

**APPLICATION FOR NOMINATION TO
JUDICIAL OFFICE**

**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 65)**

PERSONAL INFORMATION

1. Full Name: **Michael Shawn Catlett**

2. Have you ever used or been known by any other name? **No**

3. Office Address: **Arizona Attorney General's Office
Office of the Solicitor General
2005 N. Central Ave.
Phoenix, Arizona 85004**

4. How long have you lived in Arizona?

I lived in Phoenix, Arizona from May 1980 through September 2006. During my judicial clerkship, I lived in Santa Fe, New Mexico from September 2006 through September 2007. I moved back to Phoenix in September 2007 and have since lived here.

What is your home zip code? **85013**

5. Identify the county you reside in and the years of your residency.

Maricopa County: 2007 - current.

6. If nominated, will you be 30 years old before taking office?

Yes

If nominated, will you be younger than age 65 at the time the nomination is sent to the Governor?

Yes

7. List your present and any former political party registrations and approximate dates of each:

I have been registered with the Republican Party since first registering to vote in approximately 1998.

(The Arizona Constitution, Article VI, § 37, requires that not all nominees sent to the Governor be of the same political affiliation.)

8. Gender:

Male

Race/Ethnicity:

Caucasian

EDUCATIONAL BACKGROUND

9. List names and locations of all post-secondary schools attended and any degrees received.

University of Arizona James E. Rogers College of Law, Tucson, Arizona, Juris Doctor Degree (2006)

Arizona State University, Tempe, Arizona, Bachelor of Science Degree (2002)

Paradise Valley Community College, Phoenix, Arizona (attended 1999-2000)

Glendale Community College, Glendale, Arizona (attended Fall 1998)

10. List major and minor fields of study and extracurricular activities.

Law School - University of Arizona

I was Editor-in-Chief of the Arizona Law Review from 2005 to 2006.

I participated in the appellate moot court program from 2005 to 2006, including serving on the moot court board.

I was a student member of the Federalist Society for Law and Public Policy from 2005 to 2006.

From 2003 to 2004, I served as a representative in the law school's student government.

During the summer of 2004, I was a judicial extern for the Hon. James A. Teilborg on the United States District Court for the District of Arizona. During my second year of law school, at Judge Teilborg's request, I served as a temporary law clerk when one of his full-time law clerks took maternity leave.

During the summer of 2005, I was a summer associate at Quarles & Brady, LLP and served as an intern in the Summer Honors Program at the United States Department of Justice in Washington, D.C.

During the summer of 2006, I was a summer associate at Osborn Maledon, P.A.

Undergraduate - Arizona State University

I majored in finance at Arizona State University.

During most of my time in college, I worked to pay tuition and living expenses, including at Discover Financial Services (customer service), the Arizona Biltmore Resort (valet attendant), Charles Schwab Institutional (finance intern), Gateway Community College (math, economics, and accounting tutor), and Coca Cola Enterprises (finance intern).

11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

Law School - University of Arizona

- **Graduated *Summa Cum Laude* (highest distinction).**
- **Order of the Coif.**
- **Dean's List all semesters.**
- **Aigler Memorial Award - awarded to the graduating student who made the most significant scholarly contribution to the College of Law.**
- **Fegtly Moot Court Award - awarded to the student who obtained the highest overall score in the second-year appellate moot court competition.**
- **Snell & Wilmer Student Note Award - awarded to the student who authored the best second-year note for the Arizona Law Review.**
- **Heurlin Award for Study of Federal Courts - awarded for outstanding performance in the Federal Courts course.**
- **Awarded academic scholarships all three years.**

Undergraduate - Arizona State University

- **Graduated *Summa Cum Laude*.**
- **Wall Street Journal Student Achievement Award - awarded to the student with the top academic performance in the finance program.**
- **While in community college, I received the Presidential Merit Scholarship. I also received a scholarship my senior year at ASU for academic performance.**

PROFESSIONAL BACKGROUND AND EXPERIENCE

12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

Arizona Supreme Court (2007)

United States District Court for the District of Arizona (2007)

United States District Court for the Eastern District of Michigan (2016)

United States Court of Appeals for the Third Circuit (2021)

United States Court of Appeals for the Ninth Circuit (2007)

United States Court of Appeals for the Tenth Circuit (2007)

United States Supreme Court (2021)

I have also been admitted *pro hac vice* in the Central and Northern Districts of California, the District of Utah, the District of Colorado, the District of Nevada, the District of Massachusetts, the Northern District of Texas, and the Southern District of Florida.

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening?

No

- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state?

No

14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	DATES	LOCATION
Arizona Attorney General's Office	5/2020 - Present	Phoenix, AZ
Deputy Solicitor General and Chief Counsel of Special Litigation	1/2021 - Present	
Deputy Solicitor General	5/2020 - 1/2021	
Quarles & Brady, LLP	7/2010 - 5/2020	Phoenix, AZ
Partner	10/2014 - 5/2020	
Associate	7/2010 - 10/2014	
Osborn Maledon P.A.	9/2007 - 7/2010	Phoenix, AZ
Associate		
The Hon. Paul J. Kelly, Jr., United States Court of Appeals for the Tenth Circuit	9/2006 – 9/2007	Santa Fe, NM
Law Clerk		
Osborn Maledon P.A.	5/2006 - 6/2006	Phoenix, AZ
Summer Associate		
United States Department of Justice	7/2005 - 8/2005	Washington, D.C.
Honor's Program Intern		
Quarles & Brady, LLP	5/2005 - 7/2005	Phoenix, AZ
Summer Associate		
The Hon. James A. Teilborg, United States District Court for the District of Arizona	12/2004 - 1/2005	Phoenix, AZ
Extern, Temporary Law Clerk	5/2004 - 8/2004	

**Bank One Corporation
Risk Analyst**

6/2002 - 8/2003

Phoenix, AZ

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

See Exhibit D, which is a list of Assistant Attorneys General supplied by the Attorney General Office's Human Resources Department.

Below, I supplement Exhibit D with attorneys I personally worked with in the Solicitor General's Office but who have since left for other employment.

**Oramel (O.H.) Skinner – Executive Director, Alliance for Consumers
The Hon. Rusty Crandall – Judge, Maricopa County Superior Court
Katherine Jessen – Attorney, Arizona Department of Insurance and
Financial Institutions
Keena Patel – Attorney, McCune Wright Arevalo, LLP**

See Exhibit E for a list of my colleagues at Quarles & Brady around the time of my departure from the firm in May 2020.

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

For the entirety of my career, I have specialized in complex litigation and appeals.

Arizona Attorney General's Office

At the Attorney General's Office, I represent the State of Arizona and the Attorney General in state and federal trial and appellate courts. Since joining the Attorney General's Office in May 2020, I have appeared on behalf of the State of Arizona or the Attorney General in approximately 30 appeals. I have appeared as counsel of record in both divisions of the Arizona Court of Appeals, the Arizona Supreme Court, the U.S. Court of Appeals for the Ninth Circuit, and the U.S. Supreme Court. I have handled a wide variety of issues, including the Second Amendment, victims' rights, energy regulation, antitrust regulation, the open meeting law, criminal law, and election law.

I also represent the State of Arizona and the Attorney General in special litigation matters. For example, I am lead counsel for Arizona in the bipartisan federal antitrust case brought by the Department of Justice and 48 states against Google. I have also represented the State of Arizona and the Attorney General in high-profile cases involving consumer fraud, the unlawful payment of public monies, election integrity, abortion, and redistricting.

I also manage and oversee the Government Accountability Unit and supervise six attorneys. The Government Accountability Unit oversees the investigation and enforcement of Arizona's laws regarding open meetings, payment of public monies, conflicts of interest, procurement, electioneering, lobbyist reporting, and campaign finance. I also oversee the SB1487 process, which allows state legislators to request that the Attorney General initiate investigations of local government for violations of Arizona law

Representative matters:

Arizona Free Enterprise Club v. Hobbs (Arizona Supreme Court – referability of tax legislation); *NCAA v. Alston* (U.S. Supreme Court – antitrust); *Kennedy v. Bremerton School District* (U.S. Supreme Court – religious freedom); *Isaacson v. Brnovich* (District of Arizona, Ninth Circuit, and U.S. Supreme Court – abortion regulation); *303 Creative v. Elenis* (U.S. Supreme Court – religious freedom); *AACJ v. Brnovich* (District of Arizona, Ninth Circuit, and U.S. Supreme Court – victims' rights); *Arizona Democratic Party v. Hobbs* (District of Arizona and Ninth Circuit – election law); *Mi Familia Vota v. Hobbs* (Ninth Circuit – election law); *Schires v. Carlat* (Arizona Supreme Court – Gift Clause); *Duncan v. Bonta* (Ninth Circuit and U.S. Supreme Court – Second Amendment); *Miller v. Bonta* (Ninth Circuit – Second Amendment); *Assoc. of NJ Pistol and Rifle Clubs v. Grewal* (Third Circuit and U.S. Supreme Court – Second Amendment); *Sun City Homeowners Association v. Ariz. Corp. Comm.* (Arizona Supreme Court – water regulation); *Welch v. Cochise County Board of Supervisors* (Arizona Supreme Court – open meeting law); *Rogers v. Mroz* (Arizona Supreme Court – defamation); *State ex rel. Brnovich v. Estrada* (Maricopa County Superior Court – racketeering and unlawful use of public monies); *State ex rel. Brnovich v. Ariz. Bd. of Regents* (Arizona Supreme Court – public monies and Gift Clause); *State ex rel. Brnovich v. City of Tucson* (Arizona Supreme Court – election law); *State ex rel. Brnovich v. Google* (Maricopa County Superior Court – consumer fraud); *State of Colorado v. Google* (District of D.C. – multistate antitrust action); *Ridgell v. Dept. of Child Safety* (Arizona Supreme Court – Arizona Medical Marijuana Act and child neglect); *State v. Poe* (Arizona Court of Appeals – criminal law).

Private Practice

In private practice at Quarles & Brady and Osborn Maledon, I represented individuals and businesses of all sizes in complex business disputes and appeals. I frequently appeared in federal and state courts on behalf of my clients.

Approximately 70% of my practice involved complex commercial litigation in state and federal trial courts. In Arizona state court, I handled cases in the Maricopa, Pima, Pinal, Mohave, and Yavapai county superior courts. In federal court, I handled cases in the District of Arizona, the Central and Northern Districts of California, the District of Utah, the District of Colorado, the District of Nevada, the District of Massachusetts, the Northern District of Texas, the Eastern District of Michigan, the District of New Jersey, and the Southern District of Florida.

I represented companies in a wide variety of industries, including individual investors, financial institutions, direct sales companies, restaurants, law firms, doctors, shipping companies, health care companies, medical device companies, and franchisors, among others.

I handled many different types of claims on behalf of my clients, including class action, professional negligence, breach of fiduciary duty, civil racketeering, fraud, negligent misrepresentation, civil conspiracy, Arizona consumer fraud, securities fraud, breach of contract, malicious prosecution, abuse of process, tortious interference, and unjust enrichment, among others. The cases I handled ranged in value between \$50,000 and over \$1 billion.

Approximately 30% of my practice involved appellate litigation. Within Arizona, I appeared in appeals to the Arizona Supreme Court, both divisions of the Arizona Court of Appeals, and the appellate division of the Maricopa County Superior Court. In federal court, I appeared in appeals in the Ninth, Tenth, and Eleventh Circuits. I also sought and defended against special action relief in Division One of the Arizona Court of Appeals.

17. List other areas of law in which you have practiced.

Not applicable.

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

Not applicable.

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

Legal Documents

I have extensive legal writing experience. I have drafted over 150 briefs in state and federal appellate courts, including opening briefs, answering briefs, reply briefs, petitions for special action, motions and responses, petitions for review, and amicus briefs. I have also drafted hundreds—likely more than 500—briefs and legal documents, including complaints, answers, motions to dismiss and responses, procedural submissions (e.g., proposed schedules and discovery plans), motions to compel and responses, motions for summary judgment and responses, motions in limine, post-trial motions, and proposed findings of fact and conclusions of law. I have also drafted more than 20 mediation statements, describing the factual background of the case and my client's legal position for purposes of settlement. At the Attorney General's Office, I have assisted in drafting and editing several Attorney General Opinions.

I have negotiated and drafted settlement agreements in more than 30 cases, many of which have involved multiple parties or the exchange of something other than money, such as real property, stock, or a security interest. I routinely assisted business clients in negotiating and drafting litigation agreements, like common interest agreements (protecting legal privilege among co-defendants) and protective orders (protecting confidential business documents from disclosure).

As a law clerk to Judge Kelly on the U.S Court of Appeals for the Tenth Circuit and an extern to Judge Teilborg on the District Court of Arizona, I assisted in drafting and editing appellate and trial court opinions and orders.

Statutes and Rules

From 2013 to 2016, I was a member of the Arizona State Bar Committee on the Rules of Civil Practice and Procedure. As a member of the Committee, I assisted in drafting petitions to amend the Rules of Civil Procedure as well as

preparing the State Bar's comments on petitions for changes to the Civil Rules filed by lawyers or the public. I served on several sub-committees, including a sub-committee charged with drafting a proposed amendment to Rule 55 on default judgments and a sub-committee on re-styling several of the Rules, among others.

In 2014, I served on the Arizona Supreme Court's Committee on Superior Court Records Retention Schedule Revision. As a member of the Committee, I assisted in creating and drafting the Committee's recommendation to the Arizona Judicial Council on a revised schedule for the retention of Superior Court records.

20. Have you practiced in adversary proceedings before administrative boards or commissions? **Yes**

If so, state:

a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.

State Bar of Arizona (attorney discipline) - 3
Arizona Board for Private Postsecondary Education - 1
Federal Trade Commission - 1

b. The approximate number of these matters in which you appeared as:

Sole Counsel: **0**

Chief Counsel: **1**

Associate Counsel: **4**

21. Have you handled any matters that have been arbitrated or mediated?

Yes, approximately 30 total.

If so, state the approximate number of these matters in which you were involved as:

Sole Counsel: 3
Chief Counsel: 10
Associate Counsel: 17

22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case.

A. **Bill and Sue Beverage v. Pullman & Comley LLC, Maricopa County Superior Court, Complex Calendar, CV2011-091442**

1. Date of proceedings:

January 2011 to September 2018

2. Counsel:

Leo R. Beus, Esq. (lbeus@beusgilbert.com)
L. Richard Williams, Esq. (rwilliams@beusgilbert.com)
Thomas A. Gilson, Esq. (tgilson@beusgilbert.com)
Beus Gilbert McGroder PLLC
701 N. 44th St.
Phoenix, AZ 85008
(480)429-3000
Counsel for Plaintiffs Bill and Sue Beverage

James Rigberg, Esq. (jrigberg@dickinsonwright.com)
Dickinson Wright PLLC
1850 North Central Avenue, Suite 1400
Phoenix, AZ 85004
(602)285-5000
Counsel for Defendant Fitzpatrick Hopkins Kelly & Leonard

Allan Taffett, Esq. (allan.taffett@bracewell.com)
Bracewell LLP

1251 Avenue of the Americas, 49th Floor
New York, New York 10020
(212)508-6100
Counsel for Defendant Deutsche Bank AG

Michael J. Farrell, Esq. (mfarrell@bfazlaw.com)
Beyers Farrell PLLC
99 East Virginia Ave., Suite 220
Phoenix, AZ 85004
(602)603-1442
Counsel for Defendant Deutsche Bank AG

Don P. Martin, Esq. (don.martin@quarles.com)
Michael S. Catlett, Esq.
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004
(602)229-5200
Counsel for Defendants Pullman & Comley LLC and D. Robert Morris

3. **Summary of substance:**

Bill and Sue Beverage sued a number of professionals after the Internal Revenue Service took the position that the Beverages could not claim the losses from a complex tax shelter called the Custom Adjustable Rate Debt Structure (CARDS). Among the Defendants were Pullman & Comley, LLC ("Pullman"), a Connecticut law firm, and its tax partner, D. Robert Morris, who had issued a tax opinion letter to the Beverages regarding their ability to use the losses generated by CARDS. The Beverages asserted claims for civil racketeering, fraud, negligent misrepresentation, breach of fiduciary duty, investment management fraud, civil conspiracy, aiding and abetting tortious conduct, and professional malpractice.

We represented Pullman and Mr. Morris. We first filed motions to dismiss the complaint, including for lack of personal jurisdiction, arguing that Pullman had insufficient contacts with Arizona to require it to defend claims here. The Superior Court agreed and dismissed the claims against Pullman. The Beverages appealed. In a published decision, the Arizona Court of Appeals reversed and held that Pullman and Morris could be sued here. We appealed to the Arizona Supreme Court, which granted review but decided that suit in Arizona was proper.

Thereafter, the parties litigated for four years. Pullman filed a motion to dismiss several of the Beverages' claims, which the Superior Court granted in part. The parties engaged in targeted discovery on the issue of the statute of limitations. Pullman moved for summary judgment on the Beverages' claims, arguing that the statute of limitations had run. The Beverages argued that a unique tolling rule that the Court of Appeals had adopted for accountants preparing tax returns should be extended to lawyers providing tax advice. The Superior Court denied Pullman's motion for summary judgment, holding that the tolling rule also applied to lawyers giving tax advice.

In late 2017, during mediation, the Beverages and Pullman settled.

4. Legal significance:

The Arizona Court of Appeals' and the Arizona Supreme Court's decisions set forth the requirements for exercising personal jurisdiction over an out-of-state law firm. Most issues litigated were complex and legally difficult. I was lead counsel for Pullman in numerous oral arguments, depositions, and conferences with counsel. I also drafted trial court briefs, merits briefs and special action briefs at the Court of Appeals, and a petition for review and merits brief at the Arizona Supreme Court.

B. *Wision Investments LLC v. Hirschler Fleischer, et al., United States District Court for the District of Arizona, 2:16-cv-03302-SPL*

1. Date of proceedings:

September 2016 to May 2018

2. Counsel:

Michael S. Catlett, Esq.
Julia Wittman, Esq. (julia.wittman@quarles.com)
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004
(602)229-5200
Attorneys for Plaintiff Wision Investments LLC

Richard E. Chambliss, Esq. (rec@bowwlaw.com)
Tyler M. Abrahams, Esq. (tma@bowwlaw.com)
Broening Oberg Woods & Wilson PC
2800 N. Central Avenue, Suite 1600
Phoenix, AZ 85004
Attorneys for Defendants Hirschler Fleischer PC and J. Benjamin English

3. Summary of substance:

I represented Wision Investments, LLC ("Wision"), owned by an individual named Wilson Sheih, against Hirschler Fleischer PC ("Hirschler"), a large Virginia law firm, and its transactional partner, J. Benjamin English. Wision made significant investments in a company called Fizza, which marketed and manufactured carbonated dairy beverages. Hirschler was counsel to Fizza. In 2015, Fizza needed additional capital to continue operations. Wision and one of Fizza's executives, George Clark, sought to attract additional investor capital. When the investor demanded terms that Wision decided were not in Fizza's best interest, Wision refused to approve the investment. Wision alleged that, thereafter, Hirschler advised George Clark to resign from Fizza, take Fizza's intellectual property, and form a competing company with the new investor in violation of a non-compete agreement. Hirschler then served as legal counsel to the new, competing company. Wision asserted that Hirschler's actions destroyed Fizza and breached its duties as counsel.

In 2016, on behalf of Wision, I filed a lawsuit in Maricopa County Superior Court against Hirschler and Mr. English, asserting claims for civil conspiracy, fraud, negligent misrepresentation, breach of fiduciary duty, and aiding and abetting tortious conduct. Hirschler removed the case to the federal district court and the parties engaged in discovery for two years. The parties exchanged over 30,000 pages of documents and engaged in significant third-party and expert discovery and depositions.

In May 2018, during mediation, the parties settled the lawsuit.

4. Legal significance:

This was an extremely rewarding case. I handled every facet of the case for our client. I drafted the complaint and discovery requests, reviewed all of the documents produced by the client and defendants, and defended or took every deposition (ten in all), including three

depositions of the defendants' expert witnesses. The investment transactions underlying the lawsuit were extremely complex and the legal issues were too. The client and I were very happy with the settlement.

C. *AmTrust Bank v. Kyees, Maricopa County Superior Court, CV2013-006632, Mohave County Superior Court, CV-2013-01215*

1. Date of proceedings:

April 2013 to April 2015

2. Counsel:

Don P. Martin, Esq. (don.martin@quarles.com)
Michael S. Catlett, Esq.
Quarles & Brady LLP
One Renaissance Square
Two North Central Avenue
Phoenix, AZ 85004
(602)229-5200
Counsel for Plaintiff/Counterdefendant AmTrust Bank

Craig Solomon Ganz, Esq. (ganzc@ballardspahr.com)
Ballard Spahr LLP
1 East Washington Street, Suite 2300
Phoenix, AZ 85004
(602)798-5427
Counsel for Defendant/Counterclaimant Richard Kyees

3. Summary of substance:

This case involved a commercial loan on property near Lake Havasu. When the loan matured, the borrowers failed to pay over \$1 million still owing to our client, AmTrust Bank, on the loan. Amtrust sued the borrower and guarantors to collect. The guarantors filed a counterclaim against AmTrust for bad faith. To support that claim, the guarantors obtained a statement from a former bank employee, claiming AmTrust mishandled the loan.

AmTrust also sued the guarantors in Mohave County Superior Court to foreclose on other property pledged as security for the loan. The guarantors argued that AmTrust could not bring a claim against them in

Mohave County and Maricopa County at the same time. After the Mohave County court rejected that argument, the Kyees also brought bad faith claims against AmTrust in Mohave County.

The parties conducted significant discovery relating to the guarantors' allegations of bad faith. In 2015, during mediation, the parties settled their claims and counterclaims on terms that are confidential.

4. Legal significance:

This case was particularly sensitive for my client because of the allegations made by the Bank's former employee, allegations that I investigated and analyzed closely to ensure that they had no merit. The case was also unique in terms of the scope and activity of the litigation and the amount of discovery taken by both sides in order to litigate the counterclaims. I presented oral argument on multiple occasions in both the Maricopa and Mohave County Superior Courts. I drafted motions and responses, discovery requests and responses, and mediation memoranda. I defended and took the depositions of eight witnesses.

D. Franchisees v. Franchisor, American Arbitration Association

The names of the parties and the case number are set forth in the Confidential Section of this Application.

1. Date of proceedings:

July 2015 to January 2017

2. Counsel:

Rick Meyer, Esq. (rmeyer@leonardmeyerllp.com)
LeonardMeyer
1800 Century Park East, Suite 1400
Los Angeles, CA 90067
(310)220-0331
Counsel for Franchisees

Jeffrey H. Wolf, Esq. (jeffrey.wolf@quarles.com)
Michael S. Catlett, Esq.
Julia Wittman, Esq. (julia.wittman@quarles.com)
Quarles & Brady LLP
One Renaissance Square

Two North Central Avenue
Phoenix, AZ 85004
(602)229-5200
Counsel for Franchisor

3. Summary of substance:

The Franchisees in this case collectively acquired twelve franchise licenses from our client, the Franchisor. Eventually, the Franchisor terminated the franchise agreements for the twelve Franchisees, alleging they failed to follow the required schedule for opening their locations. Around the same time, the Franchisor made the decision to open corporate-owned stores, including in areas surrounding the Franchisees' pre-existing locations.

In January 2016, Franchisees filed an arbitration demand, which included claims against Franchisor for breach of contract, breach of the implied covenant of good faith and fair dealing, fraud, and negligent misrepresentation. Franchisor responded with counterclaims against Franchisees and their individual owners for breach of contract.

The parties conducted significant written and deposition discovery. The discovery was particularly difficult given the number of the Franchisees involved and the broad scope of the issues raised in their arbitration demand. The parties conducted twelve depositions, most of which I took or defended.

In 2015, during mediation, the parties settled the claims on terms that are confidential.

4. Legal significance:

This case is representative of the complex commercial cases I handled in arbitration during my career. The claims, if successful, threatened our client with significant additional liability. The case was highly active in terms of the number of documents exchanged, the complexity of electronic discovery, the number and scope of depositions, and the efforts of counsel required to settle the case.

23. Have you represented clients in litigation in Federal or state trial courts?

Yes

If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: **100+**

State Courts of Record: **200+**

Municipal/Justice Courts: **2**

The approximate percentage of those cases which have been:

Civil: **99%**

Criminal: **1%**

The approximate number of those cases in which you were:

Sole Counsel: **50**

Chief Counsel: **100**

Associate Counsel: **150 (includes co-counsel)**

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion: **40%**

You argued a motion described above **20%**

You made a contested court appearance (other than as set forth in the above response) **30%**

You negotiated a settlement: **35%**

The court rendered judgment after trial: **5%**

A jury rendered a verdict: **2%**

The number of cases you have taken to trial:

Limited jurisdiction court	0
Superior court	8*
Federal district court	3*
Jury	2

*** Includes fair market value hearings and evidentiary hearings on motions for temporary restraining orders and preliminary injunctions.**

24. Have you practiced in the Federal or state appellate courts? **Yes**

If so, state:

The approximate number of your appeals which have been:

Civil:	80
Criminal:	3
Other:	2

The approximate number of matters in which you appeared:

As counsel of record on the brief:	85
Personally in oral argument:	6

25. Have you served as a judicial law clerk or staff attorney to a court? **Yes**

If so, identify the court, judge, and the dates of service and describe your role.

From September 2006 to September 2007, I served as a judicial law clerk to the Hon. Paul J. Kelly, Jr., United States Court of Appeals for the Tenth Circuit. I assisted Judge Kelly in drafting and editing pre-argument memoranda, published and unpublished opinions, and concurrences and dissents. I also assisted Judge Kelly in reviewing and analyzing opinions drafted by the other judges on the Tenth Circuit. During my term with Judge

Kelly, I assisted him on issues relating to criminal procedure, administrative law, double jeopardy, habeas corpus, employment law, and qualified immunity.

From December 2004 to January 2005, during my second year of law school, I was a temporary law clerk for the Hon. James A. Teilborg, United States District Court for the District of Arizona. I assisted Judge Teilborg in reviewing trial court briefs and drafting substantive orders in cases involving the First Amendment, ERISA, the Administrative Procedures Act, and federal jurisdiction. I performed similar work as a summer extern for Judge Teilborg from May 2004 to August 2004.

26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

A. *Arizona Attorneys For Criminal Justice, et al. v. Brnovich, et al., 17-cv-01422-SPL*

1. Date of proceedings:

2017 - Present

2. Name of court and judge:

United States District Court for the District of Arizona, the Hon. Steven P. Logan

United States Court of Appeals for the Ninth Circuit, Judges Michael R. Murphy, Richard A. Paez, and Mark J. Bennett

United States Supreme Court

3. Counsel:

**Kathleen E. Brody, Esq. (kathy@mscclaw.com)
Mitchell Stein Carey Chapman PC
One Renaissance Square
2 North Central Avenue, Suite 1450
Phoenix, AZ 85004
(602)358-0290**

**Jared G. Keenan (jkeenan@aclu.org)
ACLU Foundation of Arizona
3707 North 7th Street, Suite 235
Phoenix, AZ 85014
(602)650-1854**

**David A. Lane (DLane@KLN-law.com)
Andrew McNulty (AMcNulty@KLN-law.com)
Killmer, Lane & Newman, LLP
1543 Champa Street
Denver, Colorado 80202
(303)571-1000**

Counsel for Plaintiffs Arizona Attorneys for Criminal Justice et al.

**Daniel King (dking@jshfirm.com)
Jones Skelton & Hochuli PLC
40 N. Central Ave, Suite 2700
Phoenix, AZ 85004
(602)-263-4441**

Counsel for Maret Vessella, Chief Bar Counsel

**Timothy J. Berg (tberg@fennemorelaw.com)
Emily A. Ward (eward@fennemorelaw.com)
Fennemore Craig P.C.
2394 E. Camelback Rd., Suite 600
Phoenix, AZ 85016
(602)916-5000**

Counsel for Defendant Col. Heston Silbert

Brunn (Beau) Roysden III (beau.roysden@azag.gov)
Michael S. Catlett
Kate B. Sawyer (kate.sawyer@azag.gov)
Arizona Attorney General's Office
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-3333

Counsel for Defendant Attorney General Mark Brnovich

4. Summary of substance:

In 1990, Arizona voters amended the Arizona Constitution to include a Victims' Bill of Rights ("VBR"). The VBR provides crime victims with the right to refuse an interview, deposition, or other discovery request by the criminal defendants or the criminal defendant's counsel. In 1991, the Arizona Legislature enacted the Crime-Victims' Rights Implementation Act, which provides that a criminal defendant, the defendant's attorney, or an agent of the defendant shall initiate contact with a crime victim through the prosecutor's office.

In 2017, the Arizona Attorneys for Criminal Justice and others brought a lawsuit in federal court against Governor Ducey and Attorney General Brnovich, claiming that the victim contact restriction violates the First Amendment free speech rights of criminal defense lawyers and investigators. Plaintiffs later dismissed Governor Ducey and instead sued the head of the Arizona Department of Public Safety, Col. Heston Silbert, and Chief Bar Counsel. Judge Logan repeatedly dismissed the Plaintiffs' complaints for lack of standing, concluding that Attorney General Brnovich is not tasked with enforcement of the victim contact restriction and that a judgment against Col. Silbert will not redress Plaintiffs' alleged injuries because state court judges overseeing criminal proceedings would still be free to enforce the restriction. Plaintiffs appealed to the Ninth Circuit.

After Plaintiffs appealed, I took over as counsel of record for Attorney General Brnovich. I had primary responsibility for drafting and editing the answering brief for Attorney General Brnovich and Col. Silbert. I presented oral argument to the Ninth Circuit Court of Appeals on behalf of Attorney General Brnovich and Col. Silbert. Following oral argument, the Ninth Circuit reversed the trial court, concluding that plaintiffs have standing against the defendants and that federal courts need not abstain to allow state court litigation to occur. I drafted a petition for certiorari on behalf of Attorney General Brnovich and Col. Silbert, seeking U.S. Supreme Court review. In

April 2022, the U.S. Supreme Court denied review.

On remand to the trial court, Plaintiffs sought a preliminary injunction to lift the victim-contact restriction. I had primary responsibility for drafting the response brief for Attorney General Brnovich and Col. Silbert, arguing that the victim-contact restriction is a reasonable regulation on attorney conduct and not a violation of the First Amendment. The trial court will decide the motion and the underlying First Amendment issues following a bench trial.

5. Legal significance:

This case is an example of the appellate matters I handle at the Arizona Attorney General's Office. The victim contact restriction is an important component of the VBR and the appeal presented important issues regarding constitutional standing and the ability of federal courts to interfere with ongoing state court criminal proceedings. The current trial court proceedings present important issues regarding the First Amendment and the State's ability to regulate attorney conduct during ongoing criminal proceedings.

B. Arizona Free Enterprise Club v. Hobbs, CV2021-011491, CV2021-016143

1. Date of proceedings:

July 2021 – August 2022

2. Name of court and judge:

Maricopa County Superior Court, the Hon. Katherine Cooper

Arizona Supreme Court

3. Counsel:

Kory Langhofer (kory@statecraftlaw.com)

Thomas Basile (tom@statecraftlaw.com)

Statecraft PLLC

649 N. 4th Ave, First Floor

Phoenix, AZ 85003

(602)382-4078

Counsel for Plaintiffs

Spencer G. Scharff (spencer@scharffplc.com)
Scharff PC
502 W. Roosevelt St.
Phoenix, AZ 85003
(602)739-4417

Counsel for Defendant Secretary of State Katie Hobbs

Roopali H. Desai (rdesai@cblawyers.com)
Andrew Gaona (agaona@cblawyers.com)
Kristen Yost (kyost@cblawyers.com)
Coppersmith Brockelman PC
2800 N. Central Ave, Suite 1900
Phoenix, AZ 85004

Counsel for Defendant Invest In Arizona

Joseph A. Kanefield (joe.kanefield@azag.gov)
Brunn (Beau) Roysden III (beau.roysden@azag.gov)
Michael S. Catlett
Jillian Francis (jillian.francis@azag.gov)
Arizona Attorney General's Office
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-3333

Counsel for State of Arizona

4. Summary of substance:

In 2021, the Legislature passed and Governor Ducey signed SB 1828, creating a flat tax of 2.5% on taxable income that would become effective if state revenues reached certain targets. Invest In Arizona ("IIA") sought to prevent implementation of SB 1828 by referring the bill creating the tax to the ballot in November 2022. Plaintiffs filed an action in the superior court seeking to enjoin the Secretary of State from placing the referendum on the ballot. The plaintiffs argued that the Arizona Constitution exempts SB 1828 from referendum and that the petition sheets and signatures IIA submitted to the Secretary of State were deficient. IIA moved to dismissed the claims.

I was primarily responsible for drafting and filing two amicus briefs in the superior court on behalf of the Attorney General in support of the plaintiffs'

legal positions. In the first brief, the Attorney General argued that the Arizona Constitution exempts tax measures from referendum, and therefore SB 1828 could not appear on the ballot in November 2022. In the second brief, the Attorney General argued that the Arizona Legislature could validly require petition circulators to submit new affidavits to the Secretary of State each time a circulator begins to collect signatures for a new or different ballot measure.

The trial court rejected plaintiffs' argument that the Constitution exempted SB 1828 from referendum. Plaintiffs appealed that ruling to the Arizona Supreme Court. I was then primarily responsible for drafting a new amicus brief to be filed on behalf of the Attorney General with the Arizona Supreme Court. In that brief, the Attorney General argued that the text of the Constitution, case law from other jurisdictions, and a prior Attorney General opinion supported that tax measures like SB 1828 are exempt from referendum. The Attorney General also argued that the trial court's conclusion that SB 1828 could be referred because it would reduce, rather than raise, revenue would create separation of powers issues. Following oral argument, in April 2021, the Supreme Court issued a decision order reversing the trial court and concluding that SB 1828 is exempt from referral. On August 19, 2022, the Court issued a full opinion explaining the reasons for its conclusions, many of which were consistent with arguments made in the Attorney General's brief.

5. Legal Significance:

This case is a good example of the election law cases that I have handled at the Attorney General's Office. The Court's opinion provides important new guidelines for the referral of tax and appropriation measures and recognizes that courts should not be in the business of making complicated predictions about the fiscal impact of changes in the tax laws.

C. *Isaacson v. Brnovich*, 2:21-cv-01417-DLR

1. Date of proceedings:

August 2021 - Present

2. Name of court and judge:

United States District Court for the District of Arizona, the Hon. Douglas R. Rayes

United States Court of Appeals for the Ninth Circuit, Judges McKeown,

W. Fletcher, and Bybee

United States Supreme Court

3. Counsel:

Jared Keenan (jkeenan@acluaz.org)
Victoria Lopez (vlopez@aclu.org)
American Civil Liberties Union Foundation of Arizona
3707 North 7th Street, Suite 235
(602)650-1854

Jen Samantha D. Rasay (jrasay@reprorights.org)
Center for Reproductive Rights
1634 Eye Street, NW, Suite 600
Washington, D.C. 20006
(202)628-0286

Jessica Leah Sklarsky (jsklarsky@reprorights.org)
Gail Deady (gdeady@reprorights.org)
Catherine Coquillet (ccoquillet@reprorights.org)
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
(917)637-3600

Alexa Kolbi-Molinas (akolbi-molinas@aclu.org)
Rebecca Chan (rebeccac@aclu.org)
American Civil Liberties Union
125 Broad Street, 18th Floor
New York, NY 10004
(212)549-2633

Counsel for Plaintiffs

Kevin Ray (kevin.ray@azag.gov)
Aubrey Joy Corcoran (Aubreyjoy.corcoran@azag.gov)
Office of the Arizona Attorney General
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-8328

Counsel for Defendants Arizona Department of Health Services and

Don Herrington

Mary D. Williams (marydwilliams@azag.gov)
Carrie H. Smith (carrie.smith@azag.gov)
Office of the Arizona Attorney General
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-7992

*Counsel for Defendants Arizona Medical Board and Patricia McSorley
Brunn (Beau) Roysden III (beau.roysden@azag.gov)
Michael S. Catlett
Kate B. Sawyer (kate.sawyer@azag.gov)
Katlyn J. Divis (Katlyn.divis@azag.gov)
Arizona Attorney General's Office
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-3333*

Counsel for Defendant Arizona Attorney General Mark Brnovich

4. Summary of substance:

In 2021, the Arizona Legislature passed SB 1457, which prohibits a doctor from performing an abortion knowing that the abortion is sought solely because of a genetic abnormality of the child (the “genetic abnormality provision”). SB 1457 also requires that Arizona law be interpreted to acknowledge, on behalf of unborn children at every stage of development, all rights available to other persons of this state (the “interpretation provision”).

In August 2021, plaintiffs filed an action in federal district court seeking an order preventing both the genetic abnormality and interpretation provisions from going into effect. Plaintiffs argued that the genetic abnormality provision violated substantive due process and is unconstitutionally vague, and they argued that the interpretation provision is unconstitutionally vague. In September 2021, I represented Attorney General Brnovich and the other state defendants in oral argument defending the constitutionality of the law. One day prior to the law’s effective date, Judge Rayes entered a preliminary injunction as to the genetic abnormality provision, but denied a preliminary injunction as to the interpretation provision.

Attorney General Brnovich and the other state defendants filed a notice of appeal of the preliminary injunction with the Ninth Circuit. Plaintiffs filed a

cross-appeal as to the court's refusal to enjoin the interpretation provision. I drafted and filed an emergency motion to stay the injunction of the genetic abnormality provision, which the Ninth Circuit denied. I then drafted an Application for Partial Stay for filing with the U.S. Supreme Court. While the U.S. Supreme Court considered that application, the parties completed briefing on the appeal and cross-appeal at the Ninth Circuit. On the final day of the Supreme Court's term this year, the Court construed the Attorney General's Application for Partial Stay as a petition for certiorari, granted the petition, vacated the preliminary injunction of the genetic abnormality provision in light of *Dobbs v. Jackson Women's Health*, and remanded to the Ninth Circuit with instructions to remand back to the district court.

5. Legal significance:

This is a good example of the statutory and constitutional defense cases I have handled at the Attorney General's Office. This is the first abortion decision the U.S. Supreme Court made after issuance of the opinion in *Dobbs* and it is the first time the U.S. Supreme Court has considered and upheld an Arizona abortion law.

D. *Kennedy v. Bremerton School District*, No. 21-418

1. Date of proceedings:

2021-2022

2. Name of court and judge:

United States Supreme Court

3. Counsel:

Paul D. Clement (paul.clement@clementmurphy.com)
Clement & Murphy PLLC
706 Duke Street
Alexandria, VA 22314
(202)742-8900

Counsel for Petitioner Joseph A. Kennedy

**Richard B. Katskee
Americans United for Separation of Church and State
1310 L Street N.W. Suite 200
Washington, D.C. 20005
(202)466-3234**

Counsel for Respondent Bremerton School District

**Brunn (Beau) Roysden III (beau.roysden@azag.gov)
Michael S. Catlett
Kate Sawyer (kate.sawyer@azag.gov)
Arizona Attorney General's Office
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-3333**

Counsel for State of Arizona

4. Summary of substance:

The issue in this case was whether the Bremerton School District violated the First Amendment rights of Joseph Kennedy, who was a football coach at Bremerton High School. The School District terminated Coach Kennedy for kneeling at midfield after games to offer a quiet prayer of thanks. The School District believed that allowing Coach Kennedy to offer a private prayer could result in violation of the Establishment Clause. Both the trial court and the Ninth Circuit concluded that the School District's termination did not violate either the Free Exercise or Free Speech Clauses of the First Amendment. Our office led a coalition of twenty-four states urging the U.S. Supreme Court to take the case and reverse the Ninth Circuit. After the Court accepted review, I drafted a brief on behalf of twenty-seven states urging the Court to rule in favor of Coach Kennedy. The brief argued that Coach Kennedy's quiet prayer constituted private, and not government, speech and was therefore not exempt from the First Amendment. The brief also argued that the Court should not allow the School District to use an Establishment Clause justification to discriminate against private religious speech. Finally, the brief argued that the Ninth Circuit's curtailment of First Amendment liberties would be detrimental to the State's ability to recruit qualified individuals into public service. In June 2022, the Court concluded 6-3 that the School District's actions violated Coach Kennedy's First Amendment rights.

5. Legal significance:

The Court's opinion established important new principles regarding the Free Speech and Free Exercise rights of public employees and the ability of public employers to use the Establishment Clause as justification for taking adverse action against public employees. I was also proud that our brief was joined by twenty-seven attorneys general, which is a rare occurrence. An excerpt of the brief is attached as one of my writing samples at Exhibit B.

E. *National Collegiate Athletic Association v. Alston et al.*, No. 20-512

1. Date of proceedings:

2020 – 2021

2. Name of court and judge:

United States Supreme Court

3. Counsel:

Andrew Pincus (apincus@mayerbrown.com)
Mayer Brown LLP
1999 K Street, NW
Washington, DC 20006
(202)263-3220

Seth P. Waxman (seth.waxman@wilmerhale.com)
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Ave, NW
Washington, DC 20006
(202)663-6800

Counsel for Petitioners

Linda T. Coberly (lcoberly@winston.com)
Winston & Strawn, LLP
35 West Wacker Drive
Chicago, IL 60601
(312)558-8768

Counsel for Respondents

Brunn (Beau) Roysden III (beau.roysden@azag.gov)
Michael S. Catlett
Arizona Attorney General's Office
2005 N. Central Ave
Phoenix, AZ 85004
(602)542-3333

Counsel for State of Arizona

4. Summary of substance:

The issue in this case was whether the NCAA violated federal antitrust laws by restricting certain collegiate athletes from receiving non-cash compensation for academic-related purposes, such as computers and internships. Both the federal trial court and the Ninth Circuit concluded that the NCAA's restrictions were subject to full review under the federal antitrust laws and that the restrictions violated the antitrust laws. After the U.S. Supreme Court granted review, I drafted a brief on behalf of the State of Arizona and seven other states, arguing that the NCAA regulations should be subject to full review under the federal antitrust laws. On June 21, 2021, the U.S. Supreme Court issued a unanimous opinion agreeing that the NCAA's restrictions on non-cash compensation are subject to full review under the antitrust laws and holding that those restrictions violated the antitrust laws.

5. Legal significance:

The brief I drafted in this case is an example of how I have applied my complex commercial background to appellate issues at the Attorney General's Office. Justice Gorsuch's opinion for a unanimous Supreme Court, agreeing with our arguments, establishes several important principles about the proper balance between antitrust review and judicial deference to reasoned business decisions. An excerpt of the brief is attached as one of my writing samples at Exhibit C.

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement

conferences, contested hearings, administrative duties, etc.).

I served as a *judge pro tem* for the Maricopa County Superior Court from 2013 to 2014.

28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

While I served as a *judge pro tem*, I handled three settlement conferences. Each of the cases involved a car collision where the primary issue was the amount of damages the plaintiff had suffered. I successfully negotiated a settlement in each case. Two of the cases settled outright and, in the third, the parties agreed to have the plaintiff's damages claims heard by an arbitrator, rather than a jury.

29. Describe any additional professional experience you would like to bring to the Commission's attention.

Often at large law firms, it can be difficult for young lawyers to gain hands-on experience, but I was very fortunate to have partners and clients who trusted me early in my career to take primary responsibility for briefing and argument in my cases. As a result, I quickly gained extensive, hands-on experience as a complex commercial litigator. And I have continued handling complex and important cases at the Attorney General's Office. During my career, I have had primary responsibility for over 150 commercial litigation matters. I have argued more than 90 motions in state and federal court. I have taken and defended between 150 and 200 depositions. I have negotiated settlement or obtained dismissal in more than 100 cases. And I have drafted briefs in more than 50 appeals and special actions.

I was also involved in Firm administration and committees. At Quarles & Brady, I was the national chair of the professional malpractice subgroup. I also assisted in handling loss prevention matters by defending claims filed against Quarles & Brady and responding to third-party subpoenas served on the Firm.

I have also taken an active role in mentoring younger lawyers at Quarles & Brady and the Attorney General's Office, both formally and informally. At the Attorney General's Office, I have supervised approximately ten attorneys and several staff. I am also active in managing the internship program at the Solicitor General's Office. At Quarles & Brady, I served as a Supervising Partner, providing feedback to assigned associates, participating in annual reviews, and assisting with work flow. For five years, I mentored summer associates, providing constructive feedback on written memoranda and advising the Firm whether a full-time offer should be extended.

BUSINESS AND FINANCIAL INFORMATION

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14?

Yes

If so, give details, including dates.

From 2002 to 2003, I worked as a Risk Analyst in the internal audit department at Bank One Corporation (now JPMorgan Chase Bank). As a Risk Analyst, I worked with several of the Bank's consumer finance departments around the country to analyze whether each department was complying with internal and external risk management procedures. I would then draft the Audit Department's findings, which would then be shared with the head of the department being audited and with senior Bank One management.

31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise?

No

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and appointed?

Not applicable

32. Have you filed your state and federal income tax returns for all years you were legally required to file them?

Yes

33. Have you paid all state, federal and local taxes when due?

Yes

34. Are there currently any judgments or tax liens outstanding against you?

No

35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support?

No

36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce?

No

37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest?

No

38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties?

No

CONDUCT AND ETHICS

39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity?

No

40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation?

Yes

If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition.

In February 2001 (three months prior to my twenty-first birthday), the Arizona State University Police Department issued me a ticket for simple possession of alcohol as a minor. I appeared before a Justice of the Peace for Tempe and pled guilty. I was ordered to pay a fine of approximately \$200.00, which I paid immediately.

41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.

Not applicable

42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice.

Not applicable

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.

Not applicable

44. List and describe any sanctions imposed upon you by any court.

Not applicable

45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction?

Not applicable

46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law?

No

47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency?

No

48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs?

No

49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings?

No

PROFESSIONAL AND PUBLIC SERVICE

50. Have you published or posted any legal or non-legal books or articles?

Yes

If so, list with the citations and dates.

Clearly Not Established: Decisional Law and the Qualified Immunity Doctrine, 47 Ariz. L. Rev. 1031 (2005).

Arizona Attorneys' Fees Manual, Chapter Nine, Recovery of Costs and Fees for Non-Lawyer Services (2014 ed.).

Arizona Attorneys' Fees Manual, Chapter Nine, Recovery of Costs and Fees for Non-Lawyer Services (2017 ed.).

Arizona Attorneys' Fees Manual, Chapter Nine, Recovery of Costs and Fees for Non-Lawyer Services (2022 ed.).

51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes

52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars?

Yes

If so, describe.

During the spring semester of 2022, I co-taught a law school class on Government Liability at the University of Arizona School of Law. The class covered the elements of claims against governments and government officials and the various defenses that governments and government officials can use when defending against claims. I co-taught the class with the Hon. Roopali Desai, who is now a judge on the United States Court of Appeals for the Ninth Circuit.

In December 2021, I was part of a panel that presented to the Arizona Prosecuting Attorneys Association on the Fundamentals of Brief Writing in Trial and Appellate Courts.

In November 2018, I was the primary speaker at a program entitled "How to Tell Lawyers No," which took place in Atlanta, Georgia at the national meeting of the American Institute of Certified Public Accountants.

In 2017, I taught a course to Quarles & Brady's commercial litigation associates about summary judgment motions.

53. List memberships and activities in professional organizations, including offices held and dates.

Arizona Bar Association, Appellate Section, Member, 2021 to present.

Maricopa County Bar Association, Member, 2010 to 2020.

American Bar Association, Member, 2010 to 2020.

The Federalist Society for the Study of Law and Public Policy, Member, 2005 to 2007 and 2016 to Current.

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar?

Yes. From 2013 to 2016, I was a member of the Arizona State Bar Committee on the Rules of Civil Practice and Procedure. As a member of the Committee, I assisted in drafting petitions to amend the Rules of Civil Procedure and the State Bar's comments to petitions for changes to the Civil Rules filed by members of the Bar and the public. I served on several sub-committees, including a sub-committee charged with drafting a proposed amendment to Rule 55 on default judgments and a sub-committee on re-styling several of the Rules.

In 2014, I served on the Arizona Supreme Court's Committee on Superior Court Records Retention Schedule Revision. As a member of the Committee, I assisted in creating and drafting the Committee's recommendation to the Arizona Judicial Council on a revised schedule for the retention of Superior Court records.

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

For a number of years while in private practice, I provided reduced rate and pro bono legal services to the Arizona Chapter Paralyzed Veterans of America.

I have also volunteered at the United States District Court's self-represented litigant clinic. This involved spending two to three hours providing free legal advice to indigent individuals who represented themselves in civil actions pending in federal court. I also recruited other lawyers at Quarles & Brady to donate time to the clinic.

I have participated in the Ninth Circuit Court of Appeals' pro bono program. I represented an indigent individual who was detained pending deportation. My client was seeking a new asylum hearing based on the malpractice of his prior counsel. I briefed the issues and argued at the Ninth Circuit, which found in my client's favor.

From time to time, I supervised associates at Quarles & Brady on pro bono legal matters.

54. Describe the nature and dates of any relevant community or public service you have performed.

Since 2017, I have been involved with the Madison Simis Elementary School's Dad's Club. The Dad's Club organizes community events, such as a movie night in the fall, and raises money for the Madison Simis Elementary School parent/teacher organization.

I have volunteered with the Recreation Association of Madison Meadows and Simis (RAMMS) to coach a co-ed Kindergarten basketball team.

I have volunteered with the Boy Scouts of America, Pack 329.

On occasion over the last several years, I have volunteered with Recreation and Athletics for Individuals with Disabilities ("RAD"), an organization that raises money to help individuals with special needs participate in recreational activities. My wife and I have assisted RAD in raising funds and financially sponsored a winter movie night for several years.

I have previously volunteered for the Adopt a Classroom program at the Capitol Elementary School. I planned events for our assigned classroom throughout the school year.

I have also volunteered on occasion to help political campaigns. For example, in 2018, I was a member of the Young Professionals for Martha McSally Committee and organized a fundraising event with other members. I also volunteered on John McCain's 2008 presidential campaign by pre-drafting court filings to be used to address legal issues that could have arisen on Election Day.

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

See Question 11 for honors, prizes, and awards received in law school and college.

I was listed as a "Rising Star" in Business Litigation by Southwest Super Lawyers Magazine every year from 2014 to 2020.

In 2021, the Attorney General's Office awarded me and several of my colleagues the Outstanding Team Award for statutory defense of Arizona's election laws leading up to the 2020 election.

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

Not applicable

Have you ever been removed or resigned from office before your term expired?

Not applicable

Have you voted in all general elections held during the last 10 years?

Yes

57. Describe any interests outside the practice of law that you would like to bring to the Commission's attention.

I spend the majority of my time outside the practice of law with my wife, Jessica, and our two children, Ben (11) and Maddie (8). We enjoy spending family time traveling, riding bikes to neighborhood restaurants, and relaxing with friends. A significant amount of my time is spent cheering on my kids at youth soccer, basketball, and volleyball practices and games. In my free time, I enjoy reading, watching college sports (particularly football), and cooking and grilling for friends and family.

HEALTH

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying?

Yes

ADDITIONAL INFORMATION

59. The Arizona Constitution requires the Commission to consider the diversity of the state's population in making its nominations. Provide any information about yourself (your heritage, background, life experiences, etc.) that may be relevant to this consideration.

I am an Arizona native and grew up in Phoenix. My father was a Phoenix police officer and my mother was a preschool teacher. I was very fortunate to have parents who instilled in me and my two younger brothers the value of hard work and respect for others.

I am a product of the Arizona public school system. I attended Palomino Elementary School, Greenway Middle School, North Canyon High School, Paradise Valley Community College, Arizona State University, and the University of Arizona. I am a proud alumnus of each. One of the tremendous benefits of my public-school education is that my friends and their families came from all walks of life.

My father-in-law immigrated to the United States from China with his family when he was seven years old. He and his five siblings tell unbelievable stories about the risks their parents took to start a new life in the United States and to provide their children with all of the opportunities our great country provides.

My brother-in-law is an individual with special needs. Through him, I have gotten to know other members of the special-needs community. Some of the individuals I have met overcome more in an ordinary day than I will have to in a lifetime. And yet they live each day with poise and grace, a positive attitude, and with no judgment of others.

My upbringing as well as my experiences and relationships as an adult have instilled in me the values of hard work, humility, and respect for others. As a judge, I will bring those same values to the decision-making process and will apply the law equally regardless of age, race, sex, religion, politics, ability, or socioeconomic status.

60. Provide any additional information relative to your qualifications you would like to bring to the Commission's attention.

In addition to having a legal background that has prepared me for the role of an appellate judge, I also have the right temperament. The decisions judges make have a tremendous impact on those appearing before them and the broader community. If the public ever begins to doubt that judges deciding their cases are open-minded, well-prepared, and respectful, it will undermine the confidence in our judiciary and the rule of law. As a judge, I will listen and keep an open mind until all parties have had a chance to fully state their positions. I believe that appellate judges should be pragmatic and logical and should communicate their decisions in a manner that is understandable to the parties appearing before them, the lower courts, and the Bar. I look forward to the opportunity to use the skills I developed during my years in private practice and at the Attorney General's Office to further serve the people of Arizona as an appellate judge.

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location?

Yes

62. Attach a brief statement explaining why you are seeking this position.

See Exhibit A

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

See Exhibit B.

My first writing sample is from a brief filed on behalf of the State of Arizona and twenty-six other states in the U.S. Supreme Court in *Kennedy v. Bremerton School District*. The U.S. Supreme Court agreed 6-3 with our position that the School District had violated Coach Kennedy's Free Speech and Free Exercise rights by terminating him for engaging in quiet prayer

following high school football games.

See Exhibit C.

My second writing sample is from a brief filed on behalf of the State of Arizona and seven other states in the U.S. Supreme Court in *NCAA v. Alston*. The U.S. Supreme Court unanimously agreed with our position that the NCAA is subject to full review under the federal antitrust laws.

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than three written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than ten pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

Not applicable

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews.

Not applicable

**-- INSERT PAGE BREAK HERE TO START SECTION II
(CONFIDENTIAL INFORMATION) ON NEW PAGE --**

Exhibit A
Statement of Interest

Statement of Interest

I distinctly remember the very moment I first became interested in pursuing a judicial career. It was early in my first year of law school, and the Arizona Court of Appeals held oral argument on campus. Coming from a family of non-lawyers, I had never seen an appellate argument before. I was captivated by the interaction between counsel and the court and was struck by how smart, insightful, and well prepared the judges were.

I later had two fantastic judicial mentors—Judge James A. Teilborg and Judge Paul J. Kelly, Jr. The opportunity to work closely with them confirmed my interest in eventually pursuing a judicial position. During my first summer in law school, I externed for Judge Teilborg on the federal district court here in Arizona, and he invited me back to serve as a temporary law clerk during my second year of law school. I learned a tremendous amount from Judge Teilborg and his staff in a short period of time. Judge Teilborg treats all counsel and parties with respect and patience, and he applies the law as written in an equal and consistent manner.

After law school, I clerked for Judge Kelly on the U.S. Court of Appeals for the Tenth Circuit. Judge Kelly takes a pragmatic and common sense approach to judging. He emphasized that our draft opinions should be written to be understandable to non-lawyers, particularly the parties in the case. Judge Kelly is smart and decisive and is a fantastic mentor to young lawyers. If selected to serve, I will strive to exercise the same traits as Judge Teilborg and Judge Kelly.

After clerking, I practiced complex commercial litigation for thirteen years at Osborn Maledon and Quarles & Brady, where I was a partner for six years. Private practice allowed me to experience many different areas of complex commercial litigation and quickly gain hands-on experience, while learning from some of the best and brightest lawyers in Arizona. While I enjoyed working on complex issues and each day brought unique challenges, public service eventually called.

In May 2020, I was very fortunate to have the opportunity to join the Attorney General's Office. My colleagues at the Attorney General's Office are all dedicated, hard-working, and professional. The work we handle in the Solicitor General's Office is extremely diverse and interesting. I have had the opportunity to work on some of the highest-profile cases in Arizona and have learned an immense amount about new areas of law. My time at the Attorney General's Office has fortified my interest in continuing to serve Arizona as an appellate judge.

Not only has my career in private practice and government prepared me to handle the important work of an appellate judge, I believe I also possess the intangible qualities needed. I appreciate that the appellate process requires collaboration and collegiality, and I will work well with my colleagues. I understand that, as a judge on an intermediate appellate court, I would be bound to apply precedent shaped by other judges. I am patient, respectful, even-tempered, but decisive. I have the modesty to be open to the views of others and the confidence to respectfully express disagreement.

I also understand and respect the role of the Judiciary and the separation of powers—a foundational principle protecting our individual liberties. While judges make difficult decisions arising in concrete cases, it is not their role to make broader policy or try to solve society's problems. Judges should not make decisions based on their social preferences or personal views; instead, they should apply the governing constitution and laws as written by the People through the democratically elected branches of government. In fact, judges wear black robes to symbolize that they are not individuals promoting their own personal views.

I was born in Arizona and have lived here nearly all of my life. I love this State and am grateful for all of the opportunities it has provided. While I am the first and only in my family to attend law school, I am not the first to seek a life of public service. My father was a Phoenix police officer and my mother was a public school teacher. My grandfathers served in the armed forces. In 2001, my younger brother enlisted in the Army and has served our country since, including in Iraq and

Afghanistan. I too hope to be able to spend the rest of my professional career serving the people of Arizona. I continue to believe I can most effectively do so as a judge on the Arizona Court of Appeals.

Thank you for your consideration.

Exhibit B

Writing Sample

Kennedy v. Bremerton

School District

No. 21-418

In the Supreme Court of the United States

JOSEPH A. KENNEDY,
Petitioner,

v.

BREMERTON SCHOOL DISTRICT,
Respondent.

*On Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit*

**BRIEF OF TWENTY-SEVEN STATES AS AMICI
CURIAE IN SUPPORT OF PETITIONER**

ASHLEY MOODY
Florida Attorney General
HENRY C. WHITAKER
Solicitor General
DANIEL W. BELL
*Chief Deputy Solicitor
General*
OFFICE OF THE FLORIDA
ATTORNEY GENERAL

TREG R. TAYLOR
Alaska Attorney General
JESSICA M. ALLOWAY
Solicitor General
KATHERINE DEMAREST
Assistant Attorney General
ALASKA DEPARTMENT
OF LAW

MARK BRNOVICH
Arizona Attorney General
BRUNN W. ROYSDEN III
Solicitor General
MICHAEL S. CATLETT
*Deputy Solicitor General
Counsel of Record*
KATE B. SAWYER
Assistant Solicitor General
KATLYN J. DIVIS
Assistant Attorney General
OFFICE OF THE ARIZONA
ATTORNEY GENERAL
2005 N. Central Ave.
Phoenix, AZ 85004
(602) 542-5025
michael.catlett@azag.gov

KEN PAXTON
Texas Attorney General
JUDD E. STONE II
Solicitor General
NATALIE D. THOMPSON
Assistant Solicitor General
OFFICE OF THE TEXAS
ATTORNEY GENERAL

*Counsel for Amici Curiae
(Additional Counsel listed on Inside Cover)*

It is not practically feasible—let alone constitutional or desirable—for a public employer to regulate every observable message (both verbal and nonverbal) that its employees communicate or that would not occur merely but for (rather than pursuant to) public employment.

The Court should, therefore, limit unprotected speech under *Garcetti* to public-employee speech produced pursuant to an employee's job duties. *Garcetti* does not hold that a public employee's private speech—like Coach Kennedy's here—is unprotected by the First Amendment.

II. Allowing The School District To Justify Its Discriminatory Actions Under The Establishment Clause Creates Problems For Public Employers And Employees Alike.

The Ninth Circuit's analysis also turned the Establishment Clause on its head. No one appears to dispute that the District's restriction on Coach Kennedy's prayer was targeted at religion—the District admits that the issue it had with Kennedy was the religious content of his speech. The District attempted to justify such discrimination on the basis that discrimination was required to avoid Establishment Clause liability. This Court has repeatedly rejected such weaponization of the Establishment Clause. *See Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 113 (2001) (noting that the Court has rejected similar defenses in Free Speech cases). Undeterred, the Ninth Circuit accepted the District's Establishment Clause defense. That conclusion was wrong—and concerning—for several reasons.

1. The panel “[took] the rare—indeed, unprecedented—step of perceiving an Establishment Clause violation without first locating any state action to constitute such a violation.” Pet. App. 97 (O’Scannlain, J., statement respecting the denial of rehearing en banc). Under its plain terms and years of precedents, the Establishment Clause precludes only government action, not the protected expression of private individuals. *See Capitol Square Rev. & Advisory Bd. v. Pinette*, 515 U.S. 753, 779 (1995) (O’Connor, J., concurring in part and concurring in the judgment) (On a fundamental level, “an Establishment Clause violation must be moored in government action.”). This principle strikes at the core of the Establishment Clause and has been long-recognized in our nation’s jurisprudence. *See Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 838–39 (1995) (“If there is to be assurance that the Establishment Clause retains its force in guarding against those *governmental actions* it was intended to prohibit, we must in each case inquire first into the purpose and object of the *governmental action in question*[.]”) (emphasis added).

As explained in section I, Coach Kennedy’s speech was private speech, not government speech. Yet the Ninth Circuit affirmed the District’s conduct of censoring that private speech, first mis-labeling the speech as government speech, and then holding that even if the speech was private, the District’s justification of avoiding Establishment Clause liability was a “compelling state interest.” Pet. App. 17, 25. To be sure, when actual government conduct or speech is involved, preventing Establishment Clause liability could qualify as a compelling government interest. *See Good News Club*, 533 U.S.

at 112–13. But “achieving greater separation of church and State than is already ensured under the Establishment Clause” never does. *Widmar v. Vincent*, 454 U.S. 263, 276 (1981); see also *Good News Club*, 533 U.S. at 112–13; *Hills v. Scottsdale Unified Sch. Dist. No. 48*, 329 F.3d 1044, 1053 (9th Cir. 2003) (per curiam). The Ninth Circuit “subvert[ed] the entire thrust of the Establishment Clause, transforming a *shield* for individual religious liberty into a *sword* for governments to *defeat* individuals’ claims to Free Exercise.” Pet. App. 94 (O’Scannlain, J., statement respecting the denial of rehearing en banc) (emphasis in original).

2. To trigger the Establishment Clause on public school property, state action is still required. Judge O’Scannlain pointed to the many cases where this Court “has determined that private religious speech on public school property does not constitute state action,” bringing such actions outside the scope of an Establishment Clause violation. Pet. App. 98 (collecting cases). These cases repeatedly enforce the principle that the mere presence of protected, private religious speech on a school campus does not constitute an endorsement such that it would bring the school within the ambits of an Establishment Clause violation. See, e.g., *Good News Club*, 533 U.S. at 112–19 (permitting a private organization to use school facilities for religious instruction after school did not violate the Establishment Clause); *Widmar*, 454 U.S. at 270–75 (permitting a student group to use university facilities did not violate the Establishment Clause).

This conclusion must follow because the Establishment Clause “is limited by the Free Exercise Clause and . . . the Free Speech Clause.” *Widmar*, 454

U.S. at 276. Clearly there is a “critical difference ‘between *government* speech endorsing religion, which the Establishment Clause forbids, and *private* speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.’” *Rosenberger*, 515 U.S. at 841 (quoting *Bd. of Educ. of Westside Cmty. Schs. v. Mergens*, 496 U.S. 226, 250 (1990) (plurality op.)).

In *Mergens*, the Court rejected an argument that a public high school must exclude religious clubs because otherwise “the school would violate the Establishment Clause.” 496 U.S. at 233. In so doing, the Court explained that preventing discrimination against religion does not raise Establishment Clause concerns because doing so “is undeniably secular.” *Id.* at 249; *see also Widmar*, 454 U.S. at 271 (“[A]n open-forum policy, including nondiscrimination against religious speech, would have a secular purpose[.]”). The Court had faith that high school students “are mature enough and are likely to understand that a school does not endorse or support student speech that it merely permits on a nondiscriminatory basis.” *Mergens*, 496 U.S. at 250. And the Court rejected the notion that schools endorse everything they fail to censor. *See id.* Consequently, the Establishment Clause does not require government to censor private religious speech where such a censure would be unconstitutional if the private speech were nonreligious. *See Rosenburger*, 515 U.S. at 846 (“There is no Establishment Clause violation in the [government] honoring its duties under the Free Speech Clause.”).

3. The correct path for a public school confronted with a situation like the District was here—rather than to engage in discrimination—is to engage in its own speech, explaining that tolerance of religious

views and practices does not constitute endorsement. As the Court put it in *Mergens*, “[t]o the extent a school makes clear that its recognition of respondents’ proposed club is not an endorsement of the views of the club’s participants, . . . students will reasonably understand that the school’s official recognition of the club evinces neutrality toward, rather than endorsement of, religious speech.” 496 U.S. at 251 (internal citation omitted); *Hedges v. Wauconda Cmty. Unit Sch. Dist. No. 118*, 9 F.3d 1295, 1300 (7th Cir. 1993) (“If pupils do not comprehend so simple a lesson, then one wonders whether the Wauconda schools can teach anything at all.”).

There is no better way for a public school district to teach the value of toleration in a pluralistic society than to practice and preach neutrality when it comes to religion. “The school’s proper response is to educate the audience rather than squelch the speaker. . . . Schools may explain that they do not endorse speech by permitting it.” *Hedges*, 9 F.3d at 1299–1300. Neutrality is, after all, the very *least* that the Constitution demands and “educating the students in the meaning of the Constitution and the distinction between private speech and public endorsement . . . [is] what schools are for.” *Id.* at 1299.

What government cannot do is exactly what the District did here—discriminate against private religious speech for fear that inaction would be misperceived as endorsement. As the Ninth Circuit correctly explained in *Hills*, “the desirable approach is not for schools to throw up their hands because of the possible misconceptions about endorsement of religion.” 329 F.3d at 1055. “School districts seeking an easy way out try to suppress private speech” by declaring that “the best defense against

misunderstanding is censorship.” *Hedges*, 9 F.3d at 1299. The Court should once again make clear that the “proper response is to educate the audience rather than squelch the speaker.” *Id.*

4. The Ninth Circuit’s divergence from these long-standing Establishment Clause principles creates problems for public employers and public employees. For public employees, the Establishment Clause may now be used to inhibit individuals’ First Amendment freedoms. This could make government employment much less attractive. And for public employers, the Ninth Circuit’s analysis could be read to create an affirmative duty to not only ensure that its actions remain religiously neutral, but also to police the private actions of its employees and take affirmative steps to prevent actions that would otherwise be protected under the First Amendment. Requiring public employers to affirmatively restrict private religious expression is not what the Establishment Clause requires.

Under a proper application of the First Amendment, a government employer can avoid violating the Establishment Clause while continuing to respect its employees’ First Amendment rights. Respecting the proper balance ensures not only that individual constitutional rights are not infringed, but also protects government employers from the distasteful duty of policing their employees’ every word and deed.

The Ninth Circuit’s holding, concluding that Establishment Clause liability could result from government neutrality toward religion, and requiring government to affirmatively restrict private religious speech, also threatens state religious freedom legislation. In the wake of the Court’s decisions in

Exhibit C

Writing Sample

NCAA v. Alston

Nos. 20-512, -520

**In the
Supreme Court of the United States**

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
Petitioner,

v.

SHAWNE ALSTON, ET AL.,
Respondents.

AMERICAN ATHLETIC CONFERENCE, ET AL.,
Petitioners,

v.

SHAWNE ALSTON, ET AL.,
Respondents.

*On Writs of Certiorari to
the United States Court of Appeals for the Ninth Circuit*

**BRIEF OF ARIZONA, COLORADO, DELA-
WARE, ILLINOIS, MINNESOTA, NEW YORK,
OREGON, AND PENNSYLVANIA AS AMICI
CURIAE SUPPORTING RESPONDENTS**

MARK BRNOVICH
Attorney General

MICHAEL S. CATLETT
*Deputy Solicitor General
Counsel of Record*

JOSEPH A. KANEFIELD
*Chief Deputy and
Chief of Staff*

KATLYN J. DIVIS
Assistant Attorney General

BRUNN W. ROYSDEN III
Solicitor General

OFFICE OF THE ARIZONA
ATTORNEY GENERAL
2005 N. Central Ave.
Phoenix, AZ 85004
(602) 542-7751
michael.catlett@azag.gov

*Counsel for Amici Curiae
(Additional Counsel Listed on the Inside Cover)*

justify continued anti-competitive restraints on the athletes who create their wealth.

ARGUMENT

I. PETITIONERS' RESTRAINTS SHOULD BE SUBJECT TO FULL RULE OF REASON REVIEW.

A. This Court's Precedents Establish Rule of Reason as the Correct Standard in Most Cases.

Section 1 of the Sherman Act forbids “[e]very contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States.” 15 U.S.C. § 1. Based on the common law in existence when the Sherman Act was passed, the Court has long interpreted § 1 to “to outlaw only unreasonable restraints.” *State Oil Co. v. Khan*, 522 U.S. 3, 10 (1997). Restraints can be unreasonable in one of two ways. A small number of restraints—horizontal agreements between competitors being one example—are *per se* unreasonable because they “always or almost always tend to restrict competition and decrease output.” *Bus. Elecs. Corp. v. Sharp Elecs. Corp.*, 485 U.S. 717, 723 (1988). “Restraints that are not unreasonable *per se* are judged under the ‘rule of reason.’” *Ohio v. Am. Express Co.*, 138 S. Ct. 2274, 2284 (2018).

“The rule of reason is the accepted standard for testing whether a practice restrains trade in violation of § 1.” *Leegin Creative Leather Prods. Inc. v. PSKS, Inc.*, 551 U.S. 877, 885 (2007). Application of the rule of reason in the mine run of antitrust cases recognizes that “[l]egal presumptions that rest on formalistic distinctions rather than actual market realities are

generally disfavored in antitrust law.” *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 466-467 (1992). “In its design and function the rule distinguishes between restraints with anticompetitive effect that are harmful to the consumer and restraints stimulating competition that are in the consumer’s best interest.” *Leegin*, 551 U.S. at 886.

To apply the rule of reason, “the factfinder weighs all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition.” *Cont’l T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 49 (1977). The rule of reason takes account of “specific information about the relevant business” and “the restraint’s history, nature, and effect.” *Khan*, 522 U.S. at 10. At step one of the rule of reason, “the plaintiff has the initial burden to prove that the challenged restraint has a substantial anticompetitive effect that harms consumers in the relevant market.” *Ohio*, 138 S. Ct. at 2284. At step two, “the burden shifts to the defendant to show a procompetitive rationale for the restraint.” *Id.* And, at step three, “the burden shifts back to the plaintiff to demonstrate that the procompetitive efficiencies could be reasonably achieved through less anticompetitive means.” *Id.*

Petitioners’ restraints here are horizontal restraints among competitors on the amount of benefits to be provided certain student athletes for their athletic prowess. As horizontal restraints among competitors, those restraints would ordinarily be *per se* violations of the Sherman Act. *See Bus. Elecs. Corp.*, 485 U.S. at 723. The district court and the Ninth Circuit, however, applied traditional rule of reason review to those restraints, recognizing that the unique nature of

college athletics may occasionally require horizontal restraints on competition. See *In re NCAA Grant-In-Aid Cap Antitrust Litig.*, 958 F.3d 1239, 1256-1263 (9th Cir. 2020); *In re NCAA Athletic Grant-In-Aid Cap Antitrust Litig.*, 375 F. Supp. 3d 1058, 1097-1109 (N.D. Cal. 2019). Applying the rule of reason, the Ninth Circuit concluded that Petitioners' restraints are unreasonably anti-competitive. 958 F.3d at 1252.

B. The Argument that “Quick Look” Rule of Reason Applies Here is Unsupported.

Petitioners fault the district court and Ninth Circuit for applying the rule of reason. They argue that the lower courts should have gone further and presumed Respondents' restraints to be legal because those restraints are justified by “amateurism.” Although unclear exactly what standard Petitioners would ultimately have the Court apply, it is clear they ask the Court to hold that any restraint they characterize as “furthering amateurism” is virtually exempt from antitrust scrutiny. The Court should reject Petitioners' request for a pass under the Sherman Act through the mere invocation of “amateurism.” The cases Petitioners rely upon do not support the existence of the exception they seek, and neither do scores of decisions from this Court and lower courts addressing antitrust review of sports leagues, institutions of higher education, and joint ventures.

1. *NCAA v. Board of Regents*, the primary case Respondents rely upon and the only instance when the Court has considered the merits of an NCAA restraint, supports the conclusion that rule-of-reason applies here. That case was about college football television rights, not college athlete benefits. The Court

considered the legality of a horizontal restraint on the ability of individual member schools to allow television broadcasts of college football games. *See* 468 U.S. 85, 91-94 (1984). The NCAA attempted to justify the restraint based on “the adverse effects of live television upon football game attendance.” *Id.* at 91. Both the district court and the Tenth Circuit concluded that the restraint was *per se* illegal under § 1. *See Bd. of Regents v. NCAA*, 546 F. Supp. 1276, 1311 (W.D. Okla. 1982) (“The television controls of NCAA are *per se* violations of § 1 of the Sherman Act.”); *Bd. of Regents v. NCAA*, 707 F.2d 1147, 1156 (10th Cir. 1983) (“We affirm the district court’s ruling that the television plan constitutes *per se* illegal price fixing.”).

The Court affirmed, although it did so “under the Rule of Reason.” *See Bd. of Regents*, 468 U.S. at 103; *see also id.* at 100 (“[W]e have decided that it would be inappropriate to apply a *per se* rule to this case.”). At step one of the rule of reason, the Court concluded that the NCAA “does possess market power” and the television plan “restrains price and output”—thus “many telecasts that would occur in a competitive market are foreclosed by the NCAA’s plan.” *Id.* at 104-111. At step two, the Court rejected the NCAA’s proffered pro-competitive justifications based on the district court’s factual finding that the television plan would decrease output and increase price. *Id.* at 114-115. Finally, the Court explained that the television plan was not “related to any neutral standard” or “tailored to serve such an interest” in maintaining a competitive balance between schools. *Id.* at 117-119.

Petitioners selectively quote portions of Justice Stevens’ majority opinion to support entitlement to a presumption of legality. Specifically, Petitioners make

much of the Court's statement in response to the NCAA's necessity argument at step three that "[i]t is reasonable to assume that most of the regulatory controls of the NCAA are justifiable means of fostering competition among amateur athletic teams and therefore procompetitive because they enhance public interest in intercollegiate athletics." *Id.* at 117.

That statement, and others like it in *Board of Regents* (a case the NCAA lost), do not support that Petitioners are entitled to lax antitrust review. To begin, it would have been exceedingly odd for the Court to establish a presumption of *legality* in a case addressing whether the NCAA was subject to a presumption of *illegality*. But that is not what the Court did. Rather, the statements Petitioners cite are best understood in proper context as reasons why the Court decided that the NCAA is subject to traditional rule of reason review, not *per se* illegality, even as to ordinarily illegal horizontal restraints on competition.

This is evident from the Court's statement that "despite the fact that this case involves restraints on the ability of member institutions to compete in terms of price and output, a fair evaluation of their competitive character requires consideration of the NCAA's justifications for the restraints." *See id.* at 103. It is also clear from the fact that the Court included the passage Petitioners primarily seize upon only to explain "[o]ur decision not to apply a per se rule[.]" *See id.* at 117. Similarly, the "twinkling of an eye" language that Petitioners seize upon, and that the Court later repeated in *American Needle*, was referencing a federal court's ability to recognize an *illegal* "domestic selling arrangement" in the "twinkling of an eye" and "[e]ven without a trial." *See id.* at 109 n.39. So, at

bottom, *Board of Regents* merely establishes that, in all cases, the NCAA gets an opportunity to justify its restraints.

If *Board of Regents* supports truncated review, it is in the opposite direction as that Petitioners urge. In other words, certain restraints on competition are so obviously anti-competitive that the rule of reason can be conducted in a truncated fashion. *See id.* After all, the Court's analysis in *Board of Regents* turned largely on the district court's factual findings, including primarily the district court's finding that the restraint would reduce output and increase price. *See id.* at 104-120; *see also* Lawrence A. Sullivan, *The Viability of the Current Law on Horizontal Restraints*, 75 Cal. L. Rev. 835, 854 (1987) ("NCAA, then, did not break new ideological ground. In terms of the central meaning of antitrust, it reaffirmed traditions long established, but newly under attack. What is distinctive in the opinion is its teaching that where competitive processes suffer blatant and significant injury—in this instance, by coercion—rule of reason analysis can be completed with dispatch.").

2. The Court's decision in *American Needle, Inc. v. National Football League*, supports Respondents, *not* Petitioners. There, the Court considered a request for what amounted to antitrust immunity from National Football League Properties ("NFLP"), a joint venture between the National Football League ("NFL") and its 32 separately-owned professional football teams "to develop, license, and market their intellectual property." 560 U.S. 183, 186-187 (2010). NFLP argued that it was categorically beyond the reach of § 1 because it is a single entity (*i.e.*, the Court should disregard the separate existence of the NFL and its 32

Exhibit D
List of AAGs

**Office of the Attorney General
Attorney List**

EMPLOYEE_NAME	EMPLOYEE_NAME
ABBEY, DEBORAH K	BROOKS, MICOLE N
ACEVEDO HENRY, JILYANE	BURTON, MICHELLE
ACOSTA, JOE	CAMPBELL, ELIZABETH A
ACOSTA-COLLINGS, CLAUDIA R	CANTRELL, JEFFREY D
ADAMS, AMANDA L	CARTER, PAUL E
ADAMS, CATHERINE S	CHAMBERLAIN, KIMBERLY D
ADAMS, KRISTI M	CHAMPAGNE, DEANA M
AHL, DAVID E	CHAVEZ, JULIE A
AMOO, MUKAI	CHRISTENSEN, SCOTT A
ANDERSON, ANDREA R	CHRISTOPHER, JANET V
ANDERSON, KIM S	CIAFULLO, MARK J
ANZINI, LAUREN M	CLARK, DOUGLAS L
ASCHENBACH, RON J	CLAW, GRACYNTHIA D
ASTA, SARAH A	COADY, MONIQUE K
BACAL, JOSEPH E	COFFMAN, BRIAN R
BACON, JAMES N	COHEN, ERIN D
BAEK, RICHARD L	CONLEY, JACQUELINE
BAIER, DONALD J	CONWAY, JOSHUA M
BALDNER, VICTORIA A	CORLEY, JASON D
BALL, CASEY D	COX, SOPHIA N
BALL, STEPHEN D	CRESTIN, KEVIN P
BANES, REBECCA A	CUMMINGS, KYLE R
BARRABEE, JONPAUL	CYGAN, KIMBERLY J
BARRICK, JENNIFER E	DAMSTRA, KATHRYN A
BARRY, WILBUR F	DAULT, RICHARD D
BASKIN, MONA E	DAVIS, CHRISTOPHER B
BECKLUND, MARJORIE S	DAVIS, NANCY J
BEHNKE, KALYN D	DAVIS, SUSAN E
BELJAN, JOTHI	DIVIS, KATLYN J
BENNETT, ERIN D	DONALD, SCOTT B
BERGIN, VICTORIA J	DURAN, GINO A
BEVINS, WILLIAM F	DYLO, JOSEPH E
BISHOP, RYAN G	DYSART, ANDREW B
BLUM, JENNIFER R	EASTERDAY, JASON B
BODDINGTON, LISA C	<i>EDUARDO PARRA</i>
BORES, JACQUELINE S	EHREDT, AMANDA R
BOYD, MICHAEL E	EKLUND, MATTHEW P
BOYLE, PATRICK J	ELLIOTT, STEPHANIE
BRACHTL, MARK C	EMERSON, JORDAN E
BRADLEY, BETHANY E	FALLON, JANE S
BRANTINGHAM, KATHLEEN	FERGUSON, PAUL A
BRAUN, DAVID P	FERRIS, CHARLES W

**Office of the Attorney General
Attorney List**

EMPLOYEE_NAME	EMPLOYEE_NAME
FITZGERALD, LISA J	HUCKABY, LINDSAY B
FITZGERALD, MICHAEL J	HUGHES, KENNETH R
FORSCH, ERICA B	HUGHES, LINDSAY M
FOSTER, ALYSON M	HUMPHRIES, JOHN L
FRANCIS, JAMES P	JAMES, DINITA L
FRANCIS, JILLIAN B	JAQUET, LORENA
FREESTONE, SHYLA R	JASCULCA, NANCY H
FRITZ, LAURA A	JENCOSK, YANCY A
GALUSHA-TROICKE, NICHOLE J	JOHNSON, ELIZA B
GALVIN, JEANNE M	JOHNSON, JANNA L
GANNON, JASON P	JOHNSON, KYLE M
GARBUTT, BART T	JONES, DYLAN K
GARDNER, AMELIA A	JONES, REBECCA K
GARNER, DEBORAH L	JOSYULA, PARVATI
GENTRY, GWYNDOLYNN D	KAGIE-SHUTEY, MARIE D
GEVERS, ALICIA	KALKBRENNER, LENA M
GILLOTT, WENDY M	KARLSON, KARA M
GILMAN, LINDSEY E	KATZ, PAUL A
GOLOB, ELCHONON D	KELLY, TANJA K
GOODWIN, MICHAEL K	KERFOOT, DESIREE M
GOURLAY, VIRGINIA W	KINNEY, DEBORAH C
GREY, CHRISTINA M	KNOBLOCH, ERIC K
GRUBE, CHARLES A	KREYMER, RITA
GUERRERO, BRIAN J	KRISHNA, SUNITA A
GUILLE, MISTY D	KUNZMAN, MICHELLE L
HACHTEL, LAURIE A	KUTER, SHAUN T
HARGRAVES, SETH T	LACAILLADE, COURTNEY T
HARRIS, VERNON L	LAMAGNA, PATRICIA C
HECKATHORNE, SARAH E	LARSON BURGGRAF, JENNIFER M
HEINTZ, RACHEL	LARSON, JUSTIN
HERLIHY, MATTHEW T	LEAVITT, ISABELLA M
HESSINGER, MARK E	LEONE, ASHLEY J
HICKS, SARAH K	LESUEUR, LEO J
HILSER, MAURA E	LOCHNER, SABRINA A
HOBART, ANN	LOMBINO, MICHELLE C
HODGSON, MARK A	LUTTINGER, ALINE
HOLDEN, MICHELE B	MAKAR, ROBERT J
HOLGUIN, HOLLIE C	MAKSEMOUS, TOM
HOLLYWOOD, KAITLIN	MANJENCICH, ZORA
HOLYA, ROBERT B	MANLEY, JONATHAN E
HORTON, ROY E	MANSUR, ERIKA C
HOWARD, ZACHARY S	MANTY, ZACHARY R
HUBBLE, JOSEPH E	MARCIANO, VALERIE L

**Office of the Attorney General
Attorney List**

EMPLOYEE_NAME	EMPLOYEE_NAME
MARTIN, CARROL S	PRECIADO, HUMBERTO R
MARTONCIK, KATHLEEN E	PRIVITT, ALONZO O
MAY, ROBERT F	PULVER, ROBERTO
MCBRIDE, JENNIFER E	RAND, LUCY M
MCCOY, DIANE S	REH, DEANIE J
MCCRAY, MATTHEW	REMES, RACHEL M
MCKAY, NEIL T	RENNICK, REBECCA C
MCNALLY, MARISA R	RIVERA, MELISSA
MEDIATE, CARMINE V	ROBINSON, DAVID A
MEISLIK, ALYSE C	ROLSTEAD, JAMES H
MELVIN, LEILA E	RONALD, DAVID M
MILUS, LAURA A	ROUN, HEATHER E
MOLINA, KEILA E	SAKOL, JEFFREY N
MONAGHAN, SEAMUS P	SANDERS, JENNIFER J
MOODY, KAREN E	SANDERS, THOMAS K
MOORE, JOSEPH T	SAUER, LINDA A
MOORE, WILBURN D	SAWYER, KATE B
MORALES, KRISTIAN M	SCAGLIONE, DAVID D
MORAN, WILLIAM	SCHULTZ, ANGELA R
MORLACCI, MARIA A	SCHWARTZ, JONATHAN H
MORROW, KEVIN M	SETTERS, TIFFANY
MORROW, NANETTE C	SHAKER GUERRERO, NICOLE
MORSE-BAILEY, ROBIN G	SHAW, VINEET M
MOSS, ELIZABETH C	SHELBY, LORI D
NAPOLITANO, ANTHONY R	SHERIDAN, TODD A
NATALIE TROUAD	SHREVES, TERESA E
NELSON, ORIENT P	SIMON, WILLIAM S
NEUVILLE, LISA A	SIMONS, FOLKE N
NGUYEN, HOANG D	SMITH, CARRIE H
NICKELSON, MIRANDA L	SMITH, JOSHUA C
NORRIS, BENJAMIN R	SPENCE AMBRI, MARIETTE S
NOWLAN, REX C	SPRITZER, AUTUMN L
NYE, KIMBERLY D	STERLING, DEBRA G
O'CONNOR, GAVIN J	STOKES, EMILY M
OELZE, DEBORAH M	STORY, KIRSTIN A
OLSON, JAMES C	STRITTMATTER, MAURA C
PACE, KAYLEN J	STRONG, KEVIN A
PECKARDT, KAYLA M	STRUCKMEYER-CROXEN, FREDERICK S
PEISER, PAMELA J	STURTZ, ASHLEY D
PERKINS, RONALD K	SWEENEY, KATHLEEN P
PEVEY, CHEYSSER A	TABER, ALEXANDER M
PIGNATELLA CAIN, AMY S	TALAMANTE, DAVID M
POLLOCK, LINDA J	TEASDALE, SCOT G

**Office of the Attorney General
Attorney List**

EMPLOYEE_NAME	EMPLOYEE_NAME
THORSON, AMY M	
TIBBEDEAUX, LISA M	
TROUP, BENNA R	
TRUMAN, EDWARD B	
TYRELL, SYREETA A	
UPDIKE, BENJAMIN H	
VALADEZ, TONI M	
VALENZUELA, DENISE W	
VAMPOTIC, MICHAEL J	
VILLARREAL-REX, KRISTI L	
WAGNER, KELLY M	
WALKER, DARYL R	
WALSH, MICHAEL J	
WHELIHAN, NATHAN E	
WHITE, CHRISTOPHER P	
WILLIAMS, DAWN R	
WILLIAMS, MATTHEW K	
WOOTEN, PHILIP R	
WRIGHT, JENNIFER J	
YOUNG, SHALLON L	
ZEISE, CARL E	
ZINMAN, JANA M	

Exhibit E

List of Quarles & Brady Partners and Associates

Tara Akinwande
Michael Aldana
Stacy Alexejun
Sarah Ames
Brian Anderson
Eric Anderson
James J. Aquilina
John Aramanda
Daniel Ark
Kristen Arredondo
Cameron Arthur
Peter Asaad
Joel Austin
Angeline Babel
Jean Baker
John Bannen
Alexis Barkis
John Barlament
John Barry
Ted Barthel
Ted Barthel
Luke Behrke
Sarah Belger
Scott Berg
Bennett Berson
Lauren Beslow
David Beyer
Ave Bie
Mark Bina
Patrick Bitterman
Amanda Blaising
David Blank
Elizabeth Blutstein
Anita Boor
Robert Bornhoft
Susan Boswell
David Bourne
Jacob Bradley
W. David Braun
Alissa Brice Castaneda
Timothy Brinkley
Edwin Broecker
Benjamin Brown

Keith Bruett
Allison Buchanan
Heather Buchta
Douglas Buck
T. Robert Bulloch
Christian Burden
Luke Cass
Amanda Cavazos
David Cellitti
Courtney Pugh
Michael Chargo
Jonodev Chaudhuri
Martin Childs
Gary Clark
Jennifer Clements
Simone Colgan Dunlap
Christopher Combest
Daniel Conley
Jack Cook
Victoria Cook
Alex Cooper
Sara Cooper
Amy Cotton Peterson
Michael Couch
John Coulby
Charles Cousland
Joshua Covey
Sarah Coyne
Bradley Crocker
Michael Curley
Jason Curry
Nicholas D'Amico
Christopher Dang
Raye Daugherty
Brigid Daugherty Fox
Noel Davies
Kelly Davis
Lindsey Davis
Richard Davis
Justin DeAngelis
Joseph Decker
Hunter DeKoninck
Kevin Delorey

Christopher DeMent
Hector Diaz
John Dienelt
Kimberley Dillon
Meredith Doll
Lucy Dollens
Kenneth Downey
Jordan Downham
Katelin Drass
Matthew Duchemin
Robert Duffy
Dillon Durnford
Rachel Dykema
Zachary Eastburn
Kelli Edson
Sherina Edwards
Mark Ehrmann
Travis Eliason
Steve Emerick
Linda Emery
Juan Espinoza-Forlenza
Gregory Everts
Adam Falkof
Tracy Farley
Cynthia Faur
Randall Fearnow
Michael Fehser
Emily Feinstein
Faye Feinstein
Elizabeth Fella
Mary Ferti
Andre Fiebig
Lindsay Fiore
Mike Fischer
Krystal Fleischmann
Joshua Fleming
Terri Flynn
Emily Fons
Rory Foster
Zac Foster
Christopher Frisina
Randall Frykberg
Jeffrey Fugal

Dawn Gabel
Isaac Gabriel
Rasha Gad
Fred Gants
Stephen Gardner
Elizabeth Gebarski
Jaymee Geelan
Christopher Gerber
Andrew Gleason
Patrick Goebel
James Goldschmidt
Jazzmin Gordon
Alex Gore
Benjamin Graff
Noelle Granitz
Nikia Gray
David Groose
Lars Gulbrandsen
Tolga Gulmen
Christopher Guthrie
Brandon Gutschow
Ryan Haas
Jonathan Hackbarth
Ameera Haider
Diane Haller
Kenneth Hallett
Katherine Hanes
Chirstine Hansen
Blake Hanson
Charles Harper
Lauren Harpke
John Harris
Robert Harris
Brian Hartstein
Elizabeth Hazelbaker
J. Michael Hearon
Amy Levine Heiserman
Tim Hinchman
Otto Hinks
John Hintz
Patricia Hintz
Troy Hoch
Erin Hogan

Edward Holloran
Kirk Hoopingarner
Jonathan Howard
Brian Howie
John Hughes
Joshua Hufford
Steven Hunter
Darrell Husband
Otto Immel
Bradley Jackson
Raymond Jamieson
Noleta Jansen
Daniel Janssen
Michael Jaskolski
W. Scott Jenkins, Jr.
Cale Johnson
Eric Johnson
Jacqueline Johnson
Kimberly Leach Johnson
Suzanne Johnson
Cassidy Jones
Norah Jones
Maria Kallmeyer
Jon Kammerzelt
James Kaplan
Reema Kapur
Craig Kaufman
Bernard Kearney
Bridgette Keating
Thomas Keating
Daniel Kersey
Mark Kircher
Molly Kja.rtanson
John Klages
Scott Klundt
Joseph Kohn
Cory Kopitzke
Mark Kornfeld
Brandon Krajewski
Jason Krueger
Thomas Krumenacher
Steve Kruzell
Michael Larson

Donald Layden
Eric Ledbetter
Amy Lenz
Michael Levey
Marta Levine
Jessica Lewis
John Lhost
Tiffany Li
Jacob Lichter
Sarah Linsley
John Linzer
Jeremy Lite
Matthew Livesay
Benjamin Lockwood
Bryce Loken
Daniel Long
Kevin Long
Alexander Longan
Leonardo Loo
Nicole Lopez
Jessica Lothman
Ryan Lovitz
Lindsey Lund
Courtney Lynch
Lisa Lyons
Shamika Mazyck
Carolyn McAllister
M. Scott McBride
Michael McCause
Melissa McCord
Thomas McDonnell
Thomas McElligott
Scott McIntosh
Anne McKeon
Brooke Budoff McNett
Lori Meddings
Robert Messerly
Nicholas Meza
Jerome Mohsen
Brian Moll
Brooke Onahan
Jeffrey Monberg
Tiffany Moncrieff

Stephanie Moon
Kathryn Moore
Kirsten Morelli
Corbin Morris
Roger Morris
David Morrison
Ryan Morrison
Keely Morton
Mitchell Moser
Michael Mostow
Daniel Muchow
Kathryn Muldoon
Elisa Muller
Patrick Murphy
Mary Ann Murray
Nicole Murray
David Muth
Nikhil Nadkarni
William Nash
Derek Neathery
Coree Neumeyer
Carolyn Neville
Christopher Nickels
Benjamin Nielsen
Averi Niemuth
Kristin Graham Noel
Patrick Nolan
Parwana Noorzad
Elizabeth Nowakowski
Anne O'Brien
Meghan O'Connor
Drew O'Malley
John O'Neal
Kristin Occhetti
Luis Ochoa
Nathan Oesch
Brittany Ogden
David Olson
Elizabeth Orelup
Rodney Ott
Randall Oyler
Andrea Palmer
Zachary Pasker

William Parks
Jodi Patt
Cheryl Payne
Megan Peccarelli
Laura Peebles
Jeff Peelen
Christopher Penza
Nancy Peterson
Randy Plum
Jeffrey Phillips
Kaitlin Phillips
Jennifer Piatt
Jeffrey Piell
Michael Piery
Matt Pietruczak
Joseph Poehlmann
Catherine Pollard
E. King Poor
Jennifer Powers
Tiffany Presley
Adam Prinsen
Patrick Proctor-Brown
Joseph Puchner
Kevin Quigley
Stephanie Quincy
Daniel Radler
Katea Ravega
John Remington
Lara Rhodes
Edward Rickert
Hans Riede
Bradley Rigor
Richard Roche
Isaac Roang
Daniel Roberts
Richard Roche
Michael Rogers
Travis Romero-Beck
N. Rosie Rosenbaum
Samantha Roth
Tyler Roth
Robert Rothacker
Edward Salanga

Lindsay Schafer
Rachel Schafer
Jordan Schettle
James Schleicher
Nicholas Schmidbauer
Jeffrey Schneider
Patrick Schoen
Donald Schott
William Schultz
Ethan Schwenker
Sean Scullen
Joel Sestito
Alexis Sharpe
Jeffrey Shear
Emily Shircel
Jenna Shives
M. David Short
Alexandra Shortridge
Yakov Sidorin
Nicole Simmons
Brian Sirower
Gregory Sitrick
Samantha Skenadore
Christopher Skey
Walter Skipper
Ilene Slate
Teri Small
Robert Smith
Rowan Smith
Martha Snyder
Derek Sorenson
Grant Sovern
Rebecca Speckhard
Peter Spier
Matthew Splitek
Jeffrey Spoerk
Thomas Springer
Christian Stahl
Emily Stedman
Anthony Steinike
Naomi Stieber
Lauren Stine
Andrew Stoker

Jonathan Stone
Ashley Strait
Theodore Sullivan
Alicia Taylor
Patrick Taylor
Rachel Taylor
Andrea Tazioli
Pilar Thomas
Jean Tibbetts
Benjamin Tietgen
Paul Tilleman
Leah Tinney
Amalia Todryk
William Toman
Anthony Tomaselli
Hannah Russell Torres
Ryan Torres
Elizabeth Trachtman
Villa
Joel Tragesser
Susan Trujillo
Lauren Tuckey
James Ugalde
Nneka Umeh
Margaret Utterback
John Vail
Paul Valentine
Ryan Van Den Elzen
Eric Van Schyndle
Eric Van Vugt
Theresa Van Vuren
Sydney VanBerg
Jessica Vander Velde
Tambryn VanHeyningen
Hailey Varner
Stephanie Vavra
Jacqueline Vidmar
Sarah Virani
Matthew Vogel
C. Bradley Vynalek
Bailey Walden
William Walden
Kevin Walsh

Elizabeth Wamboldt