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Sandra Lynch CA1-MA [Court of Appeals for the 1st Circuit-Massachusetts] Forms [1]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. form	DOB (Partial); POB (Partial); re: Financial data and conflict of interest [pages 2- 26 closed in whole]; re: Confidential [pages 27-28 closed in whole] (28 pages)	01/11/1995	P6/b(6)
002. form	DOB (Partial); POB (Partial); re: Financial data and conflict of interest [pages 2- 15 closed in whole]; re: Confidential [pages 16-17 closed in whole] (17 pages)	09/19/1994	P6/b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Victoria Radd
OA/Box Number: 4961

FOLDER TITLE:

Sandra Lynch CA-1 MA [Court of Appeals for the 1st Circuit - Massachusetts] Forms
[1]

2013-0670-F

jm1012

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (including any former names used.)

Sandra Lea Lynch

2. Address: List current place of residence and office address(es).

Home: 69 Naples Road
Brookline, Massachusetts 02146

Office: Foley, Hoag & Eliot
One Post Office Square
Boston, MA 02109

3. Date and place of birth.

[001] (b)(6)

4. Marital Status (including maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Divorced.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and date degrees were granted.

Boston University Law School, Boston, Massachusetts.
September, 1968 - June 1971, J.D. cum laude, June, 1971.

Wellesley College, Wellesley, Massachusetts.
September 1964 - June 1968, A.B. in Philosophy, June, 1968.

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

1978 to Foley, Hoag & Eliot, Boston, Massachusetts.
Present Partner (1982), past head of Litigation
Department, past Pro Bono Coordinator,

past member Professional Responsibility Committee.

1974-1978 General Counsel, Massachusetts Department of Education, Boston, Massachusetts.

1973-1974 Assistant Attorney General, Government Bureau, Commonwealth of Massachusetts, Boston, Massachusetts.

Instructor in Legal Writing, Boston University Law School, Boston, Massachusetts.

1971-1973 Law clerk, Chief Judge Raymond J. Pettine, U.S. District Court, District of Rhode Island, Providence, Rhode Island.

1968-1971 Part-time employment during law school (as work-study student) and summers at Boston Legal Assistance Project (1970-71); Mass. Defenders Committee (1969-1970); vom Baur, Coburn, Simmons & Turtle (1970); Interfaith Housing Corporation (1968-69), and as course assistant in the B.U. Government Department (1969), all in Boston, Massachusetts.

7. Military Service: Have you had any military services? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Fellowships, Scholarships and Academic Awards

1974 National Endowment for the Humanities Fellowship to study Constitutional Law at University of Virginia for one month.

1968-1971 Scholarship to Boston University Law School, Boston University Law Review, Articles Editor. Book awards: Administrative and Corporate Law (for highest grades in law school class).

1964-1968 Seven College Scholarship to Wellesley College

Awards

1993 Silver Shingle Distinguished Alumni Award, Boston University Law School.

1980 Planned Parenthood League of Massachusetts
Distinguished Service Award.

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

Boston Bar Association

President (1992-1993), President-Elect (1991-1992), Vice President (1990-1991), Treasurer (1989-1990), Secretary (1987-1989), Council Member (1993-1995, 1986-1987, 1975-1977), Chair, Committee on Role of Gender in the Practice of Law, Co-initiator of BBA Report on Role of Gender in Practice of Law (1986), Member, Committee on Legal Services to the Poor (1975-1977), Member (1975 to present). [As BBA President I was also a Trustee of the G. R. White Trust of City of Boston].

United States Court of Appeals for the First Circuit

Advisory Committee on Rules (1993 to present) and Panelist on Civility and Professionalism In Judiciary, 1993 Judicial Conference.

Massachusetts Supreme Judicial Court

Committee on Model Rules of Professional Conduct (1994 to present).

American Bar Association

Member of House of Delegates (1993 to present); Member of Commission on Partnership Programs (1993 to present), Keynote speaker, Bar Leadership Institute (1993), participant in Conferences on Justice System including Leadership Summits (1992) and Just Solutions Conference (1994), Member (1986 to present).

National Conference of Bar Presidents

Organizer of Women Bar Leaders Group, speaker (1992 to present).

American Arbitration Association

Panel on Large and Complex Cases (1994 to present).

New England Legal Foundation

Board member (1993 to present).

Commission on Federal Appointments

Member (recommended to Senators Kennedy and Kerry candidates for U.S. District Court, U.S. Attorney and U.S. Marshal) (1992).

Supreme Judicial Court Historic Society

Board member (1994 to present).

Special Counsel to Commission on Judicial Conduct

To prosecute In the Matter of Joseph S. Mitchell (appointed by Supreme Judicial Court ("SJC")) (1989 to 1992).

Joint Bar Committee

Member (1986-1988) (advises Governor of Massachusetts on judicial appointments).

Board of Bar Overseers of Commonwealth

Vice-chair (1985-1986), Member (1982-1986) (Bar disciplinary Board appointed by SJC).

Massachusetts Advisory Committee to U.S. Civil Rights Commission

Member (1982-1984).

Massachusetts Bar Association

Member (approx. 1975 to present).

Women's Bar Association

Member (approx. 1978 to present).

National Association of Women Lawyers

Member (1993 to present).

Civil Liberties Union of Massachusetts

Board (1972-1973 (Board was then called the Executive Committee), 1974-1975, 1979-1981), Advisory Committee (1975-1976), First Vice-President (1976-1978), one of outside General Counsel (5/81 to 5/83), Womens Rights Project, co-founder and Steering Committee Member (1972 to late 1970's).

Screening Committee for U.S. Magistrate

Appointed by U.S. District Court, D. Mass. (1982).

Lawyers Alliance for World Security

Member (approx. 1986-1992).

Beacon Press School Integration Studies

Advisory Committee member (1977-1978).

Center for Women's Legal Studies

Advisory Board member (1974-1975).

Lawyers Guild

Member (approx. 1970-1975).

Boston University Law School Alumni Association

Member (approx. 1974 to present).

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I belong to the following organizations as well as those set forth for the present in question 9 above.

Co-chair, Leading Industries Committee, Boston Chamber of Commerce;
Wellesley College Business Leadership Council;
Massachusetts Taxpayers Foundation, Policy Committee (1993-1994);
Museum of Fine Arts, Boston;
Gardner Museum, Boston;
Museum of Science, Boston;
Bearcamp Pond Association, Sandwich, New Hampshire;
Sandwich Historic Society, Sandwich, New Hampshire;
Massachusetts Audubon Society;
WGBH, Boston.

To the best of my knowledge the only organizations to which I belong that are active in lobbying before public bodies are the American Bar Association, Boston Bar Association, Massachusetts Bar Association, Boston Chamber of Commerce, and Massachusetts Taxpayers Foundation.

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for

any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Commonwealth of Massachusetts (1971).

United States Supreme Court (1974).

United States District Courts, District of Massachusetts (1973) and District of Rhode Island (1980).

United States Court of Appeals for the First Circuit (1974).

I have been admitted pro hac vice to both state and federal courts in New Hampshire.

I have appeared before the Federal Energy Regulatory Commission.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.

1. Damages in Massachusetts Litigation, "Damages in Sale of Goods, Insurance and Employment", Massachusetts Continuing Legal Education ("MCLE") (1993).
2. "Beyond Plato", Boston Bar Journal 2 (July/August 1993).
3. "The 724 Children", Boston Bar Journal 2 (May/June 1993).
4. "Anatomy of a Success: BBA and Court Reform", Boston Bar Journal 2 (March/April 1993).
5. "Mirror, Mirror On The Wall", Boston Bar Journal 2 (Jan./Feb. 1993).
6. "High Noon In The Courthouse", Boston Bar Journal 2 (Nov./Dec. 1992).
7. "Of Mice and Men ... And Women and Children," Boston Bar Journal 2 (Sept./Oct., 1992).
8. The Massachusetts Courts in Crisis: A Model for Reform, Report of Boston Bar Association State Court Study Committee (June 1991).

9. "Public Institution Litigation in the First Circuit," 74 Mass. Law Review 259 (Dec. 1989). ✓
10. Continuing Legal Education Course Materials
- a. Ready for Trial: "Themes of Case and Preparation of Witnesses", Mass. Bar Association (1990)
 - b. Federal Civil Practice: Making the Transition from State Court Practice: "Federal Motion Practice in the District of Massachusetts", MCLE (1989).
 - c. Avoiding and Litigating Wrongful Termination Claims: "Wrongful Termination Claims, Defenses and Damages: Liability in Contract", MCLE (1988).
 - d. Third Party Liability for Injuries in the Workplace: "Defending Against An Environmental Personal Injury Claim", MCLE (1987)
 - e. Federal Court Civil Litigation in the First Circuit: "Federal Rules Practice", MCLE (1982)
11. "The Boston School Desegregation Case", 62 Mass. L. Quarterly 137 (Fall 1977). ✓
12. "Education Law", 1975 Boston College Annual Survey of Massachusetts Law 396.
13. "New England Regional Government", in Power, Pollution, and Public Policy, by Project NECAP (New England Coastal Area Planning), M.I.T. Press (1971).
14. Comment, "Little Ado About Much: Jurisdiction of the Supreme Court to Issue Mandamus," 51 B.U.L. Rev. 106 (1971).
15. Note, "Can the Section 1331 Amount Requirement Constitutionally Bar a Plaintiff Alleging Violation of His First Amendment Rights from Using the Federal Court to Get an Injunction Against a Federal Officer." 50 B.U. L. Rev. 178 (1970) (Special Issue).

I have on occasion spoken on panels and other such occasions on issues involving constitutional law or legal policy. I do not have any written transcripts of any such remarks. Pertinent press reports are attached to the copy of published materials.

13. Health: What is the present state of your health? List the date of your last physical examination.

My health is excellent. My last physical examination was on August 30, 1994.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, please provide copies of the opinions.

Not applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

Public Office (all positions appointed)

1971-1973 Law Clerk to Chief Justice Raymond J. Pettine,
U.S. District Court, District of Rhode Island

1973-1974 Assistant Attorney General, Commonwealth of
Massachusetts

1974-1978 General Counsel, Massachusetts Department of
Education

17. Legal Career:

A. Describe chronologically your practice and experience after graduation from law school including:

1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;
2. whether you practiced alone, and if so, the addresses and dates;

3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

Summer 1971	Summer intern, Boston Legal Assistance Project, Columbus Avenue, Boston, Massachusetts
1971 - 1973	Law clerk to Judge Raymond J. Pettine, U.S. District Court, Providence, Rhode Island
1973 - 1974	Assistant Attorney General, Department of the Attorney General, One Ashburton Place, Boston, Massachusetts
1974 - 1978	General Counsel, Massachusetts Department of Education, 350 Main Street, Malden, Massachusetts
1978 - Present	Foley, Hoag & Eliot, One Post Office Sq., Boston, Massachusetts (160 attorney firm, I became partner in 1982).

- B. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

1978 - 1995

Engaged in large firm litigation practice with specialties in environmental and employment litigation and large, complex litigation. Represented companies, large (e.g. Raytheon, Reebok, Polaroid), mid-size (e.g. EMC) and small (e.g. Brokerage Concepts) as well as individuals. Also represented entities such as the Massachusetts Turnpike Authority, the Massachusetts Division of Capital Planning and Operation, the Pension Plans of Public Service Company of New Hampshire and of Cabot Corporation, and the Commission on Judicial Conduct. Represent both plaintiffs and defendants, but more typically, defendants.

1974 - 1978

Represented Massachusetts Board and Commissioner of Education in school desegregation, special education, transitional bilingual education and other education related cases. Ran law office of five attorneys.

1973 - 1974

Represented state agencies in my capacity as Assistant Attorney General. Constitutional law issues predominated.

1971 - 1973

Law clerk to United States District Court Judge Raymond J. Pettine.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Please see answer to No. 17(B)(1).

- C. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

1978 - 1995

The frequency of my court appearances has varied over time. In 1986, I was involved in a massive federal court jury trial, involving 29 plaintiffs, for the first nine months of the year. In 1982 I spent almost two months in a trial in federal court. Until I became involved in the leadership of the Boston Bar, I was in court frequently, on motion practice, for hearings, conferences, arguments. When not on trial, I was usually in court several times monthly. As I became more senior, with others working under me, and more involved in leadership in the Boston Bar Association, I went to court less frequently. Over the last year, I have probably been in court several times a month. The majority of my practice has been in federal court; the precise percentages vary with the mix of my caseload. Most of the caseload was civil, but there was one complex federal criminal grand jury matter which lasted more than a year. During that time, the criminal matter predominated.

1974 - 1978

I was often in court several times a week, with the vast majority of my work being in federal court. Most of the cases were civil, but I handled one major criminal investigation, on the prosecution side.

1973 - 1974

I was often in court several times a week. My practice was almost evenly divided between federal and state, with perhaps slightly more time in the Supreme Judicial Court of Massachusetts. All of my work was civil litigation.

2. What percentage of these appearance was in:

- (a) federal courts;
- (b) state courts of record;
- (c) other courts.

Over my entire career, I estimate that 65% to 70% of my appearances were in federal courts, that 28% to 33% were in state courts and 2% were in other courts or administrative bodies.

3. What percentage of your litigation was:

- (a) civil;
- (b) criminal;

Over my career, I estimate that 95% of my litigation was civil and 5% was criminal litigation.

4. State the number the cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Excluding cases I won on summary judgment or motion to dismiss (of which there are many), and including evidentiary remedial proceedings and preliminary injunction hearings the answer is in the range of 15 cases. I have also tried, as lead counsel, another case to an arbitrator. I was sole counsel in two, associate counsel in two, second chair at trial in two, and lead counsel, assisted by others, on the remaining cases.

5. What percentage of these trials was:

- (a) jury;
- (b) non-jury.

I have had only one jury trial. Anderson v. W.R. Grace, which took place from January to September 1986, and involved more than 29 plaintiffs. I was trial counsel with Michael Keating, who had the lead counsel role. As lead counsel, I have prepared other jury trials which settled on the

eve of trial, including the New Bedford Harbor contamination case.

18. Litigation: Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

The ten most significant matters are described in chronological order.

1. Massachusetts Turnpike Authority v. F.L. Roberts, Exxon, Mobil and Canadian/Oxy (Suffolk Superior Civil Action No. 90-2795) (Gordon Doerfer, J.) (1991-1994)

I represented as lead counsel plaintiff Mass. Turnpike Authority against oil companies who had leased and contaminated service areas along Turnpike since 1956, seeking to recover assessment, clean up, response costs and damages for contamination in excess of \$10 million. I personally interviewed witnesses, analyzed documentary evidence and organized fact finding and witness interviews for facts going back over 26 years involving ten different sites and numerous environmental incidents, and led a team under my supervision. I personally worked with expert witnesses on establishing evidence of liability from environmental characterizations of each site and on projecting likely remediation scenarios and costs. I argued a summary judgment motion on a key indemnity point. Facing the prospect of more than 100 depositions, the parties agreed to go to ADR to reduce costs of litigation and expedite resolution. I personally mediated with Mobil, Canadian/Oxy, and Exxon. This resulted in agreements in 1993, approved by the court, under which the oil companies are cleaning up the ten sites. I argued the successful motion for court approval of the Exxon settlement, over the opposition of Roberts.

Counsel for Mobil	Robert M. Gault, Esq. Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. One Financial Center Boston, Mass. 02111 617-542-6000
Counsel for Canadian/Oxy	Harold Hestnes, Esq. Hale & Dorr 60 State Street Boston, MA 02109 617-526-6000
Counsel for Exxon	Ralph T. Lepore, III, Esq. Michael A. Leon, Esq. Warner & Stackpole 75 State Street Boston, MA 02109 617-951-9000
Counsel for F.L. Roberts	Thomas F. Holt, Esq. Kirkpatrick & Lockhart One International Place Boston, MA 02110 617-261-3100

2. Reebok International v. Design Continuum, Inc.,
(Suffolk Superior No. 91-4858-B) (Botsford, J.)
(1991)

Reebok developed and owns the highly successful THE PUMP™ technology. In July 1991, Reebok learned that Spalding introduced an inflatable baseball glove at a trade show. Because the glove appeared to have used Reebok's technology, Reebok sued Spalding in Illinois and Design Continuum ("DC") in Massachusetts Superior Court, seeking preliminary injunctive relief. I represented Reebok as lead counsel in Massachusetts, alleging DC, which had provided design services to Reebok in developing THE PUMP™ under a strict confidentiality and proprietary information agreement, had violated the agreement, unlawfully used and misappropriated Reebok's trade secrets and confidential information, and engaged in unfair and deceptive trade practices. In a very swiftly moving case, I interviewed and prepared witnesses, did deposition work, prepared affidavits and opposition papers, and argued in a preliminary injunction hearing within several weeks after the complaint was filed. While the preliminary injunction motion was under advisement, the parties stipulated in court to certain relief and later resolved the case by agreement.

Counsel for
Design Continuum

Robert Weinstein, Esq.
Kassler & Feuer
101 Arch Street
Boston, MA 02110
617-439-3800

Counsel for
Reebok in related
action

Sheri J. Engelken, Esq.
Kirkland & Ellis
200 East Randolph Drive
Chicago, Illinois 60601
312-861-2432

3. Deborah Wiener v. Polaroid Corp., et al, 790 F. Supp. 363 (D. Mass. 1992) (Tauro, J.) (1990-1992)

Assisted by an associate, I represented Polaroid and Polaroid supervisors in a claim by a female consultant that sexual harassment and sex discrimination resulted in her not being hired for a permanent position. The facts were difficult. I interviewed, prepared and defended depositions of Polaroid's President, the supervisors and co-workers, and took plaintiff's deposition. I argued and won the Title VII claims on summary judgment. After my negotiation concerning the probability of success of the remaining claims, plaintiff voluntarily dismissed the case.

Counsel for
plaintiff

Dean Richlin, Esq.
Lucash, Gesmer & Updegrove
One McKinley Square
Fourth Floor
Boston, Massachusetts 02109
617-723-2770

4. Korb v. Raytheon, Mass. Superior Court Civil Action No. 87-7124 (Hallisey, J.), aff'd, 410 Mass. 581 (1991) (1987 - 1991)

I successfully represented Raytheon as lead counsel in the trial court and on appeal in an action by a former company Vice President who had been terminated after he made statements at press conference critical of employer's biggest customers at Department of Defense and contrary to employer's interest. Korb, represented by the Civil Liberties Union of Massachusetts, claimed the termination violated his free speech rights under Mass. Civil Rights Act ("MCRA"). I raised the novel issue of First Amendment limits on use of state power (through MCRA) to force defendant Raytheon to associate with speech with which it disagreed. I interviewed

witnesses, prepared affidavits, briefed and successfully argued the summary judgment motion in the trial court. I successfully briefed and argued against his appeal before the Supreme Judicial Court ("SJC"). I was assisted on all briefs by others, but I had primary responsibility. The SJC affirmed dismissal of his case.

I had originally removed the case to federal court because Korb's complaint alleged his First Amendment rights had been violated. The district court remanded, holding that an action brought under the MCRA in the private free speech context involving competing claims for First Amendment protection did not raise a federal question. Korb v. Raytheon, 707 F. Supp. 63 (D. Mass. 1989) (Woodlock, J.).

Counsel for Korb	Jonathan Shapiro, Esq. Stern, Shapiro, Rosenfeld & Weissberg 80 Boylston Street, Suite 910 Boston, MA 02116 617-542-0663
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Counsel for amicus Attorney General of Massachusetts	James M. Shannon, Esq. former Attorney General National Fire Protection Assoc. Battery March Park Quincy, MA 02169 617-984-7255
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5. Gene Trak v. Roche Diagnostic Systems, Inc.
(Middlesex Sup. Ct. (C.A. No. 89-3266) (White, J.), interlocutory relief denied (Mass. Appeals Ct. No. 89-J496) (Fine, J.) (1989)

As lead counsel, I successfully defeated at trial court and on interlocutory appeal an attempt to enforce a non-compete agreement against my client Roche, who hired a scientist to oversee development of DNA/RNA diagnostic test kits based on Polymerase Chain Reaction (PCR) technology. This technology would enable hospitals to quickly diagnose diseases such as AIDS and possibly save lives by shortening the time to diagnosis. The case presented issues concerning the freedom of a scientist to leave work on one patented technology he believed would fail in order to work on the only technology he believed would succeed (PCR). Legal issues involved the interplay between the public disclosure policies of patent law and confidentiality policies of trade secret/non-compete law. The case involved explaining in simple terms highly technical scientific concepts. This case moved very quickly and involved intense fact preparation. I argued several

motions before the preliminary injunction hearing. I interviewed witnesses, became familiar with the technology, obtained affidavits, inter alia, from a Mass. Dept. of Public Health official and a Nobel Laureate on the severely adverse public policy impact of enforcing a non-compete agreement in this arena, and briefed and successfully argued against the preliminary injunction. On appeal, I successfully briefed and argued against a petition for interlocutory relief. I was assisted by associates on these matters.

Counsel for Gene Trak

Douglas Seaver, Esq.
Warner & Stackpole
75 State Street
Boston, MA 02109
617-951-9000

Counsel for co-defendant Dr. Lawrie

David Angueira, Esq.
Bowditch & Dewey
161 Worcester Rd.
Framingham, MA 01701
508-879-5700

6. Anderson v. Cryovac, Inc. (U.S. Dist. Ct. D. Mass.) (Docket No. C.A. 82-1672S) (Skinner, J.)
Anderson v. Cryovac, Inc., 805 F. 2d 1 (1st Cir. 1986) (1983 - 1986)

I was trial counsel along with Michael Keating, who was lead counsel, to W.R. Grace in lengthy jury trial in the Woburn Toxic Tort Case. Families and individuals (twenty-nine plaintiffs) sued, claiming leukemia in the children had been caused by chemicals in drinking water, and that drinking water wells had been contaminated by movement in groundwater of chemicals from defendants' property. The Court divided this massive case into four separate trial phases. The first phase of the case involved trial proceedings from January through September 1986, before a federal court jury, on complex issues of hydrogeology and causation of contamination in wells. I participated in discovery and in the limited juror voir dire and selection, prepared and presented numerous trial witnesses, including high company officials on direct, cross-examined plaintiffs' witnesses, and argued a number of evidentiary and other motions, including a change of venue motion. The jury verdict against Grace in the first phase was vacated because the jury answers to interrogatories were inconsistent. The case then settled.

In the face of enormous publicity threatening the ability to find an impartial jury, the trial court had issued protective orders prohibiting disclosure of information obtained through discovery except, as needed, to public health and environmental officials. The Boston Globe challenged the orders, asserting there was a public right of access to such materials. I worked on the trial court and appeal papers against The Globe's challenge, and Professor Monaghan argued the appeal. The trial court's protective orders were upheld on appeal. Anderson v. Cryovac, 805 F.2d 1 (1st Cir. 1986).

Counsel for plaintiffs

Jan Schlichtmann, Esq.
Marketplace Center
200 State Street
Boston, MA 02109
617-439-9567

Counsel for co-defendant
Beatrice Food

Jerome Facher, Esq.
Neil Jacobs, Esq.
Hale & Dorr
60 State Street
Boston, MA 02109
617-526-6000

Co-counsel for Grace on Globe's appeal

Prof. Henry Monaghan
Columbia University Law School
435 West 116th Street
New York, New York 10027
212-854-2644

7. Robinson v. Polaroid Corp., 567 F. Supp. 192 (D. Mass. 1983) (Skinner, J.), aff'd, 732 F.2d 1010 (1984) (1978-1984)

In three related class action employment cases against my client Polaroid, I was second chair at trial, almost two months long, to lead counsel, J. Harold Flannery, now a Superior Court Judge. There were more than 50 witnesses at trial. I prepared and presented at trial a number of Polaroid witnesses, including the company General Counsel, cross-examined several plaintiffs, and argued many evidentiary and other motions. Plaintiffs asserted that race discrimination motivated the layoffs of African-American exempt and non-exempt employees. Polaroid's defense was that: (1) hourly layoffs were seniority based and, (2) as to salaried employees, Polaroid was an exemplary

affirmative action employer who took risks in hiring, risks that could not continue in terms of poor performance in time of layoff and that (3) statistical evidence showed no disproportionate impact. Defendants' verdict was affirmed on appeal. I wrote much of the brief on appeal. Legal issues on appeal included the relationship between disparate impact and discriminatory treatment analyses.

Counsel for Plaintiff

Jonathan Shapiro, Esq.
Stern, Shapiro, Rosenfeld
& Weissberg
80 Boylston Street
Suite 910
Boston, MA 02116
617-542-0663

8. a. Agency Rent A Car v. Connolly, 542 F. Supp. 231 (D. Mass. 1982) (Skinner, J.), vacated and remanded, 686 F.2d 1029 (1st Cir. 1982), and
b. Spencer Companies, Inc. v. Agency Rent A Car, 542 F. Supp. 237 (D. Mass. 1982) (Skinner, J.), (1981-1982)

In related litigations, our client Spencer, a local shoe company, successfully fought off a greenmail and then take-over attempt by a corporate raider. The district court, in Agency's lawsuit, had enjoined enforcement of the Massachusetts anti-takeover statute as an unconstitutional burden on interstate commerce and declined to abstain. On appeal, we convinced the First Circuit that a state statute and regulatory order thereunder forbidding the raider from purchasing more stock were not preempted by the Williams Act. The First Circuit required abstention and vacated the injunction issued by the district court against enforcement of the statute. In the Spencer v. Agency case, we convinced the district court that Agency had violated the provisions of the Williams Act and so it preliminarily enjoined Agency's tender offer. I was an associate for most of the case, and did much of the witness and fact preparation, some of the deposition work, and much of the brief writing at the trial level and on appeal. Christian Hoffman and David Walker of this firm were lead counsel.

Counsel for Agency: Mark Michelson, Esq.
Choate, Hall & Stewart
53 State Street
Exchange Place
Boston, Mass. 02109
617-227-5020

Robert Rothberg, Esq.
now General Counsel,
Cabot Corporation
75 State Street
Boston, MA 02109
617-345-0100

9. a. Baird v. Bellotti, 443 U.S. 622 (1979)
b. Planned Parenthood League of Massachusetts v. Bellotti, 499 F. Supp 215 (D. Mass. 1980) (J. Mazzone) revs'd in part and aff'd in part, 641 F.2d 1006 (1st Cir. 1980), (1978-1980) ✓

My firm accepted pro bono cases on behalf of Planned Parenthood League of Massachusetts challenging a Massachusetts statute as unduly burdening women's rights to choose. The U.S. Supreme Court in Baird v. Bellotti invalidated the statute. Subsequently, the legislature amended the statute and Planned Parenthood brought a challenge to the amended statute. On appeal, the First Circuit held portions of the new statute invalid. John Henn was lead counsel. I was an associate, with others, worked on the Supreme Court brief, and second chaired the PPLM case, including preparation of witnesses and affidavits and brief writing in the district court and on appeal.

Counsel for Defendant Bellotti

Garrick F. Cole, Esq.
Smith, Duggan & Johnson
One Center Plaza
Boston, MA 02108
617-248-1900

Counsel for Plaintiff Baird:

Joseph J. Balliro, Esq.
Balliro, Mondano & Balliro, P.C.
3 Arlington Street
Boston, MA 02116
617-227-5822

10. Boston School Desegregation Case: ✓

- a. Morgan v. Kerrigan, 401 F. Supp. 216 (D. Mass. 1974), denial of stay, 523 F.2d 917 (1st Cir. 1975), aff'd, 530 F.2d 401 (1st Cir. 1975), cert. denied, 426 U.S. 935 (1976) (remedial plan);
b. Morgan v. Kerrigan, 409 F. Supp. 141 (D. Mass. 1975) (D. Mass. 1974), aff'd, sub nom. Morgan v. McDonough 540 F.2d 527 (1st Cir. 1976), cert. denied, 429 U.S. 1042

(receivership of South Boston High School).
(Garritty, J.)
(1974-1978)

From 1974 to 1978, I was counsel to the Massachusetts Board of Education. My client was a defendant in the Boston school desegregation case along with the Boston School Committee, and was held not to have violated plaintiffs' rights. I became counsel on the case after the liability trial and participated in remedial proceedings. I briefed and argued several appeals to the First Circuit and prepared several briefs to the U.S. Supreme Court in opposition to others' appeals. Every order of the trial court during this period was affirmed on appeal. I appeared in the trial court, often several times weekly, on a large variety of remedial issues, for a several year period. I was lead counsel for the state Board. My co-counsel for a portion of the time was then Assistant Attorney General L. Scott Harshbarger.

Counsel for School Committee

Douglas Woodlock
(now U.S. District Court
Judge)
U.S. District Court,
John W. McCormack POCH
Boston, MA 02109
617-223-9293

Marshall Simonds, Esq.
Goodwin, Procter & Hoar
Exchange Place
Boston, MA 02109
617-570-1000

James J. Sullivan, Esq.
DiMento & Sullivan
100 State Street
Boston, MA 02109
617-523-5253

Co-Counsel for state from A.G.'s office

L. Scott Harshbarger
now Attorney General of
Massachusetts
One Ashburton Place
Boston, MA
617-727-2200 ext. 2042

Counsel for plaintiffs

J. Harold Flannery, Jr.
(now Superior Court
Judge)

New Courthouse
Boston, MA 02108
617-725-8130

Eric VanLoon, Esq.
Endispute, Inc.
73 Tremont Street
Boston, MA 02108
617-228-0200

Counsel for Intervenor
Home and School Association

Thayer Fremont-Smith
(now Superior Court
Judge)
Superior Court
New Court House
Boston, MA 02108
617-725-8148

For Intervenor Boston Teachers' Union

John F. McMahon, Esq.
Angoff, Goldman, Manning, Pyle,
Wanger, & Hiatt, P.C.
24 School Street
Boston, MA 02108
617-723-5500

For Intervenor School Administrators

Richard Coleman, Esq.
Segal, Roitman & Coleman
11 Beacon Street
Boston, MA 02109
617-742-0208

Counsel for Intervenor El Committee

Carolyn Playter, Esq.
Kehoe, Doyle, Playter & Novick
20 Winthrop Square
Boston, MA 02110
617-338-0070

For Intervenor City of Boston and Mayor

Marilyn Sticklor, Esq.
Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, MA 02110
617-482-1776

19. Legal Activities: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any

information protected by the attorney-client privilege (unless the privilege has been waived.)

In addition to those matters described above, I believe the following are significant.

Since 1990, I have been special counsel to the Pension Plan of Public Service Company of New Hampshire and investigated the loss of more than \$20 million in pension funds as a result of investments in naked options. We recovered to the Plan the entire sum lost, cooperated with a concurrent Department of Labor investigation and obtained significant recoveries from culpable parties.

In 1989, I was appointed Special Counsel by the Massachusetts Supreme Judicial Court to the Commission on Judicial Conduct in the matter of Superior Court Judge Joseph S. Mitchell. I filed a petition seeking his removal from the bench. Judge Mitchell chose to retire. ✓

Some of the most personally significant legal activities in which I was involved were those on behalf of individuals. For example, I represented a young woman who had been raped by her boss after a company function and obtained a significant settlement for her and her new husband. I represented another woman who had been sexually harassed and denied a promotion by her superior and obtained a promotion for her.

As President of the Boston Bar Association in 1992-1993, I initiated legislation, ultimately enacted, seeking a raise in pay for members of the state judiciary, started programs for unemployed lawyers, and requested that the U.S. Court of Appeals for the First Circuit undertake racial and gender bias studies (which it has done). I also worked on Truth-in-Sentencing legislation, sponsored by the BBA, which was ultimately enacted.

In addition, I worked through the Boston Bar Association to obtain major court reform legislation, which was enacted in January, 1993. The legislation was designed to improve the management, accountability and efficiency of the state court system. Of very great significance to me was that the court reform legislation also created a statewide juvenile court, thus addressing the problem of inadequate response of the courts to the problems of children. As President of the Bar, I was also able to create in the legal community a summer jobs program for Boston school children.

III. GENERAL (PUBLIC)

1. An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my career I have engaged in pro bono litigation in various matters. An example of such litigation is Bezio v. Patenaude, 381 Mass. 563 (1980), on which I worked while I was an associate. The Supreme Judicial Court upheld our argument that the trial judge was in error in removing a child from a mother on the basis per se of the mother's sexual preference. I was appointed Special Counsel to the Commission on Judicial Conduct by our Supreme Judicial Court to prosecute a case against a state court judge, who ultimately resigned from the bench. I have also represented indigent clients on housing and domestic violence matters. ✓

I have also been involved in improving the administration of justice, through my activities over a four year period on the Board of Bar Overseers for the Commonwealth of Massachusetts, including being Vice-Chair. I also served on the Joint Bar Committee which made recommendations to the Governor of Massachusetts concerning candidates for judicial appointment. I was also instrumental in instigating a report and survey conducted by the Boston Bar Association on the Role of Gender in the Practice of Law.

In 1992 - 1993, I was President of the Boston Bar Association and spent most of my time on the presidency. As President, I involved the Bar in education reform legislation efforts, initiated a summer jobs program for Boston Public School students, ran programs for unemployed lawyers, and engaged in a number of activities in support of the court system. In many ways the primary achievement of my year as BBA president was the enactment of major court reform legislation in Massachusetts. That legislation called for greater accountability of the court system and gave it needed management tools. Significantly, it also created a statewide juvenile court and consolidated the various jurisdictions over children and youth in that court.

Since being President of the Boston Bar Association, I have spent some time in community service activities designed to work on issues of job creation. That led me to work on a committee of the Massachusetts Taxpayers Foundation and on

the Leading Industries Committee of the Boston Chamber of Commerce, of which I am now co-chair.

It is difficult to summarize the time spent. Since the early 1980's I have spent more than 1300 hours on pro bono work, which includes the court reform effort, but that does not include the time spent as the President or an officer of the Boston Bar Association. In the year I was BBA President, I spent over 1400 hours on the presidency.

2. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

To the best of my knowledge I have never belonged to an organization which invidiously discriminates on the basis of race, sex or religion.

I have been a member of the Wellesley Business Leadership Council since 1993, which draws its membership from graduates of Wellesley College, which was, when I attended, a single sex college and remains so. The Council members meet once a year at the College and have no other facilities. It is not a club.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

No selection commission played any role in recommending candidates for the U.S. Court of Appeals. There was for the U.S. District Court in Massachusetts a Commission on Federal Appointments in 1992. That Commission played no role in the recommendation for nomination to the U.S. Court of Appeals for the First Circuit. At the urging of several people, including a federal judge, I made known my interest in the Court of Appeals position to the White House and to Senators Kennedy and Kerry. I was interviewed by Senator Kennedy on July 21, 1994, by the Federal Bureau of Investigation on August 18, 1994, by the American Bar Association on September 7, 1994, and by the White House Counsel's Office and the Department of Justice on September 8, 1994.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

A judge is vested with awesome power through the law over the lives of people and must always exercise that power with restraint. A judge is also a member of but one of three co-equal branches of government, the other two branches representing more directly the views of the citizens through the electoral process. A judge must be restrained in the exercise of judicial power under basic principles of democracy and under our Constitution. That necessary restraint is evidenced in jurisdictional standing, ripeness, and other principles. In reaching decisions, courts should give great deference to the legislative process which produced the law.

The Article III courts play a limited role: they must decide the cases or controversies which come before them and decide only the case before them. Courts should not act as legislatures.

There are other limitations on Article III courts. They are guided in all decisions by the rule of law. They are bound by precedent. The United States Courts of Appeals are bound by the decisions of the United States Supreme Court and guided by the decisions of their sister Courts of Appeals. Cases must be decided within the framework of established rules and precedents.

It is also a part of our constitutional system that courts may review the actions of other branches in order to protect Constitutional rights of individuals. Such review must be done very carefully, based on the facts of the individual case and in accordance with law.

In most cases, involving private litigants, concerns about judicial activism will not arise. There, as in all cases, the courts must apply the law and do so consistent with the limitations on their own jurisdiction.

Much of the discussion of judicial activism has focused on remedial orders in cases against government institutions. Once rights have been violated and liability found, the question of what is an appropriate and effective remedy may, under some circumstances, be a difficult one. The best, most effective remedy should be one under which the legislative or executive branch is responsible for the remedy. These branches more closely reflect the will of the citizenry, have more expertise, and are better able to effectuate a remedy. But there are times when the legislative or executive arm of government will not do so or cannot do so, and so shifts the responsibility to the court.

The court must issue a remedy on a finding of a constitutional violation in such circumstances. Yet there are real and practical limitations on the ability of courts to administer decrees and to oversee institutions. Among these are that courts are not trained in the fields of expertise which may be needed, do not have an array of staff or support to insure appropriate implementation, and are dependent on the parties' choice of information and issues presented and the competence of counsel involved. Courts are nonetheless forced sometimes to devise such judicial remedies. Such occasions should be extraordinary. Courts should always attempt to keep that responsibility with the other branches. In fashioning the remedy, a court must be guided by the framework of other judicial decisions, particularly Supreme Court precedent, as to the scope of remedial authority.

AFFIDAVIT

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

Sandra L. Lynch
Sandra L. Lynch

Date Jan. 11, 1995

Then personally appeared the above-named Sandra L. Lynch and acknowledged the foregoing document to be her free act and deed, before me

Anita L. Hager
Notary Public
My commission expires Aug 8, 1997

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. form	DOB (Partial); POB (Partial); re: Financial data and conflict of interest [pages 2- 15 closed in whole]; re: Confidential [pages 16-17 closed in whole] (17 pages)	09/19/1994	P6/b(6)

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Sandra Lynch CA-1 MA [Court of Appeals for the 1st Circuit - Massachusetts] Forms
[1]

2013-0670-F
jm1012

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

I. BIOGRAPHICAL INFORMATION (PUBLIC)

1. Full name (including any former names used.)

Sandra Lea Lynch

2. Address: List current place of residence and office address(es).

Home: 69 Naples Road
Brookline, Massachusetts 02146

Office: Foley, Hoag & Eliot
One Post Office Square
Boston, MA 02109

3. Date and place of birth.

[002] (b)(6)

4. Marital Status (including maiden name of wife, or husband's name). List spouse's occupation, employer's name and business address(es).

Divorced.

5. Education: List each college and law school you have attended, including dates of attendance, degrees received, and date degrees were granted.

Boston University Law School, Boston, Massachusetts.
September, 1968 - June 1971, J.D. cum laude, June, 1971.

Wellesley College, Wellesley, Massachusetts.
September 1964 - June 1968, A.B. in Philosophy, June, 1968.

6. Employment Record: List (by year) all business or professional corporations, companies, firms, or other enterprises, partnerships, institutions and organizations, nonprofit or otherwise, including firms, with which you were connected as an officer, director, partner, proprietor, or employee since graduation from college.

1978 to Present Foley, Hoag & Eliot, Boston, Massachusetts.
Partner (1982), past head of Litigation
Department, past Pro Bono Coordinator,
past member Professional Responsibility Committee.

1974-1978 General Counsel, Massachusetts Department of Education, Boston, Massachusetts.

1973-1974 Assistant Attorney General, Government Bureau, Commonwealth of Massachusetts, Boston, Massachusetts.

Instructor in Legal Writing, Boston University Law School, Boston, Massachusetts.

1971-1973 Law clerk, Chief Judge Raymond J. Pettine, U.S. District Court, District of Rhode Island, Providence, Rhode Island.

1968-1971 Part-time employment during law school (as work-study student) and summers at Boston Legal Assistance Project (1970-71); Mass. Defenders Committee (1969-1970); vom Baur, Coburn, Simmons & Turtle (1970); Interfaith Housing Corporation (1968-69), and as course assistant in the B.U. Government Department (1969), all in Boston, Massachusetts.

7. Military Service: Have you had any military services? If so, give particulars, including the dates, branch of service, rank or rate, serial number and type of discharge received.

No.

8. Honors and Awards: List any scholarships, fellowships, honorary degrees, and honorary society memberships that you believe would be of interest to the Committee.

Fellowships, Scholarships and Academic Awards

1974 National Endowment for the Humanities Fellowship to study Constitutional Law at University of Virginia for one month.

1968-1971 Scholarship to Boston University Law School, Boston University Law Review, Articles Editor. Book awards: Administrative and Corporate Law (for highest grades in law school class).

1964-1968 Seven College Scholarship to Wellesley College

Awards

1993 Silver Shingle Distinguished Alumni Award, Boston University Law School.

1980 Planned Parenthood League of Massachusetts Distinguished Service Award.

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

Boston Bar Association

President (1992-1993), President-Elect (1991-1992), Vice President (1990-1991), Treasurer (1989-1990), Secretary (1987-1989), Council Member (1986-1987 and 1975-1977), Chair, Committee on Role of Gender in the Practice of Law, Co-initiator of BBA Report on Role of Gender in Practice of Law (1986), Member, Committee on Legal Services to the Poor (1975-1977), Member (1975 to present). [As BBA President I was also a Trustee of the G. R. White Trust of City of Boston].

United States Court of Appeals for the First Circuit

Advisory Committee on Rules (1993 to present) and Panelist on Civility and Professionalism In Judiciary, 1993 Judicial Conference.

Massachusetts Supreme Judicial Court

Committee on Model Rules of Professional Conduct (1994 to present).

American Bar Association

Member of House of Delegates (1993 to present); Member of Commission on Partnership Programs (1993 to present), Keynote speaker, Bar Leadership Institute (1993), participant in Conferences on Justice System including Leadership Summits (1992) and Just Solutions Conference (1994), Member (1986 to present).

National Conference of Bar Presidents

Organizer of Women Bar Leaders Group, speaker (1992 to present).

American Arbitration Association

Panel on Large and Complex Cases (1994 to present).

New England Legal Foundation

Board member (1993 to present).

Commission on Federal Appointments

Member (recommended to Senators Kennedy and Kerry candidates for U.S. District Court, U.S. Attorney and U.S. Marshal) (1992).

Supreme Judicial Court Historic Society

Board member (1994).

Special Counsel to Commission on Judicial Conduct

To prosecute In the Matter of Joseph S. Mitchell (appointed by Supreme Judicial Court ("SJC")) (1989 to 1992).

Joint Bar Committee

Member (1986-1988) (advises Governor on Judicial Appointments).

Board of Bar Overseers of Commonwealth

Vice-chair (1985-1986), Member (1982-1986) (Bar disciplinary Board appointed by SJC).

Massachusetts Advisory Committee to U.S. Civil Rights Commission

Member (1982-1984).

Massachusetts Bar Association

Member (approx. 1975 to present).

Womens Bar Association

Member (approx. 1978 to present).

National Association of Women Lawyers

Member (1993 to present).

Civil Liberties Union of Massachusetts

Board (1981-1983), First Vice-President (1977-1978), one of General Counsel (screened potential litigation) (1982-1983), Womens Rights Project, co-founder and Steering Committee Member (1974-1975).

Screening Committee for U.S. Magistrate

Appointed by U.S. District Court, D. Mass. (1982).

Lawyers Alliance for World Security

Member (approx. 1986- 1992).

Beacon Press School Integration Studies

Advisory Committee member (1977-1978).

Center for Women's Legal Studies

Advisory Board member (1974-1975).

Lawyers Guild

Member (approx. 1970-1975).

Boston University Law School Alumni Association

Member (approx. 1974 to present).

10. Other Memberships: List all organizations to which you belong that are active in lobbying before public bodies. Please list all other organizations to which you belong.

I belong to the following organizations as well as those set forth for 1994 in question 9 above.

Co-chair, Leading Industries Committee, Boston Chamber of Commerce;
Wellesley College Business Leadership Council;
Massachusetts Taxpayers Foundation, Policy Committee (1993-1994);
Museum of Fine Arts, Boston;
Museum of Science, Boston;
Bearcamp Pond Association, Sandwich, New Hampshire;
Sandwich Historic Society, Sandwich, New Hampshire;
Massachusetts Audubon Society;
WGBH, Boston.

To the best of my knowledge the only organizations to which I belong that are active in lobbying before public bodies are the American Bar Association, Boston Bar Association, Massachusetts Bar Association, Boston Chamber of Commerce, and Massachusetts Taxpayers Foundation.

11. Court Admission: List all courts in which you have been admitted to practice, with dates of admission and lapses if any such memberships lapsed. Please explain the reason for any lapse of membership. Give the same information for administrative bodies which require special admission to practice.

Commonwealth of Massachusetts (1971).

United States Supreme Court (1974).

United States District Courts, District of Massachusetts (1973) and District of Rhode Island (1980).

United States Court of Appeals for the First Circuit (1974).

I have been admitted pro hac vice to both state and federal courts in New Hampshire.

I have appeared before the Federal Energy Regulatory Commission.

12. Published Writings: List the titles, publishers, and dates of books, articles, reports, or other published material you have written or edited. Please supply one copy of all published material not readily available to the Committee. Also, please supply a copy of all speeches by you on issues involving constitutional law or legal policy. If there were press reports about the speech, and they are readily available to you, please supply them.
1. Damages in Massachusetts Litigation, "Damages in Sale of Goods, Insurance and Employment", Massachusetts Continuing Legal Education ("MCLE") (1993).
 2. "Beyond Plato", Boston Bar Journal 2 (July/August 1993).
 3. "The 724 Children", Boston Bar Journal 2 (May/June 1993).
 4. "Anatomy of a Success: BBA and Court Reform", Boston Bar Journal 2 (March/April 1993).
 5. "Mirror, Mirror On The Wall", Boston Bar Journal 2 (Jan./Feb. 1993).
 6. "High Noon In The Courthouse", Boston Bar Journal 2 (Nov./Dec. 1992).
 7. "Of Mice and Men ... And Women and Children," Boston Bar Journal 2 (Sept./Oct., 1992).
 8. The Massachusetts Courts in Crisis: A Model for Reform, Report of Boston Bar Association State Court Study Committee (June 1991).
 9. "Public Institution Litigation in the First Circuit," 74 Mass. Law Review 259 (Dec. 1989).

10. Continuing Legal Education Course Materials

- a. Ready for Trial: "Themes of Case and Preparation of Witnesses", Mass. Bar Association (1990)
 - b. Federal Civil Practice: Making the Transition from State Court Practice: "Federal Motion Practice in the District of Massachusetts", MCLE (1989).
 - c. Avoiding and Litigating Wrongful Termination Claims: "Wrongful Termination Claims, Defenses and Damages: Liability in Contract", MCLE (1988).
 - d. Third Party Liability for Injuries in the Workplace: "Defending Against An Environmental Personal Injury Claim", MCLE (1987)
 - e. Federal Court Civil Litigation in the First Circuit: "Federal Rules Practice", MCLE (1982)
11. "The Boston School Desegregation Case", 62 Mass. L. Quarterly 137 (Fall 1977).
12. "Education Law", 1975 Boston College Annual Survey of Massachusetts Law 396.
13. "New England Regional Government", in Power, Pollution, and Public Policy, by Project NECAP (New England Coastal Area Planning), M.I.T. Press (1971).
14. Comment, "Little Ado About Much: Jurisdiction of the Supreme Court to Issue Mandamus," 51 B.U.L. Rev. 106 (1971).
15. Note, "Can the Section 1331 Amount Requirement Constitutionally Bar a Plaintiff Alleging Violation of His First Amendment Rights from Using the Federal Court to Get an Injunction Against a Federal Officer." 50 B.U. L. Rev. 178 (1970) (Special Issue).

I have on occasion spoken on panels and other such occasions on issues involving constitutional law or legal policy. I do not have any written transcripts of any such remarks. Pertinent press reports are attached to the copy of published materials.

13. Health: What is the present state of your health? List the date of your last physical examination.

My health is excellent. My last physical examination was on August 30, 1994.

14. Judicial Office: State (chronologically) any judicial offices you have held, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

None.

15. Citations: If you are or have been a judge, provide: (1) citations for the ten most significant opinions you have written; (2) a short summary of and citations for all appellate opinions where your decisions were reversed or where your judgment was affirmed with significant criticism of your substantive or procedural rulings; and (3) citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, please provide copies of the opinions.

Not applicable.

16. Public Office: State (chronologically) any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. State (chronologically) any unsuccessful candidacies for elective public office.

Public Office (all positions appointed)

1971-1973 Law Clerk to Chief Justice Raymond J. Pettine,
U.S. District Court, District of Rhode Island

1973-1974 Assistant Attorney General, Commonwealth of
Massachusetts

1974-1978 General Counsel, Massachusetts Department of
Education

17. Legal Career:

A. Describe chronologically your practice and experience after graduation from law school including:

1. whether you served as clerk to a judge, and if so, the name of the judge, the court, and the dates of the period you were a clerk;
2. whether you practiced alone, and if so, the addresses and dates;
3. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been connected, and the nature of your connection with each;

Summer 1971 Summer intern, Boston Legal Assistance Project, Columbus Avenue, Boston, Massachusetts

1971 - 1973 Law clerk to Judge Raymond J. Pettine, U.S. District Court, Providence, Rhode Island

1973 - 1974 Assistant Attorney General, Department of the Attorney General, One Ashburton Place, Boston, Massachusetts

1974 - 1978 General Counsel, Massachusetts Department of Education, 350 Main Street, Malden, Massachusetts

1978 - Present Foley, Hoag & Eliot, One Post Office Sq., Boston, Massachusetts (149 attorney firm, I became partner in 1982).

- B. 1. What has been the general character of your law practice, dividing it into periods with dates if its character has changed over the years?

1978 - 1994

Engaged in large firm litigation practice with specialties in environmental and employment litigation and large, complex litigation. Represented companies, both large (e.g. Polaroid) and small (e.g. Brokerage Concepts) as well as individuals. Also represented entities such as the Massachusetts Turnpike Authority, the Massachusetts Division of Capital Planning and Operation, the Pension Plans of Public Service Company of New Hampshire and of Cabot Corporation, and the Commission on Judicial Conduct. Represent plaintiffs and defendants, but more typically, defendants.

1974 - 1978

Represented Massachusetts Board and Commissioner of Education in school desegregation, special education, transitional bilingual education and other education related cases. Ran law office of five attorneys.

1973 - 1974

Represented state agencies in my capacity as Assistant Attorney General. Constitutional law issues predominated.

1971 - 1973

Law clerk to United States District Court Judge
Raymond J. Pettine.

2. Describe your typical former clients, and mention the areas, if any, in which you have specialized.

Please see answer to No. 17(B)(1).

- C. 1. Did you appear in court frequently, occasionally, or not at all? If the frequency of your appearances in court varied, describe each such variance, giving dates.

1978 - 1994

The frequency of my court appearances has varied over time. In 1986, I was involved in a massive federal court jury trial, involving 29 plaintiffs, for the first nine months of the year. In 1982 I spent almost two months in a trial in federal court. Until I became involved in the leadership of the Boston Bar in the last five years, I was in court frequently, on motion practice, for hearings, conferences, arguments. When not on trial, I was usually in court several times monthly. As I became more senior, with others working under me, and more involved in leadership in the Boston Bar Association, I went to court less frequently. Over the last year, I have probably been in court several times a month. The majority of my practice has been in federal court; the precise percentages vary with the mix of my caseload. Most of the caseload was civil, but there was one complex federal criminal grand jury matter which lasted more than a year. During that time, the criminal matter predominated.

1974 - 1978

I was often in court several times a week, with the vast majority of my work being in federal court. Most of the cases were civil, but I handled one major criminal investigation.

1973 - 1974

I was often in court several times a week. My practice was almost evenly divided between federal and state, with perhaps slightly more time in the Supreme Judicial Court of Massachusetts. All of my work was civil litigation.

2. What percentage of these appearance was in:

- (a) federal courts;
- (b) state courts of record;
- (c) other courts.

Over my entire career, I estimate that 65% to 70% of my appearances were in federal courts, that 28% to 33% were in state courts and 2% were in other courts or administrative bodies.

3. What percentage of your litigation was:

- (a) civil;
- (b) criminal;

Over my career, I estimate that 95% of my litigation was civil and 5% was criminal litigation.

4. State the number the cases in courts of record you tried to verdict or judgment (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Excluding cases I won on summary judgment or motion to dismiss (of which there are many), and including evidentiary remedial proceedings and preliminary injunction hearings the answer is in the range of 15 cases. I have also tried, as lead counsel, another case to an arbitrator. I was sole counsel in two, associate counsel in two, second chair at trial in two, and lead counsel, assisted by others, on the remaining cases.

5. What percentage of these trials was:

- (a) jury;
- (b) non-jury.

I have had only one jury trial. Anderson v. W.R. Grace, which took place from January to September 1986, and involved more than 29 plaintiffs. I was trial counsel with Michael Keating, who had the lead counsel role. As lead counsel, I have prepared other jury trials which settled on the eve of trial, including the New Bedford Harbor contamination case.

18. Litigation: Describe the ten most significant litigated matters which you personally handled. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you

represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

The ten most significant matters are described in chronological order.

1. Massachusetts Turnpike Authority v. F.L. Roberts, Exxon, Mobil and Canadian/Oxy (Suffolk Superior Civil Action No. 90-2795) (Gordon Doerfer, J.) (1991-1994)

I represented as lead counsel plaintiff Mass. Turnpike Authority against oil companies who had leased and contaminated service areas along Turnpike since 1956, seeking to recover assessment, clean up, response costs and damages for contamination in excess of \$10 million. I personally interviewed witnesses, analyzed documentary evidence and organized fact finding and witness interviews for facts going back over 26 years involving ten different sites and numerous environmental incidents, and led a team under my supervision. I personally worked with expert witnesses on establishing evidence of liability from environmental characterizations of each site and on projecting likely remediation scenarios and costs. I argued a summary judgment motion on a key indemnity point. Facing the prospect of more than 100 depositions, the parties agreed to go to ADR to reduce costs of litigation and expedite resolution. I personally mediated with Mobil, Canadian/Oxy, and Exxon. This resulted in agreements in 1993, approved by the court, under which the oil companies are cleaning up the ten sites. I argued the motion for court approval of the Exxon settlement, over the opposition of Roberts.

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Counsel for
Canadian/Oxy

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Counsel for Exxon

Ralph T. Lepore, III, Esq.
Michael A. Leon, Esq.
Warner & Stackpole
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Counsel for
F.L. Roberts

Thomas F. Holt, Esq.
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2. Reebok International v. Design Continuum, Inc.,
(Suffolk Superior No. 91-4858-B) (Botsford, J.)
(1991)

Reebok developed and owns the highly successful THE PUMP™ technology. In July 1991, Reebok learned that Spalding introduced an inflatable baseball glove at a trade show. Because the glove appeared to have used Reebok's technology, Reebok sued Spalding in Illinois and Design Continuum ("DC") in Massachusetts Superior Court, seeking preliminary injunctive relief. I represented Reebok as lead counsel in Massachusetts, alleging DC, which had provided design services to Reebok in developing THE PUMP™ under a strict confidentiality and proprietary information agreement, had violated the agreement, unlawfully used and misappropriated Reebok's trade secrets and confidential information, and engaged in unfair and deceptive trade practices. In a very swiftly moving case, I interviewed and prepared witnesses, did deposition work, prepared affidavits and opposition papers, and argued in a preliminary injunction hearing within several weeks after the complaint was filed. While the preliminary injunction motion was under advisement, the parties stipulated to certain relief and later resolved the case by agreement.

Counsel for
Design Continuum

Robert Weinstein, Esq.
Kassler & Feuer
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Boston, MA 02110
617-439-3800

Counsel for
Reebok in related
action

Sheri J. Engelken, Esq.
Kirkland & Ellis
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Chicago, Illinois 60601
312-861-2432

3. Deborah Wiener v. Polaroid Corp., et al, 790 F.
Supp. 363 (D. Mass. 1992) (Tauro, J.) (1990-1992)

Assisted by an associate, I represented Polaroid and Polaroid supervisors in a claim by a female consultant that sexual harassment and sex discrimination resulted in her not being hired for a permanent position. The facts were difficult. I interviewed, prepared and defended depositions of Polaroid's President, the supervisors and co-workers, and took plaintiff's deposition. I argued and won the Title VII claims on summary judgment. After my negotiation concerning the probability of success of the remaining claims, plaintiff voluntarily dismissed the case.

Counsel for
plaintiff

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617-723-2770

4. Korb v. Raytheon, Mass. Superior Court Civil
Action No. 87-7124 (Hallisey, J.), aff'd, 410
Mass. 581 (1991) (1987 - 1991)

I successfully represented Raytheon as lead counsel in the trial court and on appeal in an action by a former company Vice President who had been terminated after he made statements at press conference critical of employer's biggest customers at Department of Defense and contrary to employer's interest. Korb, represented by Civil Liberties Union, claimed the termination violated his free speech rights under Mass. Civil Rights Act ("MCRA"). I raised the novel issue of First Amendment limits on use of state power (through MCRA) to force defendant to associate with speech with which it disagreed. I interviewed witnesses, prepared affidavits, briefed and successfully argued the summary judgment motion in the trial court. I briefed and argued on his appeal before the Supreme Judicial Court ("SJC"). I was assisted on all briefs by others, but I had primary responsibility. The SJC affirmed dismissal of his case.

I had originally removed the case to federal court because Korb's complaint alleged his First Amendment rights had been violated. The district court remanded, holding that an action brought under the MCRA in the private free speech context involving competing claims for First Amendment protection did not raise a federal question. Korb v. Raytheon, 707 F. Supp. 63 (D. Mass. 1989) (Woodlock, J.).

Counsel for	Jonathan Shapiro, Esq.
Korb	Stern, Shapiro, Rosenfeld & Weissberg 80 Boylston Street, Suite 910 Boston, MA 02116 617-542-0663

Counsel for amicus	James M. Shannon, Esq.
Attorney General	former Attorney General
of Massachusetts	National Fire Protection Assoc. Batterymarch Park Quincy, MA 02169 617-984-7255

5. Gene Trak v. Roche Diagnostic Systems, Inc.
(Middlesex Sup. Ct. (C.A. No. 89-3266) (White, J.), interlocutory relief denied (Mass. Appeals Ct. No. 89-J496) (Fine, J.) (1989)

As lead counsel, I successfully defeated at trial court and on interlocutory appeal an attempt to enforce a non-compete agreement against my client Roche, who hired a scientist to oversee development of DNA/RNA diagnostic test kits based on Polymerase Chain Reaction (PCR) technology. This technology would enable hospitals to quickly diagnose diseases such as AIDS and possibly save lives by shortening the time to diagnosis. The case presented issues concerning the freedom of a scientist to leave work on one patented technology he believed would fail in order to work on the only technology he believed would succeed (PCR). Legal issues involved interplay between the public disclosure policies of patent law and confidentiality policies of trade secret/non-compete law. The case involved explaining in simple terms highly technical scientific concepts. This case moved very quickly and involved intense fact preparation and several motions which I argued before the preliminary injunction hearing. I interviewed witnesses, came up to speed on the technology, obtained affidavits, inter alia, from Mass. Dept. of Public Health and a Nobel Laureate on the severely adverse public policy impact of enforcing a non-compete agreement in this arena, and briefed and successfully argued against the preliminary injunction. On appeal, I successfully briefed and argued against a

petition for interlocutory relief. I was assisted by associates on these matters.

Counsel for Gene Trak

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Counsel for co-defendant Dr. Lawrie

David Angueira, Esq.
Bowditch & Dewey
161 Worcester Rd.
Framingham, MA 01701
508-879-5700

6. Anderson v. Cryovac, Inc. (U.S. Dist. Ct. D. Mass.) (Docket No. C.A. 82-1672S) (Skinner, J.) (1983 - 1986)

I was trial counsel along with Michael Keating, who was lead counsel, to W.R. Grace in lengthy jury trial in the Woburn Toxic Tort Case. Families and individuals (twenty-nine plaintiffs) sued, claiming leukemia in the children had been caused by chemicals in drinking water, and that drinking water wells had been contaminated by movement in groundwater of chemicals from defendants' property. The Court divided this massive case into four separate trial phases. The first phase of the case involved trial proceedings from January through September 1986, before a federal court jury, on complex issues of hydrogeology and causation of contamination in wells. I participated in discovery and in the limited juror voir dire and selection, prepared and presented numerous witnesses, including high company officials on direct, cross-examined plaintiffs' witnesses, and argued a number of evidentiary and other motions, including a change of venue motion. The jury verdict against Grace was vacated because the jury interrogatories were inconsistent. The case then settled.

In the face of enormous publicity threatening the ability to find an impartial jury, the trial court had issued protective orders prohibiting disclosure of information obtained through discovery except, as needed, to public health and environmental officials. The Boston Globe challenged the orders, asserting there was a public right of access to such materials. I worked on the trial court and appeal papers, and Professor Monaghan argued the appeal. The trial court's protective orders were upheld on appeal. Anderson v. Cryovac, 805 F.2d 1 (1st Cir. 1986).

Counsel for plaintiffs

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Counsel for co-defendant
Beatrice Food

Jerome Facher, Esq.
Neil Jacobs, Esq.
Hale & Dorr
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Co-counsel for Grace on Globe's appeal

Prof. Henry Monaghan
Columbia University Law School
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New York, New York 10027
212-854-2644

7. Robinson v. Polaroid Corp., 567 F. Supp. 192 (D. Mass. 1983) (Skinner, J.), aff'd, 732 F.2d 1010 (1984) (1978-1984)

In three related class action employment cases against my client Polaroid, I was second chair at trial, almost two months long, to lead counsel, J. Harold Flannery, now a Superior Court Judge. There were more than 50 witnesses at trial. I prepared and presented a number of Polaroid witnesses, including the company General Counsel, cross-examined several plaintiffs, and argued many evidentiary and other motions. Plaintiffs asserted that race discrimination motivated the layoffs of African-American exempt and non-exempt employees. Defense was that: (1) hourly layoffs were seniority based and, (2) as to salaried employees, Polaroid was an exemplary affirmative action employer who took risks in hiring, risks that could not continue in terms of poor performance in time of layoff and that (3) statistical evidence showed no disproportionate impact. Defendants' verdict was affirmed on appeal. I wrote much of the brief on appeal. Legal issues on appeal involved interplay between disparate impact and discriminatory treatment analyses.

Counsel for Plaintiff

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& Weissberg
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Boston, MA 02116
617-542-0663

8. a. Agency Rent A Car v. Connolly, 542 F. Supp. 231 (D. Mass. 1982) (Skinner, J.), vacated and remanded, 686 F.2d 1029 (1st Cir. 1982), and
b. Spencer Companies, Inc. v. Agency Rent A Car, 542 F. Supp. 237 (D. Mass. 1982) (Skinner, J.), (1981-1982)

In related litigations, our client Spencer, a local shoe company, successfully fought off a greenmail and then take-over attempt by a corporate raider. The district court, in Agency's lawsuit, had enjoined enforcement of the Massachusetts anti-takeover statute as an unconstitutional burden on interstate commerce and declined to abstain. On appeal, we convinced the First Circuit that a state statute and regulatory order thereunder forbidding the raider from purchasing more stock were not preempted by the Williams Act. The First Circuit required abstention and vacated the injunction issued by the district court against enforcement of the statute. In the Spencer v. Agency case, we convinced the district court that Agency had violated the provisions of the Williams Act and so it preliminarily enjoined Agency's tender offer. I was an associate for most of the case, and did much of the witness and fact preparation, some of the deposition work, and much of the brief writing at the trial level and on appeal. Christian Hoffman and David Walker of this firm were lead counsel.

Counsel for Agency: Mark Michelson, Esq.
Choate, Hall & Stewart
53 State Street
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Boston, Mass. 02109
617-227-5020

Robert Rothberg, Esq.
now General Counsel,
Cabot Corporation
75 State Street
Boston, MA 02109
617-345-0100

9. a. Baird v. Bellotti, 443 U.S. 622 (1979)
- b. Planned Parenthood League of Massachusetts v. Bellotti, 499 F. Supp 215 (D. Mass. 1980) (J. Mazzone) revs'd in part and aff'd in part, 641 F.2d 1006 (1st Cir. 1980), (1978-1980)

My firm accepted pro bono cases on behalf of Planned Parenthood League of Massachusetts challenging a Massachusetts statute as unduly burdening women's rights to choose. The U.S. Supreme Court in Baird v. Bellotti invalidated the statute. Subsequently, the legislature amended the statute and Planned Parenthood brought a challenge to the amended statute. On appeal, the First Circuit held portions of the new statute invalid. John Henn was lead counsel. I was an associate, with others, worked on the Supreme Court brief, and second chaired the PPLM case, including preparation of witnesses and affidavits and brief writing in the district court and on appeal.

Counsel for Defendant Bellotti

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617-248-1900

Counsel for Plaintiff Baird:

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Balliro, Mondano & Balliro, P.C.
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617-227-5822

10. Boston School Desegregation Case:

- a. Morgan v. Kerrigan, 401 F. Supp. 216 (D. Mass. 1974), denial of stay, 523 F.2d 917 (1st Cir. 1975), aff'd, 530 F.2d 401 (1st Cir. 1975), cert. denied, 426 U.S. 935 (1976) (remedial plan);
- b. Morgan v. Kerrigan, 409 F. Supp. 141 (D. Mass. 1975) (D. Mass. 1974), aff'd, sub nom. Morgan v. McDonough 540 F.2d 527 (1st Cir. 1976), cert. denied, 429 U.S. 1042 (receivership of South Boston High School). (Garritty, J.) (1974-1978)

From 1974 to 1978, I was counsel to the Massachusetts Board of Education. My client was a defendant in the Boston school desegregation case along with the Boston

School Committee, and was held not to have violated plaintiffs' rights. I became counsel on the case after the liability trial and participated in remedial proceedings. I briefed and argued several appeals to the First Circuit and prepared several briefs to the U.S. Supreme Court in opposition to others' appeals. Every order of the trial court during this period was affirmed on appeal. I appeared in the trial court, often several times weekly, on a large variety of remedial issues, for a several year period. I was lead counsel for the state Board. My co-counsel for a portion of the time was then Assistant Attorney General L. Scott Harshbarger.

Counsel for School Committee

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Judge)
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Marshall Simonds, Esq.
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James J. Sullivan, Esq.
DiMento & Sullivan
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Co-Counsel for state from A.G.'s office

L. Scott Harshbarger
now Attorney General of
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Counsel for plaintiffs

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Judge)
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Eric VanLoon, Esq.
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Counsel for Intervenor
Home and School Association
Thayer Fremont-Smith
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Judge)
Superior Court
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For Intervenor Boston Teachers' Union
John F. McMahon, Esq.
Angoff, Goldman, Manning, Pyle,
Wanger, & Hiatt, P.C.
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For Intervenor School Administrators
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Segal, Roitman & Coleman
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Counsel for Intervenor El Committee
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Kehoe, Doyle, Playter & Novick
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For Intervenor City of Boston and Mayor
Marilyn Sticklor, Esq.
Goulston & Storrs, P.C.
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19. Legal Activities: Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe the nature of your participation in this question, please omit any information protected by the attorney-client privilege (unless the privilege has been waived.)

In addition to those matters described above, I believe the following are significant.

Since 1990, I have been special counsel to the Pension Plan of Public Service Company of New Hampshire and investigated the loss of more than \$20 million in pension funds as a result of investments in naked options. We recovered to the Plan the entire sum lost, cooperated with a concurrent Department of Labor investigation and obtained significant recoveries from culpable parties.

In 1989, I was appointed Special Counsel by the Massachusetts Supreme Judicial Court to the Commission on Judicial Conduct in the matter of Superior Court Judge Joseph S. Mitchell. I filed a petition seeking his removal from the bench. Judge Mitchell chose to retire.

Some of the most personally significant legal activities in which I was involved were those on behalf of individuals. For example, I represented a young woman who had been raped by her boss after a company function and obtained a significant settlement for her and her new husband. I represented another woman who had been sexually harassed and denied a promotion by her superior and obtained a promotion for her.

As President of the Boston Bar Association in 1992-1993, I initiated legislation seeking a raise in pay for members of the state judiciary, started programs for unemployed lawyers, and requested that the U.S. Court of Appeals for the First Circuit undertake racial and gender bias studies.

In addition, I worked through the Boston Bar Association to obtain major court reform legislation, which was enacted in January, 1993. The legislation was designed to improve the management, accountability and efficiency of the state court system. Of very great significance to me was that the court reform legislation also created a statewide juvenile court, thus addressing the problem of inadequate response of the courts to the problems of children. As President of the Bar, I was also able to create in the legal community a summer jobs program for Boston school children.

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting

LYNCH, SANDRA L.

Date of Report

09/19/94

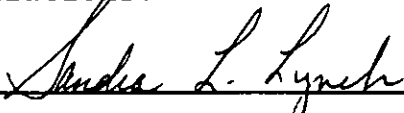
IX. CERTIFICATION.

In compliance with the provisions of 28 U.S.C. 455 and of Advisory Opinion No. 57 of the Advisory Committee on Judicial Activities, and to the best of my knowledge at the time after reasonable inquiry, I did not perform any adjudicatory function in any litigation during the period covered by this report in which I, my spouse, or my minor or dependent children had a financial interest, as defined in Canon 3C(3)(c), in the outcome of such litigation.

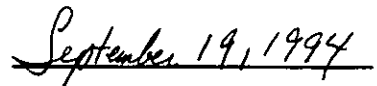
I certify that all the information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C.A. app. 7, 501 et. seq., 5 U.S.C. 7353 and Judicial Conference regulations.

Signature



Date



NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C.A. APP. 6, 104, AND 18 U.S.C. 1001.)

FILING INSTRUCTIONS:

Mail signed original and 3 additional copies to:

Committee on Financial Disclosure
Administrative Office of the
United States Courts
Washington, D.C. 20544

III. GENERAL (PUBLIC)

1. An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my career I have engaged in pro bono litigation in various matters. An example of such litigation is Bezio v. Patenaude, 381 Mass. 563 (1980), on which I worked while I was an associate. We argued that the trial judge was in error in removing a child from a mother on the basis per se of the mother's sexual preference. I was appointed Special Counsel to the Commission on Judicial Conduct by our Supreme Judicial Court to prosecute a case against a state court judge, who ultimately resigned from the bench. I have also represented indigent clients on housing and domestic violence matters.

I have also been involved in improving the administration of justice, through my activities over a four year period on the Board of Bar Overseers for the Commonwealth of Massachusetts, including being Vice-Chair. I also served on the Joint Bar Committee which made recommendations to the Governor of Massachusetts concerning candidates for judicial appointment. I was also instrumental in instigating a report and survey conducted by the Boston Bar Association on the Role of Gender in the Practice of Law.

In 1992 - 1993, I was President of the Boston Bar Association and spent most of my time on the presidency. As President, I involved the Bar in education reform legislation efforts, initiated a summer jobs program for Boston Public School students, ran programs for unemployed lawyers, and engaged in a number of activities in support of the court system. In many ways the primary achievement of my year as BBA president was the enactment of major court reform legislation in Massachusetts. That legislation called for greater accountability of the court system and gave it needed management tools. Significantly, it also created a statewide juvenile court and consolidated the various jurisdictions over children and youth in that court.

Since being President of the Boston Bar Association, I have spent some time in community service activities designed to work on issues of job creation. That led me to work on a committee of the Massachusetts Taxpayers Foundation and on

the Leading Industries Committee of the Boston Chamber of Commerce, of which I am now co-chair.

It is difficult to summarize the time spent. Since the early 1980's I have spent more than 1300 hours on pro bono work, which includes the court reform effort, but that does not include the time spent as the President or an officer of the Boston Bar Association. In the year I was BBA President, I spent over 1400 hours on the presidency.

2. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What you have done to try to change these policies?

To the best of my knowledge I have never belonged to an organization which invidiously discriminates on the basis of race, sex or religion.

I have been a member of the Wellesley Business Leadership Council since 1993, which draws its membership from graduates of Wellesley College, which was, when I attended, a single sex college and remains so. The Council members meet once a year at the College and have no other facilities. It is not a club.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

No selection commission played any role in recommending candidates for the U.S. Court of Appeals. There was for the U.S. District Court in Massachusetts a Commission on Federal Appointments in 1992. That Commission played no role in the recommendation for nomination to the U.S. Court of Appeals for the First Circuit. At the urging of several people, including a federal judge, I made known my interest in the Court of Appeals position to the White House and to Senators Kennedy and Kerry. I was interviewed by Senator Kennedy on July 21, 1994, by the Federal Bureau of Investigation on August 18, 1994, by the American Bar Association on September 7, 1994, and by the White House Counsel's Office and the Department of Justice on September 8, 1994.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

A judge is vested with awesome power through the law over the lives of people and must always exercise that power with restraint. A judge is also a member of but one of three co-equal branches of government, the other two branches representing more directly the views of the citizens through the electoral process. A judge must be restrained in the exercise of judicial power under basic principles of democracy and under our Constitution. That necessary restraint is evidenced in jurisdictional standing, ripeness, and other principles. In reaching decisions, courts should give great deference to the legislative process which produced the law.

The Article III courts play a limited role: they must decide the cases or controversies which come before them and decide only the case before them. Courts should not act as legislatures.

There are other limitations on Article III courts. They are guided in all decisions by the rule of law. They are bound by precedent. The United States Courts of Appeals are bound by the decisions of the United States Supreme Court and guided by the decisions of their sister Courts of Appeals. Cases must be decided within the framework of established rules and precedents.

It is also a part of our constitutional system that courts may review the actions of other branches in order to protect Constitutional rights of individuals. Such review must be done very carefully, based on the facts of the individual case and in accordance with law.

In most cases, involving private litigants, concerns about judicial activism will not arise. There, as in all cases, the courts must apply the law and do so consistent with the limitations on their own jurisdiction.

Much of the discussion of judicial activism has focused on remedial orders in cases against government institutions. Once rights have been violated and liability found, the question of what is an appropriate and effective remedy may, under some circumstances, be a difficult one. The best, most effective remedy should be one under which the legislative or executive branch is responsible for the remedy. These branches more closely reflect the will of the citizenry, have more expertise, and are better able to effectuate a remedy. But there are times when the legislative or executive arm of government will not do so or cannot do so, and so shifts the responsibility to the court.

The court must issue a remedy on a finding of a constitutional violation in such circumstances. Yet there are real and practical limitations on the ability of courts to administer decrees and to oversee institutions. Among these are that courts are not trained in the fields of expertise which may be needed, do not have an array of staff or support to insure appropriate implementation, and are dependent on the parties' choice of information and issues presented and the competence of counsel involved. Courts are nonetheless forced sometimes to devise such judicial remedies. Such occasions should be extraordinary. Courts should always attempt to keep that responsibility with the other branches. In fashioning the remedy, a court must be guided by the framework of other judicial decisions, particularly Supreme Court precedent, as to the scope of remedial authority.

AFFIDAVIT

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

Sandra L. Lynch
Sandra L. Lynch

Date Sept. 19, 1994

Then personally appeared the above-named Sandra L. Lynch and acknowledged the foregoing document to be her free act and deed, before me

Anita L. Hager
Notary Public
My commission expires 8/8/97