U.S. District Judge George P. Kazen. I was associate counsel (as supervisory "second chair") in this prosecution for conspiracy to kidnap, kidnapping, and use of a firearm during a crime of violence. The case involved a confrontation at the primary defendant's residence that resulted in the victim being assaulted, tied up, and eventually driven from the residence into Nuevo Laredo, Tamaulipas Mexico, where the victim was shot in the face and torso and left for dead by other co-conspirators. The victim survived, made his way back to the

United States and testified at the trial. Following a six-day trial, the defendants were convicted on all counts.

My-counsel was AUSA Gracie Lindberg. Defense counsel were Robert Berg (for Mr. Obregon), 3833 Alameda St., Corpus Christi, Texas 78205, Tel: (361) 814-0744; Ruben Cabrera: Javier Montemayor (for Mr. Cabrera), 1814 Victoria, Laredo, Texas, Tel: (956) 726-8811; and Oscar O Peña (for Mr. Cardenas), 1720 Matamoros St., Laredo, Texas 78040, Tel: (956) 722-5167.

10. State of Texas v. Roberts (226th District Court, San Antonio, Texas). December 2007. District Judge Sid Harle. I was co-defense counsel to Ms. Roberts, who was charged with helping her husband blackmail four of her former lovers. The couple was charged with theft and accused of extortion of \$155,000 from the married men that Ms. Roberts had extramarital affairs with over a two-month period. After Mr. Roberts learned of the affairs, he threatened the men that he would expose their infidelities in court unless they agreed to pay him. Ms. Roberts was found guilty by a jury on all counts and sentenced to ten years probation.

Prosecutors were Assistant District Attorneys Tamara Strauch and Bill Pennington, 100 Dolorosa, San Antonio, Texas 78205, Tel: (210) 335-2311. My co-counsel were Michael McCrum and Alan Brown.

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 current work at Reid Davis LLP focuses on complex commercial cases. For example, I am involved in the investigation and prosecution of civil RICO claims on behalf of foreign sovereigns who have been impacted by the illegal smuggling of goods by multi-national companies engaged in money laundering activities. We work closely with U.S. Attorney's Offices and government agents who are conducting parallel criminal prosecutions. I am also involved in assisting a financial institution to investigate large scale embezzlement schemes by employees, and to coordinate the civil suits against the employees and the cooperation with law enforcement on the criminal prosecutions.

In 2007, I joined Thompson and Knight LLP as one of three core members of a newly formed white collar defense group. Legal work focused primarily on complex federal and state criminal defense matters, including numerous high-profile criminal cases, public corruption matters, criminal tax fraud, health care fraud, securities fraud and mortgage fraud. I also assisted companies with internal fraud investigations. In one particular matter, I represented a national insurance company with an internal administrative investigation of one of its employee involved in an elaborate

embezzlement scheme. Representation required coordinated efforts with the Texas Department of Insurance. In another significant matter, I represented a major company involved in the marketing and distribution of petroleum in a claim for liquidated damages for removal of merchandise from a foreign trade zone without CBP authorization. The appeal process and extensive negotiations with CBP Fines, Penalties, and Forfeitures resulted in the fine being mitigated by 90%.

During my eight year tenure as an Assistant United States Attorney (1999-2007), I was responsible for the prosecution of hundreds of reactive and long-term investigations involving public corruption, illegal narcotics, money laundering, firearms, human trafficking, and in-bond diversion/merchandise smuggling. I was assigned to the Organized Crime Drug Enforcement Task Force (OCDETF) where I focused on the prosecution of complex narcotics and money laundering investigations. I was tasked with daily multi-agency and multi-jurisdictional coordination efforts in conducting investigations aimed at dismantling major drug organizations. I was the lead prosecutor in numerous Title III electronic surveillance and grand jury investigations and initiated the first Title III electronic surveillance investigation for Immigration and Customs Enforcement (ICE) in the Southern District of Texas. More than 30 Defendants were convicted as a result of said investigation which resulted in multi-ton seizures of narcotics and other goods derived from illicit sources. I have also served as a member of the office's Indictment Review Committee which screens and approves all cases before they are presented to the grand jury. During my tenure as an AUSA, I was consistently recruited by the Department of Justice's OPDAT (Office of Overseas Prosecutorial Development, Assistance and Training) program to teach trial advocacy skills to foreign prosecutors and agents in Colombia and the Dominican Republic.

In 1996, I was hired out of law school to join the Federal Public Defender's Office in the Western District of Texas, which is one of the highest volume districts in the country. During my three years as an Assistant Federal Public Defender in both the Western and Southern Districts of Texas, I was responsible for the representation of hundreds of indigent criminal defendants charged with federal criminal violations. I handled every stage of the case from meeting with clients and their families, to researching issues, drafting and arguing pre-trial motions, and appearing in court for motions hearings, arraignments, trials, guilty pleas and sentencing proceedings.

I have not performed any lobbying activities on behalf of any client or organization.

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 been recruited on numerous occasions by the Department of Justice Office of Overseas Prosecutorial Development Assistance and Training to teach trial advocacy to prosecutors and agents (both state and federal).

Albuquerque, New Mexico 2001 and 2002
Bucaramanga, Colombia, 2005
Santo Domingo Dominican Republic, 2006 and 2007

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

I am entitled to conditional future benefits from Diamond McCarthy LLP, my former law firm, based on ten percent of any recovery (net of expenses) in a probate case.

If confirmed, I would sever my partnership with Reid Davis LLP, my current firm. Pursuant to my employment agreement, I would be entitled to conditional future benefits for work performed based on recovery in matters on which I have worked while at the firm.

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, during my service with the court.

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.

My sister is Corporate Counsel for BBVA Compass (formally known as the Laredo National Bank) in Laredo, Texas. If confirmed, I would recuse myself in any matter involving said entity.

It is possible that criminal cases in which I had involvement as an Assistant United States Attorney may come before the Court. I expect that there would be relatively few such cases given that I left the United States Attorney's Office in 2007, but I would recuse myself on any matter in which I had involvement during my time as a federal prosecutor.

- 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 as a District Judge, I would follow the recusal statutes and the Code of Conduct for United States Judges, as well as any other guidance from the courts, in addressing any matter that could involve actual or apparent conflicts of interests. As needed, I would consult with colleagues and/or seek formal guidance from ethics officials at the Administrative Office of U.S. Courts.

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 the first eleven years of my legal career, I worked for the government and was not permitted to work on any pro bono matters due to conflict of interest. During my three-year tenure as an Assistant Federal Public Defender, I represented indigent clients charged with crimes.

Since joining the private sector in 2007, I have worked on several pro bono matters including the following cases:

1. I represented a client charged with criminal violations in two different jurisdictions (Bexar and Kendall counties). Due to her extremely poor financial condition, and the fact that she would not otherwise receive adequate representation, I assisted Attorney Michael McCrum in representing Ms. Lalley on a pro bono basis. A significant amount of time was devoted in attending court hearings in each county, reviewing evidence, meeting with the client, and visiting the respective district attorney's offices. The case took more than a year to resolve.
2. I represented a client charged with criminal violations in Bexar County. Due to the nature of the allegations and the heightened publicity surrounding the case, my client was left without a source of income and the ability to defend herself. As such, we agreed to represent her on a pro bono basis. The case took many months of preparation and involved extensive review of documents, research, drafting motions,

meetings with witnesses and client, and court hearings. The trial in the matter, *State v. Roberts*, lasted a week in December 2007.

3. I represented an adult woman and her two minor children who were victimized by the woman's ex-husband and were in need of attorney representation. My client was unemployed and did not have the ability to hire counsel. I served as a liaison between my client and the District Attorney's Office. I spent a significant amount of time meeting with this client and conveying information on her behalf to the District Attorney's Office.

In March 2010, I volunteered to serve as a judge for the Hispanic National Bar Association's (HNBA) National Moot Court competition which took place in San Diego, California and lasted several days. During my tenure at Thompson and Knight LLP, I also volunteered my time to train young associates and participated as a judge during the firm's moot court training program for associates.

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 submitted an application to U.S. Senator Kay Bailey Hutchison in November 2008. In January 2009, I also submitted letters of interest to Sen. Hutchison and to Senator John Cornyn, as well as to senior members of the Texas Democratic congressional delegation.

In January 2009, I interviewed with U.S. Congressman Henry Cuellar in Washington, D.C. In October 2009, I was recommended for nomination to the President by the Texas Democratic Delegation.

In November 2009, I was interviewed by the Senators' Judicial Screening Committee in San Antonio, Texas. In January 2010, I was interviewed by Senators Hutchison and Cornyn in Washington, D.C.

In December 2009, I submitted an application and request for endorsement to the Hispanic National Bar Association (HNBA). The HNBA endorsed my candidacy in March 2010.

Since March 2010, I have been in contact with pre-nomination officials at the Department of Justice. I interviewed with attorneys from the White House Counsel's Office and from the Department of Justice in Washington, D.C., on May 19, 2010. The President submitted my nomination to the Senate on July 28, 2010.

- 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, **MARINA GARCIA MARMOLEJO**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

8/4/10
(DATE)

Callie
(NAME)

Pat Brantley
(NOTARY)

County of Washington
Commonwealth/State of DC

The foregoing instrument was subscribed and sworn before me this 4th day of August, 2010, by

Marina Garcia Marmolejo
(name of person seeking acknowledgment)

Pat Brantley
Notary Public

My commission expires: 3/14/2013