

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Maryellen Noreika

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

United States District Judge for the District of Delaware

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.

Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801

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

1966; Pittsburgh, Pennsylvania

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.

1990 – 1993, University of Pittsburgh School of Law; J.D. (*magna cum laude*), 1993

1988 – 1990, Columbia University, Graduate School of Arts and Sciences;  
M.A., Biology, 1990

1984 – 1988, Lehigh University; B.S., 1988

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.

1992 – Present  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
Partner (2001 – present)  
Associate (1993 – 2000)  
Summer Associate (Summer 1992)

1991 – 1992  
Federal Judicial Center  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle NE  
Washington, District of Columbia 20002  
Research Assistant to Professor Arthur D. Hellman

Fall 1990  
Stanley Kaplan Inc.  
130 North Bellefield Avenue  
Pittsburgh, Pennsylvania 15213  
LSAT Course Instructor

1988 – 1990  
Columbia University  
116th Street and Broadway  
New York, New York 10027  
Faculty Research Fellow

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

I have never served in the military. I was not required to register for selective service.

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

Chambers USA: America's Leading Lawyers for Business for Delaware: Intellectual Property (2005 – 2017)

The Best Lawyers in America for Delaware "Litigation – Patent" (2011 – 2018) and "Patent Law" (2011 – 2018)

Best Lawyers Business Edition's Women in the Law for Delaware "Intellectual Property – Patent" (2016 – 2017)

Who's Who Legal: Patents (2014 – 2015, 2017)

IAM Patent 1000: The World's Leading Patent Practitioners for Delaware "Litigation and Transactions" (2014 – 2017)

*Magna cum laude* graduate, Order of the Coif, University of Pittsburgh School of Law (1993)

University of Pittsburgh School of Law Dean's Scholar (1990 – 1993)

Columbia University Faculty Research Fellow (1988 – 1990)

Lehigh University E.B. Coxe Trustee Scholar (1984 – 1985)

Lehigh University Henry Farmer Foundation Scholar (1984 – 1985)

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 (1993 – present)

Delaware State Bar Association (1993 – present)

Delaware District Court Federal Trial Practice Seminar, Program Mentor (2015)

Delaware District Court Advisory Committee (2004 – 2015)

Delaware District Court Local Rules Committee (2009 – 2010)

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.

Delaware, 1993

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 Third Circuit, 2005  
United States Court of Appeals for the Federal Circuit, 1995  
United States District Court for the District of Delaware, 1994  
United States Patent and Trademark Office, 1992

There has been no lapse in my membership or change of my status for the United States Court of Appeals for the Federal Circuit or for the United States District Court for the District of Delaware.

My status in the United States Court of Appeals for the Third Circuit was changed to "inactive" in 2010 because I had not entered an appearance in a Third Circuit case for five years. My status in the United States Patent and Trademark Office was changed to "inactive" in 2003 because I chose not to renew my membership as I do not practice there.

**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.

None.

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

To my knowledge, none of the organizations in which I hold membership 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.

From 1991 to 1992, I provided editorial support for the article authored by Arthur D. Hellman, "Unresolved Intercircuit Conflicts: The Nature and Scope of the Problem Final Report: Phase I" (Federal Judicial Center, 1991). 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.

None.

- 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.

- 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 delivered 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.

May 4, 2017: Speaker, "Remarks on Judge Robinson's Contributions to the Delaware District Court," Women's Intellectual Property Law Association, Spring Meeting, Wilmington, Delaware. Speech supplied.

May 24, 2006: Speaker, "Prepare to Succeed in Federal Court," National Business Institute, Wilmington, Delaware. Presentation slides supplied.

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

Bloomberg News, *Inventor Loses Patent Suit on Internet Software*, The New York Times, Mar. 7, 2003. 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:
    - ii. jury trials: \_\_\_\_\_%
    - bench trials: \_\_\_\_\_%
    - iii. civil proceedings: \_\_\_\_\_%
    - criminal proceedings: \_\_\_\_\_%
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature 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 held judicial office.

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

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

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

I have not held public office.

- 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.

None.

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 have not served 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.

1993 – present

Morris, Nichols, Arsht & Tunnell LLP

1201 North Market Street

16th Floor

Wilmington, Delaware 19801

Associate (1993 – 2000)

Partner (2001 – present)

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

I was appointed to serve as an arbitrator in the following matters:

*Peggy Morales-Nguyen v. Cynthia C. McVey*, C.A. No. 04C-04-255-FSS in the Delaware Superior Court

This case settled prior to any hearing. I have no information on the subject matter of the case.



*Gladfelter v. Fowler*, C.A. No. 03C-06-195-MMJ in the Delaware Superior Court

The case involved an automobile accident. The defendant did not contest liability and, for purposes of the arbitration, acknowledged that plaintiff had sustained moderate injury in the accident. The arbitration result was a finding for the plaintiff and an award of damages to plaintiff in the amount of \$12,000.

*Dawn L. McCormick v. Selene M. Walton*, C.A. No. 03C-03-035-CHT in the Delaware Superior Court

This case settled prior to any hearing. I have no information on the subject matter of the case.

*Staci K. Paddock v. Gary L. Erne et al*, C.A. No. 02C-12-162-WCC in the Delaware Superior Court

The case involved an automobile accident where the plaintiff filed suit against two defendants, alleging injuries to plaintiff's neck and back. With respect to the first defendant, the arbitration result was a finding for the plaintiff with an award of damages to plaintiff in the amount of \$10,000.00 for injuries suffered and an additional award of \$2,991.86 for out-of-pocket expenses. With respect to the second defendant, the result was a finding against the plaintiff.

*Linda A. Schultz v. Delaware Transit Corp.*, C.A. No. 02C-05-112-JOH in the Delaware Superior Court

The case involved an automobile accident. The arbitration result was a finding for the plaintiff with an award of damages to plaintiff in the amount of \$90,000 for injuries suffered and an additional award of \$235 for damage to plaintiff's mobility scooter.

b. Describe:

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

I have had more than 20 years of civil trial experience. I began my practice in 1993 working as an associate at Morris, Nichols, Arsht & Tunnell LLP. Initially, my work was split relatively evenly between intellectual property and complex litigation in the federal courts and corporate litigation in the Delaware state courts. By 1995, the split became more weighted toward

practice in the district courts, and now greater than 90% of my practice is in the federal courts.

My focus has been on civil litigation involving intellectual property. My cases predominantly involve patent litigation, but have also included trademark claims involving the Lanham Act and unfair competition. I have represented clients in areas including pharmaceuticals, biotechnology, consumer products, computers and telecommunications. I have participated in all aspects of pretrial discovery, including document collection and review, depositions and expert reports. I have argued substantial motions, including summary judgment motions, motions *in limine* and post-trial motions, and I have argued claim construction issues at *Markman* hearings in patent cases. I have tried cases, including giving openings and closings and examining witnesses. I have also worked on appeals of matters after trial.

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

I have represented a broad array of clients, from individuals to multinational corporations. I have represented plaintiffs and defendants. My practice has focused on intellectual property litigation including patent litigation and some unfair competition, trademark and Lanham Act cases.

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

The vast majority of my legal practice has been devoted to civil litigation. I appear at least several times each month in federal district courts. I appear occasionally in state courts. My appearances in state courts are usually in connection with *pro bono* work. Some years I will appear several times in the state courts and other years not at all.

- i. Indicate the percentage of your practice in:
  - 1. federal courts: 95%
  - 2. state courts of record: 5%
  - 3. other courts: 0%
  - 4. administrative agencies: 0%
- ii. Indicate the percentage of your practice in:
  - 1. civil proceedings: 100%
  - 2. criminal proceedings: 0%

- 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 estimate I have tried at least 30 cases to verdict or final decision. In nine cases, I was chief counsel, in ten cases I was associate counsel, and in the remaining cases, I had an advisory role.

- i. What percentage of these trials were:
  - 1. jury: 33%
  - 2. non-jury: 67%

- 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.

In the following cases, I prepared or assisted in the preparation of petitions for certiorari or briefs filed in the Supreme Court:

*Mylan Pharmaceuticals Inc. et al v. Acorda Therapeutics Inc. et al*, No. 16-360.

I have supplied copies of the briefs I assisted with the preparation of.

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. *Recro Gainesville LLC v. Actavis Laboratories FL Inc.*, C.A. No. 14-1118 (GMS), 2017 WL 710051 (D. Del. Feb. 24, 2017).

In 2014, Recro Gainesville LLC sued generic drug manufacturers, Actavis Laboratories FL Inc. and Alvogen Pine Brook, Inc. for infringement of certain Recro patents relating to sustained release hydrocodone products. I was lead counsel for Recro. Alvogen settled just prior to trial. Actavis challenged infringement of the two patents asserted against it. There was a bench trial in October 2016 against Actavis before Judge Gregory M. Sleet. I delivered the

opening statement and cross-examined all Actavis witnesses. After trial, the district court found that both of the asserted patents were infringed and issued an injunction. The case is currently on appeal.

Co-Counsel for Plaintiff:  
Jeremy Tigan  
Megan Dellinger  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Counsel for Defendant Actavis Laboratories FL Inc.:  
Christopher Sorenson  
Merchant & Gould, P.C.  
3200 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
612-336-4645

Counsel for Defendant Alvogen Pine Brook, Inc.:  
Matthew Becker  
Axinn, Veltrop & Harkrider LLP  
90 State House Square  
Hartford, Connecticut 06103  
860-275-8177

2. *Acorda Therapeutics Inc., et al. v. Alkerm Labs. Ltd., et al.*, C.A. No. 14-882 (LPS) (consolidated), 2017 WL 1199767 (D. Del. March 31, 2017).

In 2014, Acorda and Alkermes Pharma Ireland Limited sued eight generic drug companies for infringement of one Alkermes patent and four Acorda patents relating to a multiple sclerosis treatment. I was lead counsel for Alkermes and local Delaware counsel for Acorda. Four of the generic drug companies settled before trial. Trial proceeded against Apotex, Mylan, Roxane and Teva. Each defendant admitted infringement of the five patents asserted, but challenged the validity of the patents. There was a bench trial in September 2016 before Judge Leonard P. Stark. I prepared the Alkermes' expert for direct examination and helped prepare the cross-examination of the defendants' expert on the Alkermes' patent. The district court found that the Alkermes patent was valid, but that the four Acorda patents were invalid. The case is currently on appeal.

Co-counsel for Plaintiff Acorda:  
Aaron Stiefel  
Arnold & Porter Kaye Scholer LLP

250 West 55th Street  
New York, New York 10019  
212-836-8000

Opposing counsel for Mylan:  
Robert L. Florence  
Parker Poe Adams & Bernstein LLP  
1180 Peachtree Street, N.E.  
Suite 1800  
Atlanta, Georgia 30309  
678-690-5750

Opposing counsel for Apotex, Roxane and Teva:  
Charles B. Klein  
Winston & Strawn LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
312-558-5600

3. *LadaTech, LLC v. Illumina, Inc.*, C.A. No. 09-627 (SLR) (D. Del.).

In 2009, LadaTech sued Illumina for infringement of a patent related to DNA microarrays. I represented LadaTech along with Jack Blumenfeld. Illumina contested infringement of the patent and asserted that the claims were invalid. A jury trial on the infringement and validity issues occurred in February 2012 before Judge Sue L. Robinson. At trial, I examined all of LadaTech's witnesses on direct and cross-examined several of the Illumina witnesses. The jury returned a verdict for plaintiff that all of the asserted claims were infringed and valid. The case settled prior to the damages phase of the case.

Co-counsel:  
Jack Blumenfeld  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Opposing counsel:  
Jeffrey N. Costakos  
Foley & Lardner LLP  
777 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202  
414-271-2400

4. *Synthon IP, Inc. v. Pfizer Inc.*, C.A. 05-01267 (TSE) (TRJ) (E.D. Va.), 472 F. Supp. 2d 760 (E.D. Va. 2007) and 484 F. Supp. 2d 437 (E.D. Va. 2007) (fees), both, *aff'd*, 281 Fed. App'x. 995 (Fed. Cir. 2008).

In 2005, Synthon IP sued Pfizer for infringement of two patents related to a chemical intermediate used in the manufacture of Pfizer's Norvasc® product. I represented Pfizer along with Jack Blumenfeld. Pfizer contested infringement and validity of the patents and also asserted that the patents were unenforceable based on inequitable conduct before the Patent Office in obtaining the patents. A jury trial occurred in August 2006 before Judge T.S. Ellis, III. At trial, I examined multiple Pfizer witnesses and cross-examined Synthon's expert. The jury returned a verdict that all of the asserted claims were not infringed and also invalid on multiple grounds. A subsequent bench trial resulted in the patents being held unenforceable and an award to Pfizer of fees. The case was affirmed on appeal.

Co-counsel:  
Jack Blumenfeld  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Opposing counsel:  
Jonathan Graves  
Cooley LLP  
Reston Town Center  
11951 Freedom Drive  
Reston, Virginia 20190-5656  
703-456-8119

5. *Pharmacia Corp., et al. v. Par Pharmaceutical, Inc.*, C.A. No. 01-6011 (SRC) (TJB) (D.N.J.) unpublished opinion July 7, 2004, *aff'd*, 417 F.3d 1369 (Fed. Cir. 2005).

In 2001, Pharmacia and Columbia University sued Par for infringement of three patents related to a glaucoma treatment. I represented Pharmacia along with Jack Blumenfeld. Par admitted infringement but asserted that the claims of the patents were invalid and unenforceable for inequitable conduct before the Patent Office. A bench trial was held in March 2004 before Judge Stanley R. Chesler. At trial, I examined Pharmacia witnesses on direct and argued evidentiary motions. The district court found that two of the three patents were valid and enforceable, but that the third was unenforceable. The case was affirmed on appeal.

Co-counsel:  
Jack Blumenfeld

Rodger Smith  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Opposing counsel:  
Glenn J. Pfadenhauer (deceased)

Kevin Hardy  
Williams & Connolly LLP  
725 Twelfth Street, NW  
Washington, District of Columbia 20005  
202-434-5000

6. *Red Sonja LLC v. Paradox Entertainment Inc.*, C.A. No. 06-270 (SLR) (D. Del.).

In 2006, plaintiff sued Paradox for unfair competition, trademark infringement and trademark dilution based on Paradox's use of the character Red Sonya with a "y." I was lead counsel for Paradox. A bench trial was held in January 2008 before Judge Sue L. Robinson. At trial, I gave the opening statement and cross-examined the plaintiff's witnesses. After the second day of a bench trial, the parties settled the case with a payment of \$1.00 by Paradox.

Co-counsel:  
Richard Bauer  
[Current contact information unknown]  
Then at Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Opposing counsel:  
Thomas Curran  
Ganfer & Shore, LLP  
360 Lexington Avenue  
New York, New York 10017  
212-922-9250

7. *AutoZone Inc. et al v. Tri-State Auto Outlet, Inc. et al*, C.A. No. 04-103 (SLR) (D. Del.).

In 2004, AutoZone sued Tri-State and its owner, Robert Moseder, for service mark and trademark infringement, trade name infringement, unfair competition, and service mark and trademark dilution based on Tri-State's use of the name CarZone for its used car sales. I was lead counsel for defendants. A bench trial was held in December 2004 before Judge Sue L. Robinson. At trial, I delivered the opening statement and cross-examined the AutoZone witnesses. On June 8, 2005, the district court entered judgment in favor of defendants and granted defendants' motion for attorney fees. Plaintiffs appealed and in connection with mediation in the Third Circuit during the appeal, the parties settled the case with the payment of defendants' fees and costs and an agreement that the district court would vacate the June 8, 2005 judgment.

Co-counsel:

James W. Parrett

[Current contact information unknown]

Then at Morris, Nichols, Arsht & Tunnell LLP

1201 North Market Street

16th Floor

Wilmington, Delaware 19801

302-658-9200

Opposing counsel:

Alan Cooper

Pillsbury Winthrop Shaw Pittman LLP

2300 N Street NW

Washington, District of Columbia 20037

202-663-8000

8. *Affymetrix, Inc. v. Illumina, Inc.*, C.A. No. 04-901 (JJF) (D. Del.).

In 2004, Affymetrix sued Illumina for infringement of multiple patents related to DNA microarrays. I represented Affymetrix, and served as second chair. Illumina contested the infringement and validity of the asserted claims. A jury trial was held in March 2007 before Judge Joseph F. Farnan Jr. At trial, I conducted the direct examination of Affymetrix witnesses and the cross-examination of one of Illumina's expert witnesses. The jury returned a verdict that all of the asserted claims were infringed and valid. The case settled prior to the damages phase.

Co-counsel:

Michael J. Malecek

[Then Chief Advocacy Counsel for Affymetrix]

Arnold & Porter Kaye Scholer LLP

3000 El Camino Real

Five Palo Alto Square

Palo Alto, California 94306-3807

650-319-4500



Opposing counsel:  
Mark A. Pals  
Kirkland & Ellis LLP  
300 North LaSalle  
Chicago, Illinois 60654  
312-862-2000

9. *UCB, Inc. et al v. Accord Healthcare, Inc. et al*, C.A. No. 13-1206 (LPS) (consolidated), 201 F. Supp. 3d 491 (D. Del. 2016).

Between 2013 and 2014, UCB sued sixteen generic drug companies for infringement of a patent related to a treatment for epilepsy. I represented plaintiffs and served as associate counsel. Prior to trial, some defendants withdrew their applications to the FDA and were dismissed from the action. The remaining defendants admitted infringement of the asserted patent, but challenged the validity of the claims. A bench trial was held in November 2015 before Judge Leonard P. Stark. At trial, I examined two UCB witness on direct and cross examined one of defendants' expert witnesses. The district court found that all of the asserted claims were valid, and issued an injunction. The case is currently on appeal.

Co-counsel:  
George F. Pappas  
Covington & Burling LLP  
One CityCenter  
850 Tenth Street, NW  
Washington, District of Columbia 20001  
202-662-6000

Jack Blumenfeld  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
16th Floor  
Wilmington, Delaware 19801  
302-658-9200

Opposing counsel for Accord:  
Richard G. Greco  
Richard G. Greco PC  
90 State Street, Suite 700  
Albany, New York 12207  
212-203-7625

Opposing counsel for Alembic:  
Jeffer Ali  
Carlson, Caspers, Vandenburg, Lindquist & Schuman, P.A.

Capella Tower  
225 South Sixth Street  
Minneapolis, Minnesota 55402  
612-436-9600

Opposing counsel for Apotex:  
Ian Scott  
Taft Stettinius & Hollister LLP  
111 East Wacker Drive  
Suite 2800  
Chicago, Illinois 60601  
312-527-4000

Opposing counsel for Actavis, Amneal, Aurobindo, Breckenridge, Sun:  
George C. Lombardi  
Winston & Strawn LLP  
35 West Wacker Drive  
Chicago, Illinois 60601  
312-558-5600

Opposing counsel for Mylan:  
Nicole Stafford  
Wilson Sonsini Goodrich Rosati, P.C.  
900 South Capital of Texas Highway  
Las Cimas IV  
Austin, Texas 78746  
512-338-5400

Opposing counsel for Zydus:  
Michael J. Gaertner  
Locke Lord LLP  
111 South Wacker Drive  
Chicago, Illinois 60606  
312-443-0700

10. *Par Pharmaceutical, Inc. et al v. TWi Pharmaceuticals, Inc.*, C.A. No. 11-2466 (CB), 2014 WL 694976 (D. Md. Feb. 21, 2014), *rev'd*, 773 F.3d 1186 (2014) and 120 F. Supp. 3d 468 (D. Md. 2014), *aff'd*, 624 F. App'x. 756 (Fed. Cir. 2015).

In 2011, Par and Alkermes Pharma Ireland Limited sued TWi for infringement of an Alkermes' patent relating to a drug for improving appetite in cancer and AIDS patients. I was lead counsel for Alkermes and served as second chair to Par's counsel at trial. During the bench trial in October 2013 before Judge Catherine Blake, I handled the direct examination of the Alkermes' witnesses. After trial, the district court held that the patent was invalid. That finding was reversed on appeal

and the case remanded. On remand, the district court again held the claims were invalid, and that holding was affirmed on the second appeal.

Co-counsel (counsel for Par):

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Opposing counsel for TWI:

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

As a partner at Morris, Nichols, Arsht & Tunnell LLP, most of my time involves litigation. I also spend some time counseling clients regarding patent, licensing, acquisition and settlement strategies.

From approximately 2004 to 2015, I served on the Delaware District Court Advisory Committee, meeting with Delaware attorneys and district court judges to discuss practice in the district court and potential changes that could be made to improve access to and practice before the court. The meetings were held on an ad hoc basis. I also served on the Delaware District Court Local Rules Committee, a subcommittee of the Advisory Committee from 2009 to 2011. The subcommittee was tasked with evaluating the local rules at the time, proposing changes to the rules, reviewing comment on the proposed changes and recommending final changes.

In 2015, I also served as a Program Mentor for the Delaware District Court Federal Trial Practice Seminar. The program is run by the district court and has the aim of providing opportunities for young lawyers to gain experience. As a Program Mentor, I participated in all of the seminars and, along with the judges on the court, provided feedback and thoughts on the mock openings, arguments and witness examinations performed by the program participants.

I have never served as a lobbyist.

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

None.

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

None.

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

I have no plans, commitments or agreements to pursue 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.

If confirmed, I will recuse myself in any case where Keith A. Noreika, my brother and currently the Acting Comptroller of the Currency, is involved and in any action arising from his decisions or actions taken during his tenure at the Office of the Comptroller of the Currency with the Department of the Treasury. I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel including recusal where necessary.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.. I will recuse myself from cases that may give rise to any actual or apparent conflict-of-interest.

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.

Since 2002, I have served as a guardian ad litem for children in the Delaware Family Court. I have been appointed in cases involving at least seven minors ranging in age from four to sixteen. The cases have involved difficult custody issues, including allegations of sexual and physical abuse, neglect, and abandonment. The cases tend to last for substantial periods of time, ranging from two to three years, and require not only legal work and practice in the Family Court, but also personal commitment in developing a relationship with the minors in order to understand their desires and to determine what is in their "best interests."

While I estimate I have spent hundreds of hours on my guardian ad litem matters over the years, I have not attempted to keep records of all of my time. For example, the time spent included taking children out to lunch and to dinner and fun activities to get them to engage with me and trust me. I estimate that I have spent in excess of 50 hours a year on pro bono activities most years.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications

you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On July 13, 2017, I interviewed with the Delaware selection committee. On July 21, 2017, I interviewed with Senator Carper, Senator Coons and members of their staff. On August 14, 2017, I was contacted by a representative from the White House Counsel's Office about scheduling an interview. On August 23, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On September 15, 2017, I was notified by the White House Counsel's Office that my name was sent to the Department of Justice to begin formal vetting. Since September 17, 2017, I have been in contact with officials from the Office of Legal Policy at the Department of Justice.

- 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.