

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Tanya Sue Chutkan

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

United States District Judge for the District of Columbia

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.

Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, D.C. 20015

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

1962; Kingston, Jamaica

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.

1984 – 1987, University of Pennsylvania Law School; J.D., 1987
1979 – 1983, George Washington University; B.A., 1983

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.

2002 – present
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, D.C. 20015
Partner (2007 – present)
Counsel (2002 – 2006)

1991 – 2002

Public Defender Service for the District of Columbia

633 Indiana Avenue, NW

Washington, D.C. 20004

Staff Attorney (2000 – 2002, 1991 – 1996)

Lead Attorney, Homicide (1997 – 1999)

Lead Attorney, Sex Offenses and Domestic Violence (1996 – 1997)

October 1990 – September 1991

Donovan Leisure, Rogovin, Huger & Schiller (firm no longer in existence)

1250 24th Street, NW

Washington, D.C. 20037

Associate

1987 – 1990, Summer 1986

Hogan & Hartson LLP (now Hogan Lovells)

555 13th Street, NW

Washington, D.C. 20004

Associate (1987 – 1990)

Summer Associate (Summer 1986)

Summer 1985

McKinney, Bancroft & Hughes

Four George Street, Mareva House

P.O. Box N-3937

Nassau, Bahamas

Summer law clerk

Other Affiliations (uncompensated):

2000

School for Friends

2201 P Street, NW

Washington, D.C. 20037

Board of Directors

August 2013 – present

Dress for Success Washington D.C.

101 Q Street, NE

Washington, D.C. 20002

Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social

security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. Military. I 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.

Dean's List, George Washington University (1982)

University of Pennsylvania Law Review, Associate Editor (1985 – 1987)

University of Pennsylvania, Arthur Littleton Legal Writing Fellow (1986 – 1987)

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 (2006 – present)

National Association of Criminal Defense Lawyers (1999 – 2000)

District of Columbia Bar Criminal Law and Individual Rights Section Steering Committee (2000 – 2003)

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.

Pennsylvania, 1988 (retired)

District of Columbia, 1989

There have been no lapses in membership, although I retired my membership in Pennsylvania in 2013 because I no longer practice there.

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

Pennsylvania, 1988

District of Columbia, 1989

United States District Court for the District of Columbia, 1990

United States Court of Appeals for the District of Columbia Circuit, 2012

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.

City Year (November 2012)

Legal Community Breakfast Committee

Dress for Success Washington D.C. (August 2013 – present)

Board of Directors

School for Friends (2000)

Board of Directors

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

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

12. Published Writings and Public Statements:

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

From November 2009 to approximately December 2009, I was a panelist in an online forum on www.washingtonpost.com called "On Success." The forum was discontinued after two or three months. I contributed to the forum twice: November 2, 2009 and November 12, 2009. Copies of my contributions are supplied.

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

I have not prepared or contributed to any report, memoranda or policy statement on behalf of any bar association, committee, conference, or organization.

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

I signed a joint letter signed by a number of attorneys, dated June 10, 2009, in support of Justice Sotomayor's nomination to the United States Supreme Court. Copy supplied.

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

April 3, 2013: Panelist, "Addressing the Elephant in the Room: Job Placement After Law School," American Bar Association, Business Law Section, Washington, D.C. I discussed the current legal market for law school graduates. I have no notes, transcript, or recording. The address for the American Bar Association is 321 North Clark Street, Chicago, IL 60654.

March 22, 2012: Panelist, "Third Party Litigation Financing," MCCA CLE Expo, Chicago, Illinois, Minority Corporate Counsel Association, Washington, D.C. I discussed the potential benefits and drawbacks of third party litigation funding. I have no notes, transcript, or recording. The address for the Minority Corporate Counsel Association is 1111 Pennsylvania Avenue, NW, Washington, D.C. 20004.

October 15, 2010: Presenter, "Class Action Defense," Altria Client Services, in-house CLE panel, Richmond Virginia. PowerPoint supplied.

June 25, 2010: Moderator, Corporate Counsel Panel, DuPont Minority Counsel Conference, Washington, D.C. I moderated a panel of corporate counsel who were discussing issues relating to minority lawyers. I have no notes, transcript, or recording. The address for DuPont Legal is 1007 Market Street, Wilmington, DE 19898.

2000: Panelist, "Advanced Cross Examination," Criminal Practice Institute, D.C. Public Defender Service, Washington, D.C. I discussed advanced cross-examination techniques. I have no notes, transcript, or recording. The address for the D.C. Public Defender Service is 633 Indiana Avenue, NW, Washington, D.C. 20004.

- 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.

Teresa Wiltz, *'Obama Effect' for Black Women*, MORE, October 2009. Copy supplied.

FOCUS ON: Boies, Schiller & Flexner, NAT'L ASSOC. OF WOMEN LAWYERS, November – December, 2007. 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 any judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? None

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	0%
civil proceedings:	0%
criminal proceedings:	0%

- 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 any judicial office.

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

taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

15. Public Office, Political Activities and Affiliations:

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

I have never 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.

In 2012, I volunteered for Lawyers for Obama. I participated in event planning phone calls over a period of approximately six months. In 1984, I volunteered for Mondale for President, providing occasional office assistance for a period of approximately four months.

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 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.

1987 – 1990
Hogan & Hartson LLP (now Hogan Lovells)
555 13th Street, NW

Washington, D.C. 20004
Associate

1990 – 1991
Donovan Leisure, Rogovin, Huger & Schiller (firm no longer in existence)
1250 24th Street, NW
Washington, D.C. 20037
Associate

1991 – 2002
Public Defender Service for the District of Columbia
633 Indiana Avenue, NW
Washington, D.C. 20004
Staff Attorney (2000 – 2002)
Lead Attorney, Homicide (1999 – 2000)
Lead Attorney, Sex Offenses and Domestic Violence (1996 – 1999)
Staff Attorney (1991 – 1996)

2002 – present
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, D.C. 20015
Partner (2007 – present)
Counsel (2002 – 2007)

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

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

When I first began practicing law after graduation from law school in 1987, I worked as an associate at the firm of Hogan & Hartson (now Hogan Lovells). My work consisted mostly of legal research, drafting legal and factual memoranda, reviewing documents, interviewing witnesses, and drafting discovery requests and responses. A typical case on which I worked was a railroad acquisition which involved determining and acquiring railroad trackage rights.

In 1990, I moved to the law firm of Donovan Leisure Rogovin Huge & Schiller, where I continued to work on general civil litigation matters. I drafted discovery requests and responses, assisted in preparing partners for depositions, reviewed documents, and prepared memoranda and pleadings. A typical case on which I worked included engaging in discovery practice in commercial litigation between two communications companies.

In 1991 I joined the Public Defender Service for the District of Columbia as a staff attorney. I spent eleven years representing indigent defendants charged with crimes in the District of Columbia Superior Court. During that time I was lead counsel in numerous cases, starting with the representation of juvenile respondents and progressing after a year to representing adult defendants charged with general and then more serious felonies. I tried to jury verdict numerous cases as lead counsel, including many serious felonies, such as homicide, first degree sexual assault, and kidnapping. I also spent six months in 1995 in the Appellate Division, where I wrote several appellate briefs and argued two cases before the District of Columbia Court of Appeals.

I joined Boies, Schiller & Flexner LLP in 2002, and returned to a general civil litigation practice, with a concentration in antitrust class actions. I have also represented clients in governmental investigations. In the over ten years that I have been at the firm, I have been part of a lead counsel trial team in four jury trials in federal courts, three of which resulted in favorable verdicts for our clients, and one of which was settled mid-trial. I have also been part of a team that successfully represented a corporate client at a binding arbitration in 2011.

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

During the first three years after graduating from law school, my typical clients were large companies involved in civil litigation or regulatory matters.

After joining the Public Defender Service in 1991, I focused exclusively on criminal defense work, mostly at the trial level, and I also handled two appeals as primary counsel. My clients were all indigent individuals who were charged with criminal offenses in the District of Columbia Superior Court. During the last six years of my time at the Public Defender Service, my cases were almost exclusively homicides, first degree sexual offenses, and complex matters such as blackmail and conspiracy cases.

Since joining Boies, Schiller & Flexner, my practice has focused on general civil litigation, including defending banking clients in class action lawsuits and contract disputes, as well as representing class plaintiffs in

antitrust class action litigation in various federal courts. I have also represented several corporate clients in governmental and internal investigations.

- 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.

More than 90% of my practice has been devoted to litigation. I have done some investigatory or advisory work for several clients, but the majority of my career has been as a litigator, in both criminal and civil cases.

During the first three years of my career, I appeared in court rarely, although I represented an individual seeking political asylum in an evidentiary hearing before an Immigration Judge.

While at the Public Defender Service, I appeared in court on a daily basis, often on multiple matters before different judges.

Since joining Boies, Schiller & Flexner, I have appeared in federal courts regularly, including being part of a lead trial counsel team in four jury trials in federal court. I have also appeared in state courts occasionally, including D.C. Superior Court. In the last eleven years, I have appeared in court between four to ten times per year, including status conferences, motions hearings, pre-trial conferences, and jury trials.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 48% |
| 2. state courts of record: | 50% |
| 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 approximately 40 to 45 cases to verdict or final decision over the course of my entire career, the vast majority during my employment with the D.C. Public Defender Service. Since joining Boies, Schiller & Flexner, I have been part of a lead trial team in three cases which were tried to jury verdict and one case, for injunctive relief, that was tried to final decision.

- i. What percentage of these trials were:
 1. jury: 95%
 2. non-jury: 5%
- e. Describe your practice, if any, before the Supreme Court of the United States. Supply 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 been on the brief in the following matters, although I was not the primary author in any matter:

Columbia Iron & Metal Co. v. Lincoln Elec. Co., 129 S. Ct. 1673 (2009) (Brief in Opposition, 2009 WL 526998).

Gillard v. Mitchell, Warden, 2006 WL 3425192 (Petition for Writ of Certiorari); 2007 WL 978481 (Petition for Rehearing); 2007 WL 407763 (Reply Brief in Support of Petition for a Writ of Certiorari).

Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd., 502 U.S. 105 (1991), 1991 U.S. S. Ct. Briefs LEXIS 972 (Amicus Brief).

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. *In re Vitamin C Antitrust Litigation*, Case No. 1:06-md-01738-BMC-JO (E.D.N.Y.) (Judge Brian Cogan, presiding).

Since 2005, I have been a member of the team representing class plaintiffs, who are bulk purchasers of Vitamin C. The case, filed in January 2005, was the first ever antitrust trial against Chinese companies held in the United States, and took seven years from the filing of the complaint to jury verdict. The case was also notable because for the first time, the Chinese government entered an appearance

in a United States Court to argue that the defendants' actions were mandated by the Chinese government. Judge Cogan denied defendants' motions to dismiss and for summary judgment, ruling that Chinese law did not compel the defendants' actions, but allowed the defendants to present a compulsion defense which was rejected by the jury. After a three-week trial, class plaintiffs won a \$54.1 million verdict – subject to trebling – on March 14, 2013. We continue to represent class plaintiffs in defendant's appeal of the verdict, as well as in efforts to enforce the judgment.

Lead Co-Counsel for the Plaintiff Class:

William Isaacson
Jennifer Milici
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James Southwick
Shawn Raymond
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Houston, TX 77002
(713) 651-9366

Michael Hausfeld
Brian Ratner
Brent Landau
Melinda Coolidge
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Opposing Counsel:

Charles Critchlow
Darrell Prescott
Baker & McKenzie LLP
452 Fifth Avenue
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(212) 626-4100

Daniel Mason
Jiangxiao Hou
Eric W. Buetzow

Zelle Hoffman Voelbel & Mason LLP
44 Montgomery Street - Suite 3400
San Francisco, CA 94104
(415) 633-1910

2. *Vensure Federal Credit Union v. National Credit Union Administration*, Case No. 1:11-cv-00785-RMC, 798 F. Supp. 2d 1 (D.D.C. 2011) (Judge Rosemary M. Collyer, presiding).

From April 2011 to July 2011, I led a team on behalf of Vensure Federal Credit Union in a challenge to the National Credit Union Administration's (NCUA) decision to place the credit union in receivership on the basis of the credit union's provision of automated clearinghouse services to member clients that processed payments for online poker companies. Plaintiff Vensure filed a complaint and request for injunctive relief, which was followed by an initial hearing on the request for injunctive relief, which was denied. After extensive briefing, and an evidentiary hearing at which both sides presented witnesses, the court, in a July ruling and opinion, upheld the NCUA's decision to place Vensure into receivership.

Co-Counsel:

Jonathan Sherman
Amy Neuhardt
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Washington, D.C. 20015
(202) 237-2727

James Meadows
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575 Lexington Avenue
New York, NY 10022
(212) 446-2360

Opposing Counsel:

John G. Interrante
Assistant United States Attorney
Office of the United States Attorney for the District of Columbia
Civil Division
555 Fourth Street, NW
Washington, D.C. 20530
(202) 252-2519

David Fink
(Formerly Assistant United States Attorney)
Lewis Johns Avallone, LLP
One CA Plaza
Suite 225
Islandia, NY 11749
(631) 755-0101

3. *In re Scrap Metal Antitrust Litigation*, Case No. 1:02-844 (N.D. Ohio) (Judge Kathleen O'Malley, presiding), 527 F.3d 517 (6th Cir. 2008).

From late 2002 to the present, I have been part of a team representing class plaintiffs, sellers of scrap metal in northeastern Ohio, who brought antitrust claims against scrap metal dealers in northeastern Ohio, alleging that the dealers had rigged bids and allocated markets for scrap metal, causing plaintiffs to receive lower prices for their scrap metal. Several of the defendants had pleaded guilty in a parallel criminal investigation by the United States Department of Justice. After a three-week trial in February 2004, the jury returned a verdict in favor of class plaintiffs for \$11.5 million, pre-trebling, against one defendant. We represented class plaintiffs through the ensuing post-trial litigation, and on appeals filed by the defendant in the Sixth Circuit, and the U.S. Supreme Court, all of which were denied. We continue to represent the class plaintiffs in efforts to collect the judgment and distribute the proceeds.

Lead Co-Counsel for Plaintiff Class:

William Isaacson
Boies, Schiller & Flexner LLP
5301 Wisconsin Avenue, NW
Washington, D.C. 20015
(202) 237-2727

Ned Searby
Baker & Hostetler
PNC Center
1900 East Ninth Street
Suite 3200
Cleveland, OH 44114
(216) 861-7689

Opposing Counsel for Defendant Columbia Iron & Metal:

Leslie W. Jacobs
Horatio G. Mihet
Thompson Hine LLP
3900 Key Center

127 Public Square
Cleveland, OH 44114-1291
(216) 566-5500

Opposing Counsel for Defendant DeMilta Iron & Metal:

William D. Beyer
Joan E. Pettinelli
Wuliger, Fadel & Beyer
1340 Sumner Court
Cleveland, OH 44115
(216) 781-7777

4. *Floorgraphics, Inc. v. News America Marketing*, Case No. 04-3500 (D.N.J.)
(Judge Anne Thompson, presiding).

From late 2008 to March 2009, I was part of a team that represented the owners of Floorgraphics in a case alleging tortious interference with contractual relations and interference with business relationship and prospective contractual relations against News America. Floorgraphics claimed that, beginning in or around 1999, the News America defendants commenced a deliberate and malicious campaign to destroy Floorgraphics so that it could control, among other things, the floor advertising market. After several days of jury trial before U.S. District Judge Anne Thompson in March 2009, the case was settled at the close of the plaintiff's case.

Co-Counsel:

William Isaacson
William Jackson
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Opposing Counsel:

Lee Abrams
Mayer Brown LLP
71 South Wacker Drive
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Diane Green-Kelly
Reed Smith
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(312) 207-1000

Steve Goodell
Herbert Van Ness Cayci & Goodell, PC
3131 Princeton Pike
Building Four, Suite 114
Lawrenceville, NJ 08648
(609) 924-2495

5. *In Re Vitamins Antitrust Litigation*, MDL No. 1285, Case. No. 99-197 (D.D.C) (Judge Thomas Hogan, presiding).

From October 2002 to July 2003, I was a member of the trial team that represented class plaintiffs, bulk purchasers of the vitamin supplement choline chloride, in a trial of antitrust claims against choline chloride manufacturers. The trial represented the culmination of a long investigation and prosecution of a world-wide vitamins cartel, in which the European Union and the Department of Justice prosecuted and fined several vitamin manufacturers and their employees for fixing prices. After multiple settlements, the case proceeded to trial against the two remaining defendants: Mitsui Co., Inc. and DCV, Inc. The jury returned a verdict of \$53 million – subject to trebling – for the class plaintiffs. The case was the only one to proceed to trial and represented a historic recovery on behalf of hundreds of class members who had been damaged by paying higher prices as a result of the collusion.

Lead Co-Counsel for Plaintiff Class:

David Boies
William Isaacson
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Michael Hausfeld
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Brent Landau
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James Southwick
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1000 Louisiana, Suite 5100
Houston, TX 77002-5096
(713) 651-9366

Opposing Counsel:

Sutton Keany (retired)

Kurt Oldenwald
(Formerly counsel for DCV, Inc.)
Judge, Missouri Court of Appeals, Eastern District
One Post Office Square
815 Olive Street, Room 304
St. Louis, MO 63101
(314) 539-4300

6. *United States v. Greer*, No. F-7528-94, (D.C. Superior Court) (Judge Brooke Hedge, presiding), *rev'd*, 697 A.2d 1207 (D.C. 1997).

In 1996, while at the Public Defender Service, I represented Mr. Greer at trial in D.C. Superior Court. Mr. Greer was charged with and convicted of drug distribution. At trial, I requested an instruction that the absence of evidence can be considered in determining whether guilt has been proven beyond a reasonable doubt. The court refused to give the instruction and on appeal, which was briefed and argued by the Appellate Division of the Public Defender Service, the District of Columbia Court of Appeals reversed the conviction, reaffirming the principle that reasonable doubt may be based on the absence of evidence. This case, which is frequently cited, is now part of the training for all new attorneys at the Public Defender Service.

Opposing counsel:

James Sweeney
Assistant United States Attorney
Office of the United States Attorney for the District of Columbia

555 Fourth Street, NW
Washington, D.C. 20530
(202) 252-1900

7. *United States v. Gervacia*, No. F 8649-97 (D.C. Superior Court) (Judge Mary Ellen Abrecht, presiding).

In 1986, I represented Mr. Gervacia on charges of first degree sexual assault. At trial, the government introduced DNA and expert evidence linking Mr. Gervacia to the sexual assault. At trial, I cross-examined the government's DNA expert extensively about the potential unreliability of the source and composition of the DNA databases in light of the fact that both parties came from a geographic area with a relatively homogenous population. Mr. Gervacia was subsequently acquitted.

Opposing Counsel:

Amy Conway-Hatcher
(Formerly Assistant United States Attorney)
Kaye Scholer
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8. *United States v. Coleman*, No. F-7216-94 (1997, D.C. Superior Court) (Judge John Bayly, presiding), *rev'd*, 779 A.2d 297 (D.C. 2001).

I represented Mr. Coleman on charges of arson and malicious destruction of property in November 1997. At trial, Mr. Coleman's sister stated on cross-examination that Mr. Coleman had set fires before. After my request for a mistrial was denied, I requested that the trial judge give the jury an immediate limiting instruction, due to the prejudicial nature of the witness' statement. The trial judge refused, although he did give a corrective instruction the next day at the close of the prosecution's case. The jury acquitted Mr. Coleman of arson but convicted him of malicious destruction of property. On appeal, the D.C. Court of Appeals reversed the conviction, holding that the trial court should have given an immediate cautionary instruction, and that failure to do so was reversible error. On remand, the government entered a *nolle prosequi* and the case was dismissed.

Opposing Counsel:

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Number 330

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9. *United States v. Smith*, No. 95-CO-1523 (D.C. Superior Court) (Judge Henry Greene, presiding), 685 A.2d 380 (D.C. 1996), *cert. denied*, 522 U.S. 856 (1997).

While at the Public Defender Service, I represented Ms. Smith in 1995 in D.C. Superior Court. Ms. Smith was charged with several counts of stalking, blackmail, and threats. This case was significant because it was one of the first cases to be brought under the D.C. stalking law and was the first blackmail case to be tried in the District of Columbia in at least 20 years. The defense challenged the D.C. stalking statute on constitutional grounds, and after lengthy motions practice, the court granted the defense motions to dismiss. We proceeded to trial on the remaining counts and Ms. Smith was found not guilty on all charges except for one blackmail count, on which the jury was deadlocked. The government appealed the dismissal of the stalking charges, and the Court of Appeals reversed the dismissal and reinstated the charges. Ms. Smith eventually pled guilty to one misdemeanor charge.

Co-Counsel:

Hon. Robert L. Wilkins
(Formerly attorney, D.C. Public Defender Service)
Judge, U.S. Court of Appeals for the District of Columbia Circuit
U.S. Court of Appeals for the District of Columbia
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202-216-7000

Opposing Counsel:

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10. *Turner v. Bayly*, No. 95-SP-1170 (D.C. Superior Court) (Judge John Bayly, presiding), *petition for writ of mandamus granted*, 673 A.2d 596 (D.C. 1996).

In January 1996, I represented Mr. English on a charge of misdemeanor threats. The D.C. City Council had enacted legislation that made misdemeanors punishable by more than 180 days in jail eligible for trial by jury. The offense of misdemeanor threats was punishable by up to six months in jail. On the day of trial, I therefore requested that Mr. English be tried by jury, on the grounds that an offense punishable by up to six months carried a maximum penalty of more than 180 days in jail – a position with which the U.S. Attorney’s Office agreed. The judge ruled that the charge was ineligible for jury trial and refused to postpone the trial to allow the defense to seek interlocutory appeal. Along with two other similarly situated defendants, and with the assistance of co-counsel from the Public Defender Service, I sought a stay of trial and a writ of mandamus from the D.C. Court of Appeals directing the court to impanel a jury to hear the case. The Court of Appeals granted the stay and, after briefing and oral argument, granted the writ and ordered that Mr. English be tried by jury. I represented Mr. English at trial, at which he was acquitted.

Co-counsel on Petition for Stay and Writ of Mandamus:

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Counsel for Judge Bayly:

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Counsel for the Government:

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Hon. John Fisher
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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.)

In 2007, I represented a major corporate client in a grand jury investigation of alleged false statements to a governmental agency investigating environmental violations, in which my client produced hundreds of thousands of documents and in which several current and former employees testified before the grand jury. After a lengthy investigation, the Department of Justice closed the matter and decided not to pursue criminal charges against our client. I prepared and represented the client employees who testified before the grand jury and participated in meetings with the prosecutors from the Department of Justice in which we set forth our client's position.

I have participated in an internal investigation for a corporate client into possible leaks of secret and sensitive material to Chinese nationals. As part of that investigation, I conducted internal interviews of client employees and met with FBI agents regarding their investigation into the matter. The case did not result to my knowledge in the prosecution of any employee of the client or any finding that the client had violated any laws or regulations

I have not performed any lobbying activities.

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

In January 2013, I was guest faculty at the Harvard Law School Trial Advocacy Workshop for one week. I participated in student exercises and critiqued mock trials and exercises over the course of the week. No syllabus available.

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.

Since joining the firm, I have invested in a 401(k) plan administered by Fidelity Investments. I also have a 401(a) account administered by ING from my employment with the D.C. Public Defender Service.

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

If confirmed, I do not have any 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.

If confirmed, I would recuse myself from any matter being handled by Boies, Schiller & Flexner or in any case in which they were a party for a reasonable period of time. I would continue to recuse myself from such matters until there

were no longer any potential conflicts of interest. Even after that time, I would advise the parties that I had been a partner at Boies, Schiller & Flexner were that firm to appear before me. In addition, cases involving former clients could present potential conflicts of interest. In the event of such a potential conflict, I would advise the parties of the potential conflict and seek their input, and refer to the Code of Conduct for United States Judges and other relevant canons and/or treatises. I would also evaluate any other real or potential conflict, or relationship that could give rise to the 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 faced with a potential conflict of interest, I would advise the parties in the matter before me of the potential conflict and seek their input, and refer to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, as well as any other applicable canons, rules, and 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.

During the first three years of my career, while at Hogan & Hartson, I represented, on a pro bono basis and along with another associate, an individual from El Salvador who was applying for political asylum. After a hearing before an Immigration Judge, the client's petition for asylum based on a fear of political persecution was granted and he was permitted to remain in the United States.

Since leaving the Public Defender Service in 2002, I have handled, on my own, two pro bono cases, one for an individual charged with a misdemeanor in D.C. Superior Court, and one for a small business in a contract dispute. In the criminal matter, I made court appearances and negotiated a plea deal. In the contract dispute, I reviewed documents and worked with the client to prepare a demand letter to assist in negotiations.

Currently, I coordinate and supervise my office's pro bono program, which involves assigning associates to represent clients through the D.C. Bar Advocacy and Justice Clinic, which sends cases involving disadvantaged and low-income clients to associates in our office. I supervise the associates in their work on these cases, which includes assessing and assigning the cases, meeting with them and their clients, accompanying them to court when necessary, reviewing all pleadings and other written submissions, and developing strategy. I have supervised associates working on the following cases in the last two and a half years:

Meyers v. Charleston Management – D.C. Superior Court

Collins v. UIP Property Management – D.C. Superior Court
Morgan – Social Security Administration
Keys-Coleman/Child Custody – D.C. Superior Court
Simpson – Social Security Administration
Vaughan-Modification of Non-Custodial Parent Visitation – D.C. Superior Court
Hall-Domestic Violence – D.C. Superior Court
Jefferson-Eviction Proceeding – D.C. Superior Court
Green v. Willoughby Real Estate Co. – D.C. Superior Court
Copeland-Child Custody matter – D.C. Superior Court
Jones v. UIP Management – D.C. Superior Court
United States v. Green – U.S. Court of Appeals for the Eleventh Circuit
Vance v. Scutt – U.S. Court of Appeals for the Sixth 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.

On July 17, 2013, I submitted a Judicial Candidate Questionnaire to Representative Eleanor Holmes Norton's District of Columbia Federal Law Enforcement Nominating Committee. I met with the Committee on August 7, 2013, and with Representative Norton on September 4, 2013. Since September 11, 2013, I have been in contact with officials from the Department of Justice Office of Legal Policy. On October 31, 2013, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On December 19, 2013, the President submitted my nomination to the Senate. On January 6, 2014, the President submitted my renomination 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, TANYA S. CHUTKAN, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

1/2/2014

(DATE)

Tanya Chutkan

(NAME)

(NOTARY)

District of Columbia: SS

Subscribed and Sworn to before me,

this 2nd day of January, 2014

Lorna Ling
Lorna Ling, Notary Public, D.C.

My commission expires October 31, 2015