

LET’S GET ONE THING STRAIGHT, THEY’RE NOT:
THE APPOINTMENT OF THE FIRST OPENLY GAY
FEDERAL JUDGES

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ABSTRACT

In this Article, Judge Epps and Ms. Kaitlin Minkler collect an unrivaled amount of information about the first openly gay judges confirmed for life to federal courts of general jurisdiction in the United States. The Article references interviews with the judges about their trailblazing journeys. It examines the experiences of these twenty-two judges as they shape the judiciary from within and inspire future generations of LGBTQIA+ lawyers.

INTRODUCTION

A half century ago, on May 2, 1972, the second day of the annual convention of the American Psychiatric Association, Dr. John Erel Fryer announced, “I am a homosexual. I am a psychiatrist.”¹ He described his life as a gay psychiatrist while the profession categorized homosexuality as a mental illness and sodomy was criminalized in 42 states.² His speech

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1. Ellen Barry, *He Spurred a Revolution in Psychiatry. Then He ‘Disappeared’*, N.Y. TIMES (May 2, 2022), <https://www.nytimes.com/2022/05/02/health/john-fryer-psychiatry.html> [https://perma.cc/9QYG-25HW].

2. *Id.*

changed a profession and the legal and cultural landscape for LGBTQIA+ Americans.³

A year later, the American Psychiatric Association declared that homosexuality was no longer a mental disorder, removing the classification of homosexuality as a psychiatric disorder in the sixth reprinting of the Diagnostic and Statistical Manual of Mental Disorders (DSM-II) in 1973.⁴ The following decades witnessed the overturning of much of the legal basis for discrimination against gay people in employment, citizenship, housing, marriage, and military service.⁵ Despite this progress, the legal profession's acceptance of LGBTQIA+ lawyers lagged.⁶

Thirty years ago, in a Washington Post op-ed, Judge Stephen R. Reinhardt⁷ publicly questioned why no openly gay judges served on the federal bench.⁸ In *The Court and the Closet*, he argued that openly gay women and men should be able to equally participate in a system that decides their fundamental rights, leading to a fairer justice system with a greater ability to recognize the unique challenges that gay Americans face.⁹ He argued this would signal that discrimination against openly gay people should not be tolerated, and no group of people should be excluded because of an innate characteristic.¹⁰ A year after Judge Reinhardt's article, Judge Deborah A. Batts became the first openly gay woman on the federal bench

3. *Id.*

4. *Id.*

5. *Id.*

6. Stephen Reinhardt, *The Court and the Closet*, WASH. POST (Oct. 31, 1993), <https://www.washingtonpost.com/archive/opinions/1993/10/31/the-court-and-the-closet/8dd21335-268f-4c3d-a2e2-811302d8afd8/> [<https://perma.cc/CK4Y-UGBY>].

7. Judge Stephen R. Reinhardt was a Circuit Judge on the United States Court of Appeals for the Ninth Circuit known for championing liberal causes, but also accused of sexual harassment after he passed away in 2018. Ben Wizner, *The Exile: In Memory of Judge Stephen Reinhardt*, ACLU (Apr. 4, 2018), <https://www.aclu.org/blog/civil-liberties/exile-memory-judge-stephen-reinhardt> [<https://perma.cc/S3MN-9MKC>]; Debra Cassens Weiss, *Over 70 Former Reinhardt Clerks Urge Judiciary to Change Reporting Procedures and Training*, A.B.A. J. (Feb. 21, 2020), <https://www.abajournal.com/news/article/former-reinhardt-clerks-urge-judiciary-to-change-reporting-procedures-and-training> [<https://perma.cc/TC6X-AWSJ>].

8. Reinhardt, *supra* note 6.

9. *Id.*

10. *Id.*

with general jurisdiction and lifetime tenure when she was nominated by President Bill Clinton and confirmed by the U.S. Senate.¹¹

While LGBTQIA+ people have probably served as federal judges since 1789, until 1994 no publicly out LGBTQIA+ person went through the nomination and confirmation process to serve as an Article III judge.¹² In 1989, however, Judge Vaughn R. Walker, a gay man, was nominated by President George H.W. Bush to the U.S. District Court for the Northern District of California to a seat vacated by Spencer M. Williams.¹³ He was confirmed by the Senate on November 22, 1989, and received his commission on November 27, 1989.¹⁴ Before serving on the court, he spent almost two decades in private practice at Pillsbury, Madison & Sutro.¹⁵ While on the court, he overturned Proposition 8, an amendment to California's constitution outlawing same-sex marriage, during which the media first publicly disclosed his sexual orientation, a fact he "neither discussed publicly nor tried to conceal."¹⁶ He served as Chief Judge from 2004 to 2010, before retiring from the bench in 2011.¹⁷ He continues to practice, specializing in alternative dispute resolution, and teaching at Stanford Law School and the University of California, Berkeley School of Law.¹⁸ While President Bush was likely aware of Judge Walker's sexual orientation during his confirmation process, Judge Walker was not publicly

11. Biography of Deborah A. Batts, FED. JUD. CTR., <https://www.fjc.gov/history/judges/batts-deborah> [<https://perma.cc/R5PS-9T2M>]; Katharine Q. Seelye & Benjamin Weiser, *Deborah A. Batts, the First Openly Gay Federal Judge, Is Dead at 72*, N.Y. TIMES, Feb. 5, 2020, at A26.

12. Dana Milbank, *In a 'Quiet Moment,' Gay Judge Makes History*, WASH. POST (July 18, 2011), <https://www.washingtonpost.com/opinions/in-a-quiet-moment-gay-judge-makes-history/2011/07/18/gIQAo7PhMIstory.html> [<https://perma.cc/2YG5-GS8A>]; Reinhardt, *supra* note 6.

13. Biography of Vaughn R. Walker, FED. JUD. CTR., <https://www.fjc.gov/history/judges/walker-vaughn-r> [<https://perma.cc/7JQZ-67ZK>] (last visited Aug. 15, 2022); Joan O'C. Hamilton, *Judge Vaughn R. Walker: Measured Justice*, STAN. LAW. (Nov. 12, 2012), <https://law.stanford.edu/stanford-lawyer/articles/judge-vaughn-r-walker-measured-justice%E2%80%A9/> [<https://perma.cc/R2XH-HRWQ>].

14. Biography of Vaughn R. Walker, *supra* note 13.

15. *Id.*; Hamilton, *supra* note 13.

16. Bob Egelko, *Vaughn Walker, Retired Judge, Reflects on Prop. 8*, SFGATE (Apr. 6, 2011), <https://www.sfgate.com/news/article/Vaughn-Walker-retired-judge-reflects-on-Prop-8-2375925.php#photo-1903990> [<https://perma.cc/7559-6NYM>]; Hamilton, *supra* note 13.

17. Biography of Vaughn R. Walker, *supra* note 13.

18. *Judge Vaughn R. Walker (Retired)*, FEDARB, <https://www.fedarb.com/professionals/judge-vaughn-walker/> [<https://perma.cc/3ZR9-7L7K>] (last visited Aug. 15, 2022).

out until the Proposition 8 trial.¹⁹ Judge Walker's career paved the way for Judge Batts, who publicly disclosed her sexual orientation during her confirmation process in 1994.²⁰

Almost two decades after Judge Batts' confirmation, President Barack Obama nominated 11 more openly gay Article III judges that were confirmed by the Senate.²¹ President Donald Trump nominated two openly gay judges, who were also promptly confirmed.²² President Joseph Biden nominated nine openly gay and lesbian judges in the first four years of his presidency that were later confirmed.²³ Openly gay people now hold 21

19. Hamilton, *supra* note 13.

20. Seelye & Weiser, *supra* note 11, at A26.

21. *This is the First Time Our Judicial Pool Has Been This Diverse*, WHITE HOUSE (June 8, 2016), <https://obamawhitehouse.archives.gov/share/judicial-nominations> [<https://perma.cc/CRL8-7SYN>].

22. *In a Record-Breaking Year for Judicial Nominations, the Biden Administration Fell Short on LGBTQ+ Representation*, LAMBDA LEGAL 1, 4 (Feb. 1, 2022),

https://www.lambdalegal.org/sites/default/files/publications/downloads/lambda_legal_report_-_in_a_record-breaking_year_for_judicial_nominations_the_biden_administration_fell_short_on_lgbtq_representation.pdf [<https://perma.cc/RZ69-ZSFC>] [hereinafter *In a Record-Breaking Year*].

23. Rachel Treisman, *Meet Judge Beth Robinson, the First Out Lesbian to Serve on any Federal Circuit Court*, NPR (Nov. 2, 2021), <https://www.npr.org/2021/11/02/1051466337/beth-robinson-first-out-lesbian-judge-federal-circuit-court#:~:text=In%20Montpelier%2C%20Vt.,The%20U.S.%20Senate%20confirmed%20her%20nomination%20to%20the,Court%20of%20Appeals%20on%20Monday.&text=The%20Senate%20met%20yesterday%20to,abstaining%20and%20two%20Republicans%20%E2%80%94%20Sens> [<https://perma.cc/V2UC-H5FG>]; Alina Lee, *Senate Confirms Colorado's First Openly Gay Federal Judge*, FOX 21 LOCAL NEWS (May 25, 2022), <https://www.fox21news.com/news/senate-confirms-colorados-first-openly-gay-federal-judge/> [<https://perma.cc/9EGP-QJZY>]; Nate Raymond, *U.S. Senate Confirms Innocence Project Lawyer Morrison to be Federal Judge*, REUTERS (June 8, 2022, 1:24 PM), <https://www.reuters.com/legal/government/us-senate-confirms-innocence-project-lawyer-morrison-be-federal-judge-2022-06-08/> [<https://perma.cc/2UW6-6M5Q>]; Matthew S. Bajko, *Biden Names Gay Judge to Federal CA Bench*, BAY AREA REP. (July 29, 2022), https://www.ebar.com/story.php?ch=news&sc=latest_news&id=317709 [<https://perma.cc/5A7W-PWXM>]; Seth Stern, *First Latina, LGBTQ Judge Confirmed to DC District Court*, BLOOMBERG L. (Feb. 15, 2023, 4:23 PM), https://www.bloomberglaw.com/bloomberglawnews/us-law-week/X7U9RA3000000?bna_news_filter=us-law-week#jcite [<https://perma.cc/88GQ-M4QD>]; Andrés I. Jové Rodríguez, *Gina Méndez Miró Confirmed as First LGBTQ Federal Judge in Puerto Rico*, WASH. BLADE (Feb. 15, 2023), <https://www.washingtonblade.com/2023/02/15/gina-mendez-miro-confirmed-as-first-lgbtq-federal-judge-in-puerto-rico/> [<https://perma.cc/9E56-AU69>]; Whitney Evans, *First Federal LGBTQ+ Judge to Take the Bench in Virginia*, VPM (Feb. 28, 2023), <https://www.vpm.org/news/2023-02-28/biden-nominates-lgbtq-judge-virginia-jamar-walker> [<https://perma.cc/PQB6-N98Y>]; Bob Egelko, *Senate Confirms First Openly Gay Judge to San Francisco Federal Bench*, S.F. CHRON. (June 14, 2023, 4:45 PM),

Article III judgeships, about 1.5% of the federal bench.²⁴ No openly transgender, or nonbinary people are currently Article III judges.²⁵

This Article examines the appointment of the first 22 openly gay federal judges, both well-known and little-known, addressing why and how presidents named them to the bench. Despite the fast-developing history of openly gay people serving on the federal bench, there are very few collective accounts of their experiences. Fortunately, archival material, historical data, personal records, news articles, and law review articles can form the basis of this work. The authors also interviewed 14 of the 21 living judges, chronicling new personal details that fully capture their journeys. Part II of the Article explores traditions governing federal judicial appointments. Part III focuses on the 22 openly gay judges confirmed between 1994 and 2023, highlighting their background and key achievements. Part IV examines patterns in backgrounds and experiences of the first openly gay federal judges, including occupations before federal judicial appointment, political activity before federal judicial appointment, prior community involvement, educational background, geographic location of federal judicial vacancy, and American Bar Association (ABA) ratings.

I. TRADITIONS GOVERNING FEDERAL JUDICIAL APPOINTMENTS

For a judicial vacancy, “the White House Office of Presidential Personnel receives recommendations, checks references, conducts thorough background investigations of potential nominees, and, ultimately, makes a

<https://www.sfchronicle.com/politics/article/casey-pitts-federal-judge-18152546.php> [https://perma.cc/PCD5-UVER]. This includes Judge Alison Nathan, who President Biden elevated to the U.S. Court of Appeals for the Second Circuit, after she served on the federal district court since President Obama nominated her. *In a Record-Breaking Year*, *supra* note 22 at 4.

24. *In a Record-Breaking Year*, *supra* note 22 at 2. The authors calculated the number of openly gay judges by adding the seven additional judges nominated and confirmed during the Biden Administration after the article was published, to the fourteen judges cited in the article, for a total of 21 judges. *See id.* LGBTQ+ Americans comprise approximately 5.6% of the population. *Id.* There are 1,409 Article III judges as of 2022. AMER. BAR ASS'N, *ABA Profile of the Legal Profession*, <https://www.americanbar.org/content/dam/aba/administrative/news/2022/07/profile-report-2022.pdf> [https://perma.cc/UP9E-2CCR] (last visited Aug. 3, 2022).

25. *In a Record-Breaking Year*, *supra* note 22, at 2.

recommendation to the president.”²⁶ Recommending district judge candidates to the White House has historically been a privilege of the senator or senators of the president’s political party from the state with the judicial vacancy.²⁷ Sometimes, especially when the relevant state has no senator of the president’s party, the recommendation comes from a governor or U.S. Representative of the president’s party.²⁸ Some senators form merit selection committees to screen candidates for recommendation to the president.²⁹

The screening of candidates for circuit judge, who almost all have jurisdiction over multiple states, is done by the Department of Justice and the White House, with recommendations from senators, representatives, governors, interest groups, and even the public.³⁰ Senators, particularly, often pressure a president to nominate a person from the same state as that of the departing judge.³¹

Federal district judge and circuit judge candidates are nominated by the president and confirmed by the U.S. Senate.³² After the presidential nomination, senators may have influence by a “blue slip” objection mechanism, which states that the senator has no objection to the nomination.³³ If no objections, the Senate Judiciary Committee holds a hearing or hearings before a full Senate vote.³⁴ The impact of blue slips on judicial nominations fluctuates; under Senate rules today, blue slips may impact most district judge nominations but have little impact on circuit

26. Lauren C. Bell, *Federal Judicial Selection in History and Scholarship*, 96 JUDICATURE 296, 299 (2013).

27. Denis Steven Rutkus, *The Appointment Process for U.S. Circuit and District Court Nominations: An Overview*, CONG. RES. SERV. 1, 9 (June 17, 2016), <https://sgp.fas.org/crs/misc/R43762.pdf> [<https://perma.cc/CV3R-W7UH>].

28. *Id.*

29. Bell, *supra* note 26, at 299. Utilized by many states today, President Jimmy Carter first introduced merit selection into the federal judicial selection process, calling “upon senators to establish voluntarily nomination commissions within their home states” that “would provide senators with impartial recommendations to assist them with performing the ‘advice’ function of their role in the federal appointment process.” *Id.* at 303.

30. Rutkus, *supra* note 27, at 12–14.

31. *Id.* at 13.

32. Bell, *supra* note 26, at 299.

33. Rutkus, *supra* note 27, at 11.

34. *Id.* at 17–28.

judge nominations.³⁵

II. THE FIRST OPENLY GAY ARTICLE III JUDGES

The first 22 openly gay Article III judges were:

Name	Court	Appointing President	Years of Active Federal Judicial Service
1. Deborah A. Batts	SDNY	Clinton	1994 - 2012 (Senior status: 2012 - 20)
2. J. Paul Oetken	SDNY	Obama	2011 - present
3. Alison J. Nathan	SDNY/ 2 nd Cir.	Obama/ Biden	2011 - present
4. Michael W. Fitzgerald	CDCA	Obama	2012 - present
5. Pamela Ki Mai Chen	EDNY	Obama	2013 - present
6. Michael J. McShane	DOR	Obama	2013 - present
7. Nitza I. Quino Alejandro	EDPA	Obama	2013 - present
8. Todd M. Hughes	FED. CIR.	Obama	2013 - present
9. Judith E. Levy	EDMI	Obama	2014 - present
10. Darrin P. Gayles	SDFL	Obama	2014 - present

35. Marianne Levine, *How Senate Dems Reaped the Benefits From 2 Little-Known GOP Maneuvers*, POLITICO (Jan. 26, 2022), <https://www.politico.com/news/2022/01/26/senate-confirmation-biden-judicial-nominees-00001682> [<https://perma.cc/VPR4-KAZK>].

Senate Judiciary Chair Dick Durbin (D-Ill.) is continuing his GOP predecessors' move to nix the veto power that home-state senators once wielded over circuit court nominees. That tradition is known as the "blue slip," named for the paper that senators use to express their favorable or unfavorable opinion about a specific judicial pick. Durbin took his first formal step against the practice this month, moving forward on a circuit court nominee who would represent Tennessee and lacked support from both GOP Sens. Marsha Blackburn and Bill Hagerty.

Id.

11. Staci M. Yandle	SDIL	Obama	2014 - present
12. Robert L. Pitman	WDTX	Obama	2014 - present
13. Mary M. Rowland	NDIL	Trump	2019 - present
14. Patrick J. Bumatay	9 th Cir.	Trump	2019 - present
15. Beth Robinson	2 nd Cir.	Biden	2021 - present
16. Charlotte N. Sweeney	DCO	Biden	2022 - present
17. Nina R. Morrison	EDNY	Biden	2022 - present
18. Daniel J. P. Calabretta	EDCA	Biden	2023 - present
19. Ana C. Reyes	DDC	Biden	2023 - present
20. Gina R. Méndez-Miró	DPR	Biden	2023 - present
21. Jamar K. Walker	EDVA	Biden	2023 - present
22. P. Casey Pitts	NDCA	Biden	2023 - present

The percentage of openly gay people appointed to the federal bench is still tiny.³⁶

Appointing President	Number of Court of Appeals Appointments	Number of District Court Appointments	Total Number of Lower Court Appointments	Total Number of Openly Gay Judges Appointed	Gay Judges as % of Total Lower Court Appointments
Clinton	66	305	371	1	0.3%
G. W. Bush	63	261	324	0	0.0%
Obama	55	268	323	11	3.4%

36. *Judgeship Appointments by President*, U.S. CTS.,

<https://www.uscourts.gov/sites/default/files/apptsbypres.pdf> [https://perma.cc/2ERU-9RYQ] (last visited July 13, 2023); See *Biographical Directory of Article III Federal Judges, 1789-present*, FED. JUD. CTR., <https://www.fjc.gov/history/judges/search/advanced-search> [https://perma.cc/34EX-ZD92] (last visited Nov. 21, 2021). The number of court of appeals appointments is the number of appointments to the regional court of appeals plus the USCAFC appointments. *Judgeship Appointments by President*, *supra* note 38. President Biden's appointments are current through July 13, 2023. *Biographical Directory of Article III Federal Judges, 1789-present*, *supra* note 38.

Trump	54	174	228	2	0.9%
Biden	35	103	138	9	6.5%

A. Hon. Deborah A. Batts
(Active Federal Judicial Service: 1994 - 2012)

Deborah A. Batts was nominated to the Southern District of New York by President Clinton on January 27, 1994, to a seat vacated by Judge Richard Owen.³⁷ She was confirmed by the Senate by a voice vote on May 6, 1994, and received her commission on May 9, 1994, making her the first openly gay person to serve in an Article III judgeship.³⁸ Judge Batts previously was an Associate Professor of Law at Fordham University School of Law, the first African American faculty member there.³⁹

Born on April 13, 1947, in Philadelphia, Pennsylvania, to Ruth V. Batts and Dr. James A. Batts, Jr., “[h]er father was an obstetrician and gynecologist and director of maternal and infant-care services for the Philadelphia Department of Public Health. He also was a professor at the Medical College of Pennsylvania.”⁴⁰ She had three sisters, including a twin sister, Diane.⁴¹

In 1969, she earned an A.B. from Radcliffe College in government and was elected student body president.⁴² A 1972 graduate of Harvard Law School, she served on the editorial board of the *Harvard Civil Rights-Civil Liberties Law Review*.⁴³ She then clerked for U.S. District Judge Lawrence

37. Biography of Deborah A. Batts, *supra* note 11.

38. *Id.*; Seelye & Weiser, *supra* note 11, at A26.

39. Seelye & Weiser, *supra* note 11, at A26.

40. *Deborah Batts and Gwen Zornberg*, N.Y. TIMES (Nov. 13, 2011), <https://www.nytimes.com/2011/11/13/fashion/weddings/deborah-batts-gwen-zornberg-weddings.html> [https://perma.cc/9EK3-C6AX]; *James A. Batts Jr., 78, Doctor and a Professor*, N.Y. TIMES, Aug. 26, 1992, at D22. Prior to working in Pennsylvania, Dr. Batts was “head of community obstetrics and gynecology at Temple University Hospital from 1971 to 1974, and director of obstetrics and gynecology at the Harlem Hospital Center from 1974 to 1979, when he also held a professorship at Columbia University’s College of Physicians and Surgeons.” *Id.*

41. Richard John Cole, III, *Hon. Deborah A. Batts: First LGBT African American Federal Judge*, FED. LAW., May–June 2022, at 22.

42. *Id.*; Stephen Kurkjian, *10 at Harvard to Take N.Y. Police Exam*, BOSTON GLOBE, Feb. 15, 1970, at 47.

43. Seelye & Weiser, *supra* note 11, at A26.

Pierce in the Southern District of New York, followed by six years of private practice at Cravath, Swain & Moore.⁴⁴ In 1979, after private practice, she became an Assistant U.S. Attorney in the criminal division for the Southern District of New York.⁴⁵ “Judge Batts was a federal prosecutor in New York in the 1980s and early '90s, when Senator Daniel Patrick Moynihan, the New York Democrat, suggested that she fill out an application to become a federal judge.”⁴⁶ No action was taken on her application during the presidency of George H.W. Bush.⁴⁷ “The administration thought that while she was ‘very nice,’ she said in 2011, ‘my view of what a federal judge should be’ was not their view.”⁴⁸

In 1984, she joined the faculty at Fordham University School of Law, teaching full-time until she became a judge and part-time while a judge.⁴⁹ She was the first African American faculty member at Fordham and “taught Property, Legal Research and Writing, Federal Criminal Pre-Trial Procedure, Domestic Relations and an advanced Domestic Relations Seminar on Non-Traditional Families.”⁵⁰

After President Clinton nominated her, the ABA unanimously rated her “qualified.”⁵¹ Her sexual orientation was not an issue as the Senate confirmed her on a voice vote.⁵² “She was sworn in on June 23, 1994, during Gay Pride Week” by Judge Lawrence W. Pierce of the United States Court of Appeals for the Second Circuit.⁵³

The first openly gay federal judge, she “presided over prominent cases involving political corruption, terrorism and the Central Park Five civil

44. *Hon. Deborah A. Batts*, FORDHAM U. SCH. L., https://www.fordham.edu/info/25323/clinical_legal_education_faculty/8565/hon_deborah_a_batts [https://perma.cc/8CP8-FY8X] (last visited Mar. 10, 2022). She earned tenure at Fordham in 1990. *Id.*

45. Henry J. Reske, *Appointment Breaks Barrier: First Openly Gay Judge Assumes Duties*, A.B.A. J., Dec. 1994, at 29; Harmeet Kaur, *Deborah Batts, the Nation's First Openly Gay Federal Judge, Dies at 72*, CNN (Feb. 4, 2020, 12:28 PM), <https://www.cnn.com/2020/02/04/us/deborah-batts-manhattan-federal-judge-obit-trnd/index.html>. [https://perma.cc/BN39-6C49].

46. Seelye & Weiser, *supra* note 11, at A26.

47. *Id.*

48. *Id.*

49. *Hon. Deborah A. Batts*, *supra* note 44.

50. *Id.*; Cole, *supra* note 41.

51. Seelye & Weiser, *supra* note 11, at A26.

52. *Id.* “‘It was like hiring Jackie Robinson, putting him on the field and no one saying anything about it,’ Judge Stephen Reinhardt of the Ninth Circuit Court of Appeals told the American Bar Association Journal in 1994.” *Id.*

53. *Id.*; *Hon. Deborah A. Batts*, *supra* note 44.

case.”⁵⁴ Her rulings in the Central Park Five case involving five black teenagers “who were found by a court to have been wrongly convicted of and incarcerated for the 1989 beating and murder of a white woman,” led to all claims against both the city and the state being resolved in favor of the five for nearly \$45 million.⁵⁵

Judge Batts was known for hiring talented, diverse, and nice people.

Because she encouraged, welcomed, and rejoiced in diverse personalities and backgrounds, there was no “typical” Judge Batts clerk. She was open to hiring people of all backgrounds, including her beloved courtroom deputies: for the first 20 years, Bill Delaney, an Irish-American ex-baseball pitcher, and for her last five, Khalilah Williams, an African-American volleyball enthusiast who doubled as Judge Batts’s gym buddy. Judge Batts defied traditional notions about what a law clerk should be or look like. That meant her robust array of clerks reflected every racial identity and ethnicity under the sun. Clerks were straight, gay, and transgender, and they hailed from different parts of the country, were first-generation lawyers, and graduates of non-Ivy League schools.⁵⁶

Judge Batts did not want to be known as the “gay judge.”⁵⁷ She stated, “I’m

54. Seelye & Weiser, *supra* note 11, at A26.

55. Ronald R. Acvedo et al., *In Memoriam: Judge Deborah A. Batts*, 56 HARV. C.R.-C.L. L. REV. 1, 2 (2021).

56. *Id.*

57. INT’L ASS’N OF LGBTQ+ JUDGES, *Deborah Batts, First Openly Gay Federal Judge, Is Dead at 72* (Feb. 18, 2020), <https://lgbtjudges.org/deborah-batts-first-openly-gay-federal-judge-is-dead-at-72/> [<https://perma.cc/HSZQ-8DQH>]. Judge Colleen McMahon said:

Deborah Batts was a trailblazer in every respect: an openly gay African-American woman who became a United States District Judge after a distinguished career as a federal prosecutor and law professor . . . She will be remembered by her colleagues for her devotion to the work of the court, for her mentorship of a cadre of young lawyers of all backgrounds, and for her infectious smiles and extraordinary collegiality.

Tom McParland, *Batts, Nation’s First Openly Gay US Judge, Remembered as ‘Trailblazer’ and for Work on Offender Rehabilitation*, AM. LAW. (Feb. 4, 2020), <https://plus.lexis.com/search?crd=20ea8e0e-be8f-47fb-b079-56178e181565&pdsearchterms=LNSDUID-ALM-AMLAWR->

a mother, I'm an African American. I'm a lesbian.”⁵⁸ Judge J. Paul Oetken, the second openly gay Article III judge, described her as beloved and down-to-earth, someone who mentored him when he first became a judge.⁵⁹ She married Dr. Gwen L. Zornberg, in 2011, and had three children from an earlier marriage.⁶⁰ She died on February 3, 2020, at age 72.⁶¹

B. J. Paul Oetken

(Active Federal Judicial Service: 2011 - Present)

J. Paul Oetken was nominated to the Southern District of New York by President Obama on January 26, 2011, to a seat vacated by Denny Chin.⁶² He was confirmed by the Senate on a vote of 80 to 13 on July 18, 2011, receiving his commission two days later, making him the first openly gay man appointed to a federal court of general jurisdiction.⁶³ He previously was Senior Vice President and Associate General Counsel at Cablevision Systems Corporation.⁶⁴

Born in 1965 in Louisville, Kentucky, to Jim and Betty Oetken, he was raised in Cedar Rapids, Iowa, attending Regis High School.⁶⁵ There, he played the trumpet, was student body president, and named a youth leader of the year by the National Council on Youth Leadership.⁶⁶ Reading *The*

20200204BATTSNATIONSFIRSTOPENLYGAYUSJUDGEREMEMBEREDASTRAILBLAZERANDFORWORKONOFFENDERREHABILITATION&pdbypasscitordocs=False&pdsourcgroupingtype=&pdmfid=1530671&pdisurlapi=true [https://perma.cc/EG3J-MMQL].

58. INT'L ASS'N OF LGBTQ+ JUDGES, *supra* note 57.

59. Zoom Interview with Judge J. Paul Oetken, U.S. Dist. J., S. Dist. of N.Y. (June 16, 2022).

60. Cole, *supra* note 41.

61. INT'L ASS'N OF LGBTQ+ JUDGES, *supra* note 57.

62. Biography of James Paul Oetken, FED. JUD. CTR., <https://www.fjc.gov/history/judges/oetken-james-paul> [https://perma.cc/NM3S-UPPL].

63. *Id.*; *Openly Gay Man Is First Confirmed as U.S. Judge*, N.Y. TIMES, July 19, 2011, at A21.

64. *Openly Gay Man Is First Confirmed as U.S. Judge*, *supra* note 63; Biography of James Paul Oetken, *supra* note 62; Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

65. Biography of James Paul Oetken, *supra* note 62; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 112th Cong. 873 (2011) (statement of Nominee J. Paul Oetken); James Q. Lynch, *Former Cedar Rapids Man First Openly Gay Federal Judge*, GAZETTE (July 19, 2011, 6:15 PM), <https://www.thegazette.com/news/former-cedar-rapids-man-first-openly-gay-federal-judge/> [https://perma.cc/46MP-TG5P]; Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

66. James Q. Lynch, *supra* note 65; Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

Brethen sparked his fascination with the judicial process.⁶⁷ The book inspired him toward law school and first planted the idea that he could become a judge.⁶⁸

After the University of Iowa, graduating with a B.A. in philosophy with highest distinction in 1988, he attended Yale Law School, graduating in 1991.⁶⁹ There, he was involved in the newly formed LGBT Association, where he enjoyed engaging with his community in an organized group for the first time, which was not available to him while in Iowa.⁷⁰ Graduating, he believed he would become an academic, but clerkships and lawfirm experiences motivated him to pursue practicing law.⁷¹

He clerked with three judges: U.S. Circuit Judge Richard D. Cudahy, Seventh Circuit; U.S. District Judge Louis F. Oberdorfer, District of Columbia; and Justice Harry A. Blackmun during his last term on the Supreme Court.⁷²

After clerking, he practiced for a couple of years in Washington, D.C. at Jenner & Block, where he was mentored by Paul M. Smith, a partner and experienced Supreme Court litigator who was openly gay.⁷³ He then joined the Office of Legal Counsel of the U.S. Department of Justice in 1997, working “on advice and legal opinions for agencies of the Executive Branch.”⁷⁴ From 1999 to 2001, he was Associate Counsel to President Clinton, focusing on First Amendment issues, presidential appointments, ethics, civil rights, and legal policy.⁷⁵ He re-entered private practice as President Clinton’s second term ended, joining Debevoise & Plimpton in New York City, before becoming Senior Vice President at Cablevision in

67. Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

68. *Id.*

69. Biography of James Paul Oetken, *supra* note 62; Zoom Interview with Judge J. Paul Oetken, *supra* note 59; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 875.

70. Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

71. *Id.*

72. *Id.*; Biography of James Paul Oetken, *supra* note 62.

73. Zoom Interview with Judge J. Paul Oetken, *supra* note 59. Judge Oetken found Mr. Smith’s mentorship particularly impactful because Mr. Smith provided guidance on navigating the legal field while being openly gay. *Id.*

74. Biography of James Paul Oetken, *supra* note 62; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 886.

75. Biography of James Paul Oetken, *supra* note 62; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 886–87.

2004.⁷⁶ From 2009 to 2010, he also taught Employment Discrimination at Fordham Law School as an Adjunct Professor.⁷⁷

Judge Oetken was active in the gay rights movement.⁷⁸ His professional associations included the National LGBT Law Association, Lambda Legal, the ACLU LGBT Project, and DOJ Pride.⁷⁹ In 1995, he worked on an *amicus curiae* brief on behalf of the American Psychological Association in support of the petitioner in *Campbell v. Sundquist*, an equal protection challenge to Tennessee's law criminalizing sodomy.⁸⁰ In 2003, he represented the National Gay and Lesbian Law Association, co-writing an *amicus curiae* brief in *Lawrence v. Texas*, the case that struck down sodomy laws in the United States.⁸¹

While Judge Oetken described the transition from Debevoise to Cablevision as his biggest professional risk, viewing the in-house position as less prestigious than staying to make partner, he was contacted by Senator Charles Schumer's Office, asking if he was interested in a federal judgeship after six years at Cablevision.⁸² Expressing interest, he was nominated by President Obama, rated "qualified" by the ABA, and confirmed by the Senate.⁸³

While Judge Batts's sexual orientation was not mentioned during her confirmation hearings in 1994, Judge Oetken introduced his partner, Makky Pratayot, to the Senate Judiciary Committee.⁸⁴ Senator Schumer noted the

76. Biography of James Paul Oetken, *supra* note 62; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 876.

77. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 876, 892.

78. Milbank, *supra* note 12.

79. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 878–79.

80. *Id.* at 894.

81. *Id.* at 891.

82. Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

83. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 772, 895 (statement of Sen. Chuck Grassley and questionnaire for judicial nominees); AM. BAR ASS'N STANDING COMM. ON FED. JUD., *Ratings of Article III Judicial Nominees 112th Congress*, https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/web-rating-chart-obama-112.pdf [<https://perma.cc/AFP9-6U9B>] (last visited Apr. 25, 2022); Milbank, *supra* note 12.

84. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 65, at 873; Milbank, *supra* note 12.

importance of the moment, stating that Judge Oetken “is the first openly gay man to go through an Article III confirmation process in this country, which makes this moment historic,” giving “hope to many talented young lawyers who until now thought their paths might be limited because of their sexual orientation.”⁸⁵ Proud to be one of the first openly gay judges, he says it impacts the way he thinks about diversity when hiring law clerks, and the way he phrases questions to potential jurors during voir dire, for example, asking about their spouse rather than assuming the gender of their partner.⁸⁶ He married Mr. Pratayot on September 6, 2014, in a ceremony officiated by Judge Alison J. Nathan.⁸⁷

C. Alison J. Nathan
(Active Federal Judicial Service: 2011- Present)

Alison J. Nathan was nominated to the Southern District of New York by President Obama on March 31, 2011, to a seat vacated by Sidney H. Stein.⁸⁸ She was confirmed by the Senate by a vote of 48 to 44 on October 13, 2011, receiving her commission four days later.⁸⁹ On January 3, 2022, she was nominated to the United States Court of Appeals for the Second Circuit by President Biden, to a seat vacated by Rosemary S. Pooler.⁹⁰ On March 23, 2022, after serving on the District Court for a decade, the Senate confirmed her by a vote of 49 to 47.⁹¹ She was previously Special Counsel to the New York Solicitor General.⁹²

Born in Philadelphia, Pennsylvania in 1972 to Ellen and Bill Nathan, she earned both a B.A. and J.D. at Cornell University, graduating *magna*

85. Milbank, *supra* note 12; Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

86. Zoom Interview with Judge J. Paul Oetken, *supra* note 59.

87. Elliston Lutz, *Makky Pratayot, J. Paul Oetken*, N.Y. TIMES, Sept. 7, 2014, at ST26.

88. Biography of Alison Julie Nathan, FED. JUD. CTR., <https://www.fjc.gov/history/judges/nathan-alison-julie> [<https://perma.cc/3Q8B-KLFB>] (last visited Apr. 25, 2022).

89. Biography of Alison Julie Nathan, *supra* note 88; Julie Bolcer, *Out Lesbian Alison Nathan Confirmed to Federal Bench*, ADVOCATE (Oct. 13, 2011, 3:35 PM), <https://www.advocate.com/news/daily-news/2011/10/13/out-lesbian-alison-nathan-confirmed-federal-bench> [<https://perma.cc/2Z87-WXW2>].

90. Biography of Alison Julie Nathan, *supra* note 88.

91. *Id.*; PN1504 - Nomination of Alison J. Nathan for the Judiciary, 117th Congress (2022), <https://www.congress.gov/nomination/117th-congress/1504?s=1&r=75> [<https://perma.cc/5S86-R7UL>].

92. Biography of Alison Julie Nathan, *supra* note 88.

cum laude from law school in 2000.⁹³ She was editor-in-chief of the Cornell Law Review.⁹⁴ She then clerked for Judge Betty B. Fletcher on the U.S. Court of Appeals for the Ninth Circuit, and Supreme Court Justice John Paul Stevens.⁹⁵

After clerking, she entered private practice, focusing on trial and appellate litigation at Wilmer Cutler Pickering Hale and Dorr LLP for four years, first in Washington, D.C., then in New York City.⁹⁶ She received the firm's *pro bono* award several times.⁹⁷ From 2006 to 2008, she taught Civil and Criminal Procedure and a constitutional law seminar as a visiting assistant professor at Fordham University School of Law.⁹⁸ She then became the Fritz Alexander Fellow at New York University School of Law for a year.⁹⁹ In 2009, she was named Associate Counsel and Special Assistant to President Obama.¹⁰⁰ At the White House, she "reviewed legislation, analyzed various legal issues, advised staff members on legal matters, and assisted in the preparation of judicial and executive branch nominees for confirmation hearings."¹⁰¹ Leaving the White House in 2010, she served as special counsel to the solicitor general of the State of New York, drafting briefs, arguing cases, and supervising assistant solicitor generals.¹⁰²

In 2011, after a majority of the ABA rated her "qualified" and a minority rated her "not qualified," she was confirmed by the Senate to the Southern District of New York.¹⁰³ During her ten years on the Court, she heard many high-profile cases, including *American Broadcasting Cos., Inc. v. Aereo*,

93. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, Cong. 93-94 (2011) (statement of Nominee Alison J. Nathan and questionnaire for judicial nominees).

94. *Id.* at 98.

95. Biography of Alison Julie Nathan, *supra* note 88.

96. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 93, at 95, 107.

97. *Id.* at 98.

98. *Id.* at 107.

99. Biography of Alison Julie Nathan, *supra* note 88.

100. *Id.*

101. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 93, at 107.

102. *Id.*; Biography of Alison Julie Nathan, *supra* note 88.

103. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 93, at 232 (A.B.A. Letter); Biography of Alison Julie Nathan, *supra* note 88.

Inc., where she declined to enjoin a cloud-based streaming service from streaming over-the-air television.¹⁰⁴ Though upheld by the Second Circuit, the decision was overturned six to three by the Supreme Court in 2014.¹⁰⁵ In 2013, she presided over a copyright infringement case against the Beastie Boys, alleging that they had infringed on Trouble Funk's copyright by illegally sampling music.¹⁰⁶ In 2020, she dismissed a case against a businessman for violating United States sanctions against Iran due to disclosure issues by the prosecution.¹⁰⁷ And in 2021, she oversaw the sex-trafficking trial of Jeffrey Epstein's associate, Ghislaine N. M. Maxwell.¹⁰⁸

When President Biden elevated her to the Second Circuit, the ABA rated her "well qualified."¹⁰⁹ She joined Judge Beth Robinson, the first openly gay woman nominated to a Circuit Court of Appeals, whom President Biden nominated shortly before Judge Nathan's nomination.¹¹⁰

104. Brendan McDermid, *Broadcasters Win Preliminary Injunction Against Aereo*, VOX (Oct. 23, 2014, 5:25 PM), <https://www.vox.com/2014/10/23/11632222/broadcasters-win-preliminary-injunction-against-aereo> [https://perma.cc/5XYD-HCXW]; Biography of Alison Julie Nathan, *supra* note 88.

105. Cindy Boren, *Supreme Court Decision on Aereo is a Win for NFL, MLB- For Now*, WASH. POST (June 25, 2014), <https://www.washingtonpost.com/news/early-lead/wp/2014/06/25/supreme-court-decision-on-aereo-is-a-win-for-nfl-mlb-for-now/> [https://perma.cc/4EWW-7WMA]; Lawrence Hurley, *U.S. Justices Show Little Support For Aereo TV in Copyright Fight*, REUTERS (Apr. 22, 2014, 11:49 AM), <https://www.reuters.com/article/us-usa-court-television/u-s-justices-show-little-support-for-aereo-tv-in-copyright-fight-idUSBREA3L18F20140422> [https://perma.cc/DA4H-JV75].

106. Kat Greene, *Beastie Boys Get Fees In Copyright Infringement Suit*, LAW360 (Mar. 9, 2016, 10:45 PM), <https://www.law360.com/articles/769796/beastie-boys-get-fees-in-copyright-infringement-suit> [https://perma.cc/4LHC-6B79].

107. Carrie Johnson, *'Yeah, We Lied': Messages Show Prosecutors' Panic Over Missteps in Federal Case*, NPR (Nov. 30, 2021, 7:00 AM), <https://www.npr.org/2021/02/25/971003739/yeah-we-lied-messages-show-prosecutors-panic-over-missteps-in-federal-case> [https://perma.cc/TU5A-MR44].

108. Benjamin Weiser, *Who is Alison Nathan, the Judge in the Ghislaine Maxwell Case?*, N.Y. TIMES (Feb. 25, 2021), <https://www.nytimes.com/2021/12/16/nyregion/alison-nathan-judge-ghislaine-maxwell-case.html> [https://perma.cc/46HE-PHLT]; Rebecca Davis O'Brien, *Here are the Charges Ghislaine Maxwell Faces.*, N.Y. TIMES (Dec. 21, 2021), <https://www.nytimes.com/article/what-is-ghislaine-maxwell-charged-with.html> [https://perma.cc/2GCD-PY2N].

109. AM. BAR ASS'N STANDING COMM. ON FED. JUD., *Ratings of Article III and Article IV Judicial Nominees 117th Congress*, (Dec. 12, 2022),

https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/webrating-chart-117.pdf [https://perma.cc/YA6U-HXJP].

110. Rachel Shatto, *Out Judge Alison Nathan Appointed to Court of Appeals*, ADVOCATE (Mar. 24, 2022, 2:15 PM), <https://www.advocate.com/news/2022/3/24/out-judge-alison-nathan-appointed-court-appeals> [https://perma.cc/F9RF-JMN6].

D. Hon. Michael W. Fitzgerald
(Active Federal Judicial Service: 2012 - Present)

Michael W. Fitzgerald was nominated by President Obama to the Central District of California on July 20, 2011, to a seat vacated by A. Howard Matz.¹¹¹ He was confirmed by the Senate and received his commission on March 15, 2012, becoming the first openly gay federal judge in California.¹¹² He was previously in private practice in Los Angeles.¹¹³

He was born in 1959 in Los Angeles to James Fitzgerald, a math teacher and Korean War army combat veteran, and Vivianne Fitzgerald, a registered nurse.¹¹⁴ His family, including his twin brother Patrick Fitzgerald, are longtime residents of Los Angeles.¹¹⁵

He worked as a bus boy while attending Harvard College, received a fellowship to research his senior honors thesis in Spain, and graduated *magna cum laude* in 1981.¹¹⁶ He returned west to attend the University of California, Berkeley School of Law, where he was Managing Editor of the *Industrial Relations Law Journal* and received the American Jurisprudence Award in Criminal Law.¹¹⁷ He earned a J.D. and was elected to the Order of

111. Biography of Michael Walter Fitzgerald, FED. JUD. CTR., <https://www.fjc.gov/history/judges/fitzgerald-michael-walter> [https://perma.cc/MJ4K-KPGL] (last visited Jan. 27, 2022).

112. *Id.*; Bob Egelko, *Michael Fitzgerald 1st Openly Gay U.S. Judge in CA*, SFGATE (Mar. 16, 2012), <https://www.sfgate.com/politics/article/Michael-Fitzgerald-1st-openly-gay-U-S-judge-in-CA-3411266.php> [https://perma.cc/ZW5Y-TVET].

113. Biography of Michael Walter Fitzgerald, *supra* note 111.

114. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 112th Cong. 698 (2011) (statement of Sen. Barbara Boxer).

115. *Id.*; AM. L. INST., *The Hon. Michael W. Fitzgerald*, <https://www.ali.org/members/member/440116/> [https://perma.cc/QL6A-KXZK] (last visited Jan. 27, 2022); Zoom Interview with Judge Michael W. Fitzgerald, U.S. District Judge, Central District of California (May 4, 2022). One of Judge Fitzgerald's colleagues ruled, and the Ninth Circuit affirmed, that Judge Fitzgerald could continue to preside over a case where the plaintiff's complaints about his twin brother possibly caused the plaintiff's demotion. MetNews Staff Writer, *Ninth Circuit: Judge Fitzgerald Not Disqualified Based on Brother's Job*, METRO. NEWS-ENTER. (June 12, 2019), <http://www.metnews.com/articles/2019/fitzgerald061219.htm> [https://perma.cc/MZ8Y-8RP4].

116. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 114, at 698, 754; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

117. *The Hon. Michael W. Fitzgerald*, *supra* note 115; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

the Coif in 1985, clerking for Judge Irving R. Kaufman on the U.S. Court of Appeals for the Second Circuit upon graduation.¹¹⁸

Entering private practice in Los Angeles as an associate at O'Donnell & Gordon, a boutique litigation firm, he received hands-on trial experience from 1986 to 1987.¹¹⁹ He then served as an Assistant U.S. Attorney in the Southern District of California from 1988 to 1991.¹²⁰ He worked in the Organized Crime and Drug Enforcement Task Force, prosecuting “international drug rings and money laundering, including what was at the time the second largest cocaine seizure in California history.”¹²¹ He next practiced at Heller, Ehrman, White, & McAuliffe LLP from 1991 to 1995, the Law Offices of Robert L. Corbin, P.C. from 1995 to 1998, and Corbin, Fitzgerald & Athey LLP from 1998 until his appointment.¹²² As a trial lawyer, he tried 26 cases, with a majority tried to a jury.¹²³

While practicing, he engaged in public service as Deputy Chief Counsel to the Rampart Independent Review Panel, analyzing the L.A. Police Department after the Rampart scandal, and as volunteer counsel to the Webster Commission, investigating the L.A. Police Department's response to public outcry after the Rodney King verdict in 1992.¹²⁴ He also represented the plaintiffs in *Buttino v. FBI*, challenging the FBI's practice of not hiring openly LGBTQIA+ agents and employees.¹²⁵ As a result, the FBI renounced this practice, one of his proudest professional

118. Press Release, White House, Office of the Press Sec'y, President Obama Announces His Intent to Nominate Michael Walter Fitzgerald to the U.S. District Court for the Central District of California (July 20, 2011); *The Hon. Michael W. Fitzgerald*, *supra* note 115; Biography of Michael Walter Fitzgerald, *supra* note 111.

119. *The Hon. Michael W. Fitzgerald*, *supra* note 115; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

120. *The Hon. Michael W. Fitzgerald*, *supra* note 115; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

121. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 114, at 698; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

122. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 114, at 765.

123. *Id.* at 698.

124. *The Hon. Michael W. Fitzgerald*, *supra* note 115. The Rampart scandal involved widespread police corruption in the Rampart Community Resources Against Street Hoodlums Unit. *Rampart Scandal Timeline*, PBS, <https://www.pbs.org/wgbh/pages/frontline/shows/lapd/scandal/cron.html> [<https://perma.cc/VUM2-EP3G>] (last visited Feb. 9, 2022).

125. *The Hon. Michael W. Fitzgerald*, *supra* note 115.

accomplishments.¹²⁶ He was also a Judge Pro Tem under to the Temporary Judge Program of the L.A. Superior Court, which allows experienced attorneys to handle low-level cases after training and certification, presiding over 30 small claims cases.¹²⁷

On July 20, 2011, President Obama nominated him to the Central District of California at Senator Barbara Boxer's recommendation.¹²⁸ President Obama remarked, "His impressive career stands as a testament to his formidable intellect and integrity. I am confident he will serve the people of California with distinction on the District Court bench."¹²⁹ In November 2011, the Judiciary Committee endorsed his nomination without a dissenting vote after the ABA rated him "well-qualified."¹³⁰ By agreement between Senators Harry Reid and Mitch McConnell, he was confirmed by the Senate.¹³¹ His confirmation proceeded alongside confirmations for 14 other stalled judicial nominees.¹³²

Judge Fitzgerald continues to engage with the bar and participate in events that uplift his community.¹³³ He has served as the chair to the Attorney Liaison Committee and on the Criminal Justice Act Committee for his Court.¹³⁴

E. Hon. Pamela Ki Mai Chen
(Active Federal Judicial Service: 2013 - Present)

Pamela Ki Mai Chen was nominated by President Obama to the Eastern District of New York on January 4, 2013, to a seat vacated by Raymond Joseph Dearie.¹³⁵ She was confirmed by the Senate on March 4, 2013, and

126. *Id.*; Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

127. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 114, at 761.

128. Egelko, *supra* note 112.

129. Press Release, Office of the Press Sec'y, *supra* note 118.

130. Egelko, *supra* note 112; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 114, at 698.

131. Egelko, *supra* note 112.

132. *Id.*

133. Zoom Interview with Judge Michael W. Fitzgerald, *supra* note 115.

134. *Id.*

135. Biography of Pamela Ki Mai Chen, FED. JUD. CTR., <https://www.fjc.gov/history/judges/chen-pamela-ki-mai> [https://perma.cc/H2VG-L98L] (last visited Jan. 31, 2022).

received her commission the next day, becoming the first openly gay Chinese American federal judge.¹³⁶ Chen previously was an Assistant U.S. Attorney for the Eastern District of New York, where she served as Chief of the Civil Rights Section.¹³⁷

Born near Chicago, Illinois in 1961, both her parents were Chinese immigrants, who met in the United States in the 1940s.¹³⁸ The youngest of three, she grew up in a predominately white, Jewish neighborhood, playing the piano and violin, and participating in athletics.¹³⁹

She earned her B.A. in philosophy, with an emphasis on ethics, at the University of Michigan in 1983, where she decided to pursue law.¹⁴⁰ Attending Georgetown University Law Center, where she earned her J.D. in 1986, she planned on becoming a public defender, and participated in the Street Law Clinic, teaching high school students basic legal concepts, and the Juvenile Justice Clinic, defending minors charged with crimes.¹⁴¹ She also served as President of the Asian Pacific American Law Students Association during her third year.¹⁴²

She began in private practice in Washington, D.C. as an associate at Arnold & Porter from 1986 to 1989.¹⁴³ She then practiced at Asbill, Junkin, Myers & Buffone, a boutique criminal defense firm, until she joined the Special Litigation Section in the Civil Rights Division at the U.S. Department of Justice.¹⁴⁴ There she focused on enforcing the Civil Rights

136. *Id.*; Chris Johnson, *Lesbian Judicial Nominee Pledges Fairness on the Bench*, WASH. BLADE (Sept. 19, 2012), <https://www.washingtonblade.com/2012/09/19/lesbian-judicial-nominee-pledges-fairness-on-the-bench/> [https://perma.cc/WG42-UHQ7].

137. Biography of Pamela Ki Mai Chen, *supra* note 135.

138. *Id.*; Johnson, *supra* note 136; Ann LaFeir, *From Skokie to Bench: An Afternoon with Eastern District of New York Judge Pamela Chen*, 103 WOMEN L.J. 44 (2018).

139. LaFeir, *supra* note 138.

140. Biography of Pamela Ki Mai Chen, *supra* note 135; LaFeir, *supra* note 138, at 44–45. She recalls that after watching *Gideon's Trumpet* about the case that ultimately guaranteed indigent criminal defendants the right to representation, she was inspired to attend law school. *Id.* at 45. She also credits the legal battles that occurred in her hometown of Skokie, Illinois and her parents' immigration story. *Id.*

141. Biography of Pamela Ki Mai Chen, *supra* note 135; LaFeir, *supra* note 138, at 45.

142. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 112th Cong. 61 (2012) (questionnaire for judicial nominees).

143. *Id.* at 59; LaFeir, *supra* note 138, at 45.

144. LaFeir, *supra* note 138, at 45; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 142, at 59. She learned from this experience that criminal defense might not be the best fit for her because you “have to be tough and confident that you have done

of Institutionalized Persons Act of 1980, which protects individuals in correctional facilities, nursing homes, and other state and local institutions.¹⁴⁵ In 1994, when President Clinton signed the Freedom of Access to Clinic Entrances Act, her work also involved maintaining safe access to reproductive health clinics.¹⁴⁶ During this time, she met her partner, Amy Chester.¹⁴⁷

To move closer to Amy, Chen became an Assistant U.S. Attorney in the Eastern District of New York in 1998.¹⁴⁸ She worked there until 2007 as Chief of the Civil Rights Litigation Unit, Deputy Chief of the Public Integrity Section, and Chief of the Civil Rights Section.¹⁴⁹ When she began, the office did not have a criminal civil rights unit, but one was created during her time there.¹⁵⁰ From January to April 2008, she briefly left that office when Governor Eliot Spitzer appointed her as the Deputy Commissioner for Enforcement in the State Division of Human Rights.¹⁵¹ Returning to the U.S. Attorney's Office she became Chief of the Civil Rights Section.¹⁵² During her career she tried 11 cases to verdict, most being criminal jury trials.¹⁵³ She stated that some of her most significant legal work while an Assistant U.S. Attorney was combatting human trafficking.¹⁵⁴

After hearing that Senator Schumer was searching for openly gay judicial candidates and learning more about the application process through a colleague at the U.S. Attorney's Office who had been nominated for an Article III judgeship, she applied.¹⁵⁵ In August 2012, Senator Schumer recommended her to President Obama, who nominated her early the next

all you can do for your client, even though you are likely to lose many of your cases." LaFeir, *supra* note 138, at 45.

145. LaFeir, *supra* note 138, at 45.

146. *Id.*

147. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 142, at 57.

148. LaFeir, *supra* note 138, at 46; Zoom Interview with Judge Pamela Ki Mai Chen, U.S. District Judge, Eastern District of New York (May 10, 2022).

149. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 142, at 59.

150. Zoom Interview with Judge Pamela Ki Mai Chen, *supra* note 148.

151. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 142, at 59, 77.

152. *Id.* at 58–59.

153. *Id.* at 79.

154. *Id.* at 95.

155. Zoom Interview with Judge Pamela Ki Mai Chen, *supra* note 148.

year.¹⁵⁶ She struggled at times with self-promotion during the confirmation process.¹⁵⁷ Her nomination stalled due in part to an “unfavorable” decision that was issued regarding one of her cases while an Assistant U.S. Attorney.¹⁵⁸ Explaining this to the judge who wrote the decision, she received his immediate glowing recommendation, which proved critical in advancing her nomination.¹⁵⁹ She received a “qualified” rating from the ABA and was confirmed by a voice vote in the Senate.¹⁶⁰

She remains involved with the LGBTQIA+ community by mentoring and hiring LGBTQIA+ interns and law clerks.¹⁶¹ She feels fortunate and proud to be one of the first openly gay federal judges, recognizing that she has benefitted from the work of many LGBTQIA+ advocates.¹⁶²

F. Hon. Michael J. McShane
(Active Federal Judicial Service: 2013 - Present)

Michael J. McShane was nominated by President Obama to the District of Oregon on January 4, 2013, to a seat vacated by Michael Robert Hogan.¹⁶³ He was confirmed by the Senate on May 20, 2013, receiving his commission ten days later, becoming the first openly gay federal judge in Oregon.¹⁶⁴ He was previously a judge on the Oregon Circuit Court.¹⁶⁵

Born in 1961 in Pittsburgh, he grew up in rural eastern Washington, earning a B.A. at Gonzaga University in English literature, graduating

156. LaFeir, *supra* note 138, at 46; Michelle Garcia, *Lesbian Judge Pamela Chen Appointed to Federal Bench*, *ADVOCATE* (Mar. 3, 2013, 6:06 AM), <https://www.advocate.com/politics/washington-dc/2013/03/05/lesbian-judge-pamela-chen-appointed-federal-bench> [<https://perma.cc/NN8U-9ZSN>].

157. Zoom Interview with Judge Pamela Ki Mai Chen, *supra* note 148.

158. *Id.*

159. *Id.*

160. Johnson, *supra* note 136; PN11 - Nomination of Pamela Ki Mai Chen for the Judiciary, 113th Congress (2013),

<https://www.congress.gov/nomination/113thcongress/11?q=%7B%22search%22%3A%5B%22Pamela+Chen%22%5D%7D&s=7&r=39> [<https://perma.cc/2JUR-L8C6>].

161. Zoom Interview with Judge Pamela Ki Mai Chen, *supra* note 148.

162. *Id.*

163. Biography of Michael J. McShane, *FED. JUD. CTR.*, <https://www.fjc.gov/history/judges/mcshane-michael-jerome> [<https://perma.cc/8VXJ-ZWFE>] (last visited Feb. 23, 2022).

164. *Id.*; Adair Law, *Judge Michael McShane: A Formal Welcome*, *DIST. CT. OR. HIST. SOC'Y NEWSL.*, May 2014, at 1.

165. Biography of Michael Jerome McShane, *supra* note 163.

magna cum laude in 1983.¹⁶⁶ He then joined the Jesuit Volunteer Corps, working with homeless parolees in Portland, Oregon for a year.¹⁶⁷ During this time, he was also a part of the Alice B. Toklas Society, an informal book club, with four of his closest friends who were also gay.¹⁶⁸ The group profoundly impacted his life, especially when the AIDS epidemic claimed the lives of all four of his friends.¹⁶⁹ He attended Northwestern School of Law of Lewis and Clark College, graduating with honors in 1988.¹⁷⁰ During law school, he worked as a librarian at the law school, and at a small firm, Hoevet and Synder.¹⁷¹ He also spent a summer at the Clark County Prosecuting Attorney's Office.¹⁷²

He began his legal career at the Metropolitan Public Defender in Portland, working there for almost ten years, because many law firms were not accepting openly gay people at the time.¹⁷³ The office was a safe place for him to care for his partner, Scott, who eventually passed away after battling AIDS.¹⁷⁴ When he began his career, however, he feared public speaking.¹⁷⁵ His first time in court representing a 63-year-old sex worker and expecting only to turn over paperwork, the judge asked McShane about

166. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 421, 489 (2013) (questionnaire for judicial nominees and statement of Sen. Ron Wyden); Jeff Mapes, *Gay Marriage: Openly Gay Judge, Michael McShane*, in *Spotlight Overseeing Oregon Case*, OREGONIAN

(Apr. 17, 2014), https://www.oregonlive.com/mapes/2014/04/gay_marriage_openly_gay_judge.html [<https://perma.cc/WP3R-267X>]; Zoom Interview with Judge Michael J. McShane, U.S. District Judge, District of Oregon (May 5, 2022); *Judge Michael McShane*, LGBTQ+ BAR, <https://lgbtqbar.org/annual/conference-speakers/judge-michael-mcshane/> [<https://perma.cc/3MTW-4V9L>] (last visited Feb. 23, 2022).

167. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 166, at 490-91; *Judge Michael McShane*, *supra* note 166.

168. Michael McShane, *I Will Never Forget My First Gay Friends*, *ADVOCATE* (Jan. 25, 2018, 5:19 AM), <https://www.advocate.com/commentary/2018/1/25/i-will-never-forget-my-first-gay-friends> [<https://perma.cc/BEM9-8VBQ>].

169. *Id.*; Zoom Interview with Judge Michael J. McShane, *supra* note 166.

170. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 166, at 421, 489.

171. *Id.* at 490.

172. *Id.*

173. Biography of Michael J. McShane, *supra* note 163; Zoom Interview with Judge Michael J. McShane, *supra* note 166.

174. Zoom Interview with Judge Michael McShane, *supra* note 166. He described how incredibly supportive the office was, as many of his colleagues would help him care for Scott when he had to make court appearances during his first year in the office. *Id.*

175. *Id.*

his client.¹⁷⁶ He froze, but after his client's encouragement, he was able to speak for her.¹⁷⁷ He found his voice learning to speak for others, a pivotal moment in his career.¹⁷⁸ He eventually became a senior felony attorney and then a misdemeanor supervisor.¹⁷⁹ Rising in the ranks, he could choose his cases, leading to the opportunity to represent Tonya Harding's getaway driver.¹⁸⁰

In 1997, he was named a Judge Pro Tempore for the Oregon Circuit Court, then elevated to a permanent judgeship in 2001.¹⁸¹ While Judge Pro Tempore, he often presided over traffic court.¹⁸² He credited a thank-you letter from a rabbi who appeared before him in traffic court as helping convince the governor to elevate him to a permanent judgeship.¹⁸³ He also credited the Portland District Attorney's Office for the opportunity because the office grew to respect his work as a public defender.¹⁸⁴ As a judge, he was known for his work ethic and kindness.¹⁸⁵ He hosted a Friday breakfast club for probationers.¹⁸⁶ He also regularly met defendants at their early-morning counseling appointments.¹⁸⁷ In 2003, he began teaching at his law school as an adjunct professor.¹⁸⁸ That year, he was appointed to the county's death penalty panel, handling over 20 capital cases.¹⁸⁹

He first applied for a federal judgeship as a favor to his LGBTQIA+ bar association, which wanted to submit a candidate at the request of their

176. *Id.*

177. *Id.* Judge McShane recalled that his client said, "Hey, asshole, are you going to say something or what?" *Id.*

178. *Id.*

179. *Id.*; Biography of Michael J. McShane, *supra* note 163.

180. *Judge Michael McShane*, *supra* note 166; Zoom Interview with Judge Michael J. McShane, *supra* note 166.

181. Biography of Michael J. McShane, *supra* note 163; Zoom Interview with Judge Michael J. McShane, *supra* note 166.

182. Zoom Interview with Judge Michael J. McShane, *supra* note 166.

183. *Id.*

184. *Id.*

185. Mapes, *supra* note 166.

186. *Id.*

187. *Id.*

188. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 166, at 490.

189. *Judge Michael McShane*, *supra* note 166.

senator.¹⁹⁰ On September 19, 2012, President Obama nominated him.¹⁹¹ After *sine die* adjournment, President Obama re-nominated him on January 4, 2013, with support from Senators Ron Wyden and Jeff Merkley.¹⁹² A substantial majority of the ABA committee rated him “qualified,” while a minority rated him “well qualified.”¹⁹³ He was confirmed by a voice vote in the Senate.¹⁹⁴

In 2014, he held that Oregon’s ban on same-sex marriage was unconstitutional.¹⁹⁵ He incorporated personal details in the decision, which precipitated public scrutiny but also public support.¹⁹⁶ In 2018, he published his coming-of-age story in *The Advocate*, detailing the Alice B. Toklas Society and the untimely deaths of his four closest friends.¹⁹⁷ The story touched on topics rarely discussed by sitting federal judges.¹⁹⁸ He received countless letters and emails about the impact of story, and it was mentioned by other news sources, including *The Oregonian*, the day after it was published.¹⁹⁹

190. Zoom Interview with Judge Michael J. McShane, *supra* note 166.

191. Press Release, White House, Office of the Press Sec’y, President Obama Nominates Three to the United States District Court (Sept. 19, 2012); Zoom Interview with Judge Michael J. McShane, *supra* note 166.

192. Press Release, White House, Office of the Press Sec’y, President Obama Re-nominates Thirty-Three to Federal Judgeships (Jan. 3, 2013); *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 166, at 421–22. *Sine die* adjournment “is used to describe an adjournment when the date to reconvene is not specified, when Congress intends to leave town for the last time in a year.” Mark Strand & Tim Lang, *What Is Sine Die Adjournment?*, CONG. INST. (Jan. 5, 2015), <https://www.congressionalinstitute.org/2015/01/05/what-is-a-sine-die-adjournment/> [https://perma.cc/XR7Q-WZW5].

193. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 166, at 771.

194. PN20 - Nomination of Michael J. McShane for the Judiciary, 113th Congress (2013), <https://www.congress.gov/nomination/113th-congress/20?q=%7B%22search%22%3A%5B%22Michael+McShane%22%5D%7D&s=8&r=3> [https://perma.cc/U5N6-YSP9].

195. KGW Staff, *Meet gay couples who married after Ore. ban overturned*, KGW NEWS (May 20, 2014, 5:33 AM),

<https://web.archive.org/web/20140530080731/http://www.kgw.com/news/Oregon-gay-couples-line-up-for-potential-marriage-licenses-259815911.html> [https://perma.cc/6EE9-6VJL]; Zoom Interview with Judge Michael J. McShane, *supra* note 166.

196. Zoom Interview with Judge Michael J. McShane, *supra* note 166.

197. *Id.*

198. *Id.*

199. *Id.*

He credits young people for leading the LGBTQIA+ rights movement and believes that his career has been shaped by the people around him.²⁰⁰ Judge McShane has raised two sons with his husband, Gregory Ford.²⁰¹

G. Hon. Nitza I. Quiñones Alejandro
(Active Federal Judicial Service: 2013 - Present)

Nitza I. Quiñones Alejandro was nominated to the Eastern District of Pennsylvania by President Obama on January 4, 2013, to a seat vacated by Richard Barclay.²⁰² She was confirmed by the Senate on June 13, 2013, receiving her commission six days later, becoming the first openly gay Latina appointed to the federal bench.²⁰³ She was previously a judge on the Court of Common Pleas of Philadelphia County.²⁰⁴

Born in 1951 in Hato Rey, Puerto Rico to a First Sergeant in the United States Army and a homemaker, she grew up on several military bases as the youngest of three children.²⁰⁵

She earned a B.B.A. at the University of Puerto Rico, studying business and statistics, graduating *cum laude* in 1972.²⁰⁶ She studied at the University of Central Michigan from 1970 to 1971.²⁰⁷ She then earned her J.D. at the University of Puerto Rico.²⁰⁸ Despite challenges her first semester, she was determined to finish law school after working a summer job at the legal services office in San Juan.²⁰⁹

200. *Id.*

201. *Id.*; Law, *supra* note 164; McShane, *supra* note 168.

202. Biography of Nitza Ileana Quiñones Alejandro, FED. JUD. CTR., <https://www.fjc.gov/history/judges/quiñones-alejandro-nitza-ileana> [<https://perma.cc/GB5C-65S7>] (last visited on Feb. 1, 2022).

203. *Id.*; Chris Johnson, *Obama Nominates Lesbian Latina Judge to Pa. Court*, WASH. BLADE, (Nov. 27, 2021), <https://www.washingtonblade.com/2012/11/27/obama-nominates-lesbian-latina-judge-to-pa-court/> [<https://perma.cc/BZ2A-S5HS>].

204. Biography of Nitza Ileana Quiñones Alejandro, *supra* note 202.

205. Nitza I. Quiñones Alejandro, *A Personal Essay*, 168 U. PA. L. REV. 1455, 1458 (2020).

206. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 528 (2013) (questionnaire for judicial nominees).

207. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 528.

208. Alejandro, *supra* note 205, at 1459. Her class was comprised of twenty-five women and one hundred men. *Id.*

209. *Id.*

She began her professional career as staff attorney at Community Legal Services in Philadelphia, practicing family law, handling custody matters, adoptions, and social security appeals.²¹⁰ In 1977, she became an attorney advisor at the Social Security Administration in Philadelphia, processing social security appeals, reviewing administrative records, and drafting briefs for the administrative law judges' decisions.²¹¹ She then became a staff attorney at the U.S. Department of Veterans Affairs.²¹² She served her community by founding the Hispanic Bar Association of Pennsylvania in 1982, teaching civics courses to high school students, and serving on the board of a medical center that treated economically disadvantaged residents.²¹³

In 1990, with six vacancies on the Philadelphia Court of Common Pleas, she decided to run, which required resigning from Veteran Affairs and briefly practicing solo, representing a criminal defendant and serving as a neutral insurance arbitrator.²¹⁴ After the Governor's nomination committee and the Philadelphia Bar Association vetted her, Governor Casey nominated her.²¹⁵ When the Pennsylvania Senate refused to confirm her, she campaigned for the position by attending ward meetings.²¹⁶ She was elected to the Court of Common Pleas of Philadelphia County in 1991, serving until 2013.²¹⁷ She was the first female Hispanic judge in the Commonwealth of

210. *Id.* at 1460; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 568.

211. Alejandro, *supra* note 205, at 1460; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 568.

212. Alejandro, *supra* note 205, at 1460. When she was offered the position, it required her to take a significant pay cut, moving down several levels on the federal pay scale. *Id.* She declined the offer multiple times before being offered the job with a pay increase. *Id.* at 1461. She remarked, "I know my worth." *Id.* The Philadelphia Office represented five hospitals in the eastern part of Pennsylvania and in Delaware. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 568.

213. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 424, 574.

214. *Id.* at 566, 568; Alejandro, *supra* note 205, at 1461–62.

215. Alejandro, *supra* note 205, at 1462.

216. *Id.* at 1462–63. She was told that she was not confirmed because she was politically unknown and had not worked closely with the Democratic Party. *Id.* at 1462.

217. Biography of Nitza Ileana Quiñones Alejandro, *supra* note 202.

Pennsylvania.²¹⁸ While a state judge, she presided over about 1,500 criminal and civil trials.²¹⁹

She applied for the federal bench in 2012, explicitly disclosing her sexual orientation to the nomination committee for the first time.²²⁰ Senators Bob Casey and Pat Toomey then jointly recommended her to President Obama for a vacancy in the Eastern District of Pennsylvania.²²¹ After interviewing with attorneys from the White House Counsel Office and Department of Justice on November 27, 2012, she discovered in the morning paper that President Obama nominated her.²²² A substantial majority of the ABA committee rated her “qualified,” while a minority rated her “unqualified.”²²³ During her confirmation hearings, she introduced her partner, Sanjuanita “Jenny” Gonzalez, a fellow lawyer.²²⁴ Seven months later, she was confirmed by a voice vote after a drawn-out confirmation process.²²⁵

H. Hon. Todd M. Hughes
(Active Federal Judicial Service: 2013 - Present)

Todd M. Hughes was nominated to the U.S. Court of Appeals for the Federal Circuit by President Obama on February 7, 2013, to a seat vacated

218. Alejandro, *supra* note 205, at 1463.

219. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 542.

220. Alejandro, *supra* note 205, at 1465.

221. Johnson, *supra* note 203; Amanda Schiavo, *The US Senate Approves First Openly Gay Latina Nitza Quiñones Alejandro for Federal Judgeship*, *LATIN TIMES* (June 15, 2013, 12:01 PM), <https://www.latintimes.com/us-senate-approves-first-openly-gay-latina-nitza-quinones-alejand-federal-judgeship-128406> [<https://perma.cc/YY6Z-9J7H>].

222. Alejandro, *supra* note 205, at 1466; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 575.

223. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 206, at 773.

224. *Id.* at 527.

225. Alejandro, *supra* note 205, at 1466; PN25 - Nomination of Nitza I. Quinones Alejandro for the Judiciary, 113th Congress (2013), <https://www.congress.gov/nomination/113th-congress/25?q=%7B%22search%22%3A%5B%22Nitza+I.+Quinones+Alejandro%22%5D%7D&s=3&r=27> [<https://perma.cc/5SWR-HFYK>].

by William Curtis Bryson.²²⁶ He was confirmed by the Senate and received his commission on September 24, 2013, becoming the first openly gay judge on a U.S. Court of Appeals.²²⁷ He was previously Deputy Director at the U.S. Department of Justice.²²⁸

Born in 1966 to Michael and Barbara Hughes, he grew up on a farm in Delaware, Ohio and participated in 4-H, showing dairy cattle.²²⁹ He earned an A.B. at Harvard College, a cultural and educational shift from his Ohio childhood.²³⁰ Though planning to study political science, he studied his passion, English.²³¹ Struggling early on in a class on Shakespeare, a teaching assistant ensured that he succeeded in the class, bridging the gap between his high school and college education.²³² He graduated *cum laude* in 1989.²³³

He did not plan on attending law school but was not ready to commit to a Ph.D. program in English.²³⁴ After taking the LSAT with a few friends, he decided to apply to law school.²³⁵ He then jointly earned an M.A. in English and a J.D. at Duke University, graduating with honors in 1992.²³⁶ He spent his law school summers working at Baker & Hostetler and Crowell &

226. Biography of Todd Michael Hughes, FED. JUD. CTR., <https://www.fjc.gov/history/judges/hughes-todd-michael> [<https://perma.cc/9K7B-NSHN>] (last visited Mar. 10, 2022).

227. *Id.*; Juliet Eilperin, *Senate Confirms Todd M. Hughes as First Openly Gay Federal Appeals Judge*, WASH. POST (Sept. 24, 2013), https://www.washingtonpost.com/politics/senate-confirms-todd-m-hughes-as-first-openly-gay-federal-appeals-judge/2013/09/24/c63c25fc-252b-11e3-ad0d-b7c8d2a594b9_story.html [<https://perma.cc/9P82-Z7PH>].

228. Biography of Todd Michael Hughes, *supra* note 226.

229. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 828, 842 (2013) (statement of Todd M. Hughes and questionnaire for judicial nominees); Zoom Interview with Judge Todd M. Hughes, U.S. Circuit Judge, U.S. Court of Appeals for the Federal Circuit (May 17, 2022). Hughes's family raised dairy cattle on the farm until Hughes was about ten years old and then transitioned to producing grain on more than 150 acres and raising horses. *Id.*

230. Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

231. *Id.*

232. *Id.* He followed the teaching assistant to any class she taught. *Id.*

233. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 842.

234. Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

235. *Id.*

236. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 842; Eilperin, *supra* note 227.

Moring.²³⁷ He became the first in his family to graduate from college and law school.²³⁸

He clerked for two years for Judge Robert Krupansky on the U.S. Court of Appeals for the Sixth Circuit after law school, during which Judge Batts was confirmed, an “earth-shattering” moment because Hughes realized he, too, could become a judge.²³⁹ In the second year of the clerkship, he became an Adjunct Lecturer in Law at Cleveland-Marshall College of Law, teaching advanced legal writing.²⁴⁰

He joined the Commercial Litigation Branch of the U.S. Department of Justice in 1994, serving in various positions before nomination to the federal bench in 2013.²⁴¹ During his 18 years at the DOJ, he primarily focused on appellate litigation involving federal personnel, veteran affairs, government contracts, and international trade issues.²⁴² He argued more than 40 cases before the Court of Appeals for the Federal Circuit, including two *en banc*, and drafted numerous briefs for the Supreme Court.²⁴³ He also gained substantial trial experience, litigating before the Court of Federal Claims and the Court of International Trade.²⁴⁴ Becoming Deputy Director in 2007, he supervised thousands of trial and appellate lawyers, advising coworkers and other federal agencies about the Civil Service Reform Act and the Whistleblower Protection Act.²⁴⁵ He received special commendations from the DOJ, a Special Contribution Award from the Department of Veterans Affairs, and the Attorney General’s John Marshall Award.²⁴⁶

237. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 843.

238. Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

239. *Id.*

240. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 861.

241. Biography of Todd Michael Hughes, *supra* note 226.

242. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 851.

243. *Id.* at 851–52; Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

244. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 830, 851–52; Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

245. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 852; Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

246. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 229, at 824.

While working as a full-time DOJ attorney, he also served his community by staffing an intake clinic at the Whitman Walker Clinic, providing free legal advice.²⁴⁷ There, he took on an AIDS-related workplace discrimination case, an investigation into the inadvertent disclosure of a client's drug treatment for AIDS, and an insurance dispute.²⁴⁸

After President Obama nominated him, the ABA unanimously rated him "qualified."²⁴⁹ During his confirmation hearing, sparsely attended due to an immigration bill then on the Senate floor, Senator Dick Durbin mentioned that he would be the first openly gay federal appellate judge.²⁵⁰ He was confirmed by a vote of 98-0.²⁵¹ The first openly gay judge on the Federal Circuit, he was not the first openly gay nominee to it.²⁵² In 2010, President Obama nominated Edward DuMont; the Senate Judiciary Committee did not proceed with his nomination, and President Obama withdrew the nomination at Mr. DuMont's request.²⁵³

Judge Hughes' transition to the bench was smooth because of his experience litigating in the Federal Circuit, although he faced patent law for the first time and an adjustment to the judges as colleagues, not distant jurists.²⁵⁴ He has hired many LGBTQIA+ law clerks and interns, including one of the first transgender federal law clerks.²⁵⁵

247. *Id.* at 863.

248. *Id.*

249. *Id.* at 1091.

250. *Id.* at 824; Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

251. Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

252. Press Release, The White House, Office of the Press Sec'y, President Obama Nominates Edward C. DuMont for the United States Court of Appeals for the Federal Circuit (Apr. 14, 2010); *Edward DuMont Asks Obama to Withdraw His Nomination for Seat on Federal Circuit*, BLOOMBERG L. (Nov. 9, 2011, 11:00 PM), <https://news.bloomberglaw.com/us-law-week/edward-dumont-asks-obama-to-withdraw-his-nomination-for-seat-on-federal-circuit> [<https://perma.cc/6SDZ-5NXH>].

253. Chris Johnson, *White House Withdraws Gay Appellate Court Nominee*, WASH. BLADE (Nov. 10, 2011), <https://www.washingtonblade.com/2011/11/10/white-house-withdraws-gay-appellate-court-nominee/>. [<https://perma.cc/X7F8-LYXL>].

254. Zoom Interview with Judge Todd M. Hughes, *supra* note 229.

255. *Id.*

I. Hon. Judith E. Levy
(Active Federal Judicial Service: 2013 - Present)

Judith E. Levy was nominated to the Eastern District of Michigan by President Obama on January 6, 2014, to a seat vacated by Nancy Garlock Edmunds.²⁵⁶ She was confirmed by the Senate on March 12, 2014, receiving her commission two days later, becoming the first openly gay federal judge in Michigan.²⁵⁷ She previously was an Assistant U.S. Attorney for the Eastern District of Michigan, serving as Chief of the Civil Rights Unit.²⁵⁸

Born in Bloomington, Indiana in 1958, her mother, Steen Levy, was a German immigrant whose family fled Germany to escape the Holocaust.²⁵⁹ Her father, Leon Levy, grew up in Paterson, New Jersey.²⁶⁰ The couple had three children, all eventually lawyers.²⁶¹

After beginning at Oberlin College in 1976, she transferred to the University of Michigan in 1978, earning a B.S. in 1981.²⁶² As an undergraduate, she became a community organizer for LGBTQIA+ causes and the labor movement.²⁶³ She continued this work for twelve years after

256. Biography of Judith Ellen Levy, FED. JUD. CTR., <https://www.fjc.gov/history/judges/levy-judith-ellen> [<https://perma.cc/TEN5-YETQ>] (last visited Feb. 14, 2022).

257. *Id.*; Ned Resnikoff, *Senate Confirms First Openly Lesbian Federal Judge in Michigan*, MSNBC (Mar. 17, 2014, 11:54 AM), <https://www.msnbc.com/msnbc/mich-gets-first-out-lesbian-federal-judge-msna287711> [<https://perma.cc/3U67-MBVN>].

258. Biography of Judith Ellen Levy, *supra* note 256.

259. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 338, 339, 444 (2013) (statement of Nominee Judith Ellen Levy & questionnaire for judicial nominees); Talks at Google, *Never Work a Day in Your Life: Judge Judith E. Levy*, YOUTUBE (Dec. 5, 2016), https://www.youtube.com/watch?v=1_4gFznrC3U [<https://perma.cc/37KC-XTL7>]. Growing up, Judge Levy's family was one of the few Jewish families in the area. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 261. Her family faced discrimination from her neighbors, who would call the police if the family even stepped on their property. *Id.*

260. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 339.

261. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 339.

262. *Id.* at 444; *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, U.S. District Judge, Eastern District of Michigan (May 13, 2022). She says she felt isolated and wanted to meet more queer people in college. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259.

263. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262. She attempted to organize a union for clerical workers at the

graduating.²⁶⁴ First, she was elected union steward at the University of Michigan Hospital, where she had a part-time, later full-time, job as a food service worker and custodian.²⁶⁵ She then became a full-time chief negotiator for the University of Michigan service and maintenance employees.²⁶⁶

In 1996, she earned a J.D. from the University of Michigan Law School, graduating *cum laude*.²⁶⁷ During her second year, she worked as a graduate teaching assistant in the Women's Studies Program.²⁶⁸ She spent her summers as a law clerk at Lambda Legal Defense and Education Fund and the Detroit firm Goodman, Eden, Millender, and Bedrosian.²⁶⁹

She clerked for U.S. District Judge Bernard A. Friedman in the Eastern District of Michigan for three years, until 1999.²⁷⁰ He became an important mentor; Judge Levy described her clerkship as one of the best jobs she had.²⁷¹ She then became a trial attorney with the U.S. Equal Employment Opportunity Commission in Detroit, litigating employment discrimination

University of Michigan, but they were unsuccessful by about fifteen votes. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259.

264. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262.

265. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262. She initially got the job to support herself through school. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259.

266. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262.

267. Biography of Judith Ellen Levy, *supra* note 256; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 444; Zoom Interview with Judge Judith E. Levy, *supra* note 259.

268. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 445.

269. *Id.* at 445–46. Goodman, Eden, Millender, and Bedrosian was the first racially integrated law firm in Detroit, and it was known for its civil rights practice. Sandra Svoboda, *Fighting the Goodman Fight*, DET. METRO TIMES (Jan. 10, 2007, 12:00 AM), <https://www.metrotimes.com/detroit/fighting-the-goodman-fight/Content?oid=2186360> [<https://perma.cc/TDY9-5CE4>].

270. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 445; Zoom Interview with Judge Judith E. Levy, *supra* note 262. Judge Friedman would ultimately hold that Michigan's ban on gay marriage was unconstitutional. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262. That case would make its way to the Supreme Court, leading to the 2015 decision memorializing marriage equality. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259.

271. Zoom Interview with Judge Judith E. Levy, *supra* note 262.

claims.²⁷² In 2000, she was appointed an Assistant U.S. Attorney for the Eastern District of Michigan.²⁷³ Her 14 years there primarily involved civil rights enforcement, handling issues like police misconduct, fair housing, disability rights, voting rights, and employment discrimination.²⁷⁴ In 2010, she became Chief of the Civil Rights Unit.²⁷⁵ She served as lead counsel or co-counsel in four civil jury trials.²⁷⁶ In 2002, she began teaching part-time at the University of Michigan Law School.²⁷⁷

While at her desk in the U.S. Attorney's Office, an organization tasked with recommending a nominee contacted her about a vacancy on the federal bench in Michigan.²⁷⁸ Before the call, she never considered being a judge, but a close friend encouraged her to pursue the opportunity.²⁷⁹ She interviewed with the Judicial Selection Committee and with Senators Carl Levin and Debbie Stabenow.²⁸⁰ In April 2013, the Judicial Selection Committee recommended her to the Senators, who recommended her to the White House.²⁸¹ About a month later, she interviewed with attorneys from the White House Counsel's Office and the Department of Justice.²⁸² In July 2013, President Obama submitted her nomination to the Senate and after the Senate did not vote, renominated her in January 2014.²⁸³ She received a

272. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 445, 468.

273. Biography of Judith Ellen Levy, *supra* note 256; Zoom Interview with Judge Judith E. Levy, *supra* note 262.

274. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259.

275. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 445.

276. *Id.* at 469.

277. *Id.* at 445.

278. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262.

279. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; Zoom Interview with Judge Judith E. Levy, *supra* note 262.

280. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 482.

281. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 482.

282. *Id.*

283. *Id.*; Biography of Judith Ellen Levy, *supra* note 256.

unanimous “qualified” rating from the ABA.²⁸⁴ She was then confirmed in March 2014 by a vote of 97-0.²⁸⁵

J. Hon. Darrin P. Gayles
(Active Federal Judicial Service: 2014 - Present)

Darrin P. Gayles was nominated to the Southern District of Florida by President Obama on February 6, 2014, to a seat vacated by Patricia A. Seitz.²⁸⁶ He was confirmed by the Senate on June 17, 2014, receiving his commission two days later, becoming the first openly gay African American man to serve as a federal judge.²⁸⁷ He was previously a Judge on the Circuit Court of Florida, Eleventh Judicial Circuit.²⁸⁸

He was born in December 1966, in Peoria, Illinois to James E. Gayles and Janie Banks Gayles.²⁸⁹ His father, a musician, died when he was five, so his mother raised him and his sister with support from extended family.²⁹⁰ He attended an elementary school for gifted students, then Peoria High School, continuing to excel academically.²⁹¹ He was elected student council president, the first Black student in that position, and participated in track, cross country, and speech.²⁹²

284. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 259, at 875.

285. *Never Work a Day in Your Life: Judge Judith E. Levy*, *supra* note 259; PN1201 - Nomination of Judith Ellen Levy for The Judiciary, 113th Congress (2014), <https://www.congress.gov/nomination/113thcongress/1201?q=%7B%22search%22%3A%5B%22judith+levy%22%5D%7D&s=1&r=75> [<https://perma.cc/2XJD-GUQW>].

286. Biography of Darrin Phillip Gayles, FED. JUD. CTR., <https://www.fjc.gov/history/judges/gayles-darrin-phillip> [<https://perma.cc/3WMF-8QKH>] (last visited Mar. 28, 2022).

287. *Id.*; Kyle Munzenrieder, *Darrin P. Gayles Becomes First Openly Gay Black Federal Judge*, MIAMI NEW TIMES (June 17, 2014), <https://www.miaminewtimes.com/news/darrin-p-gayles-becomes-first-openly-gay-black-federal-judge-6559757> [<https://perma.cc/E7UK-PGCZ>].

288. Biography of Darrin Phillip Gayles, *supra* note 286.

289. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 575 (2014) (questionnaire for judicial nominees); Darrin P. Gayles, NAT'L BLACK JUST. COAL. (Dec. 16, 2017), <https://beenhere.org/2017/12/16/darrin-p-gayles/> [<https://perma.cc/4RE7-TLNA>]; Zoom Interview with Judge Darrin P. Gayles, U.S. District Judge, Southern District of Florida (May 18, 2022).

290. Candace Duff, *Hon. Darrin P. Gayles: U.S. District Judge for the Southern District of Florida*, THE FED. LAW., July 2016, at 30.

291. *Id.*

292. *Id.* As a member of the speech team, he was a state finalist. *Id.*

He earned a B.A. in political science in 1990 from Howard University, and was selected as a Patricia Robert Harris Public Affairs Program fellow, which led to a congressional internship.²⁹³ In 1993, he graduated with a J.D. from George Washington University Law School, interning during law school with the U.S. Department of Labor in the Directorate of Civil Rights and with the Occupational Safety and Health Administration.²⁹⁴

Although convinced he would practice labor and employment law after graduation, he applied to the Miami-Dade State Attorney's Office after a trip to Miami during his third year.²⁹⁵ After many rounds of interviews, a final interview was scheduled with then State Attorney Janet Reno, who was nominated to become the U.S. Attorney General before the interview occurred.²⁹⁶ Gayles eventually accepted the job because of the office culture and the opportunity for substantial trial experience as a young attorney.²⁹⁷ He tried cases involving domestic violence, competency, and juveniles for his first year, and then various felony offenses, including drug trafficking, robberies, and homicides for his remaining three-and-a-half years there.²⁹⁸

Encouraged by a friend, he worked at the U.S. Immigration and Naturalization Service in Miami for a year and a half, and then five years as an Assistant U.S. Attorney, in the appellate, major crimes, and narcotics divisions.²⁹⁹

Florida Governor "Jeb Bush appointed him to the County Court of the Eleventh Judicial Circuit in . . . Miami-Dade County" in 2004.³⁰⁰ He credits Governor Bush's appointment as making him more comfortable being openly gay, both professionally and personally.³⁰¹ He served in the civil and criminal divisions, presiding over misdemeanors, violations of municipal and county ordinances, homeowners' association disputes, and civil

293. *Id.* at 31. He states that it was this exposure made him want to become a lawyer. *Id.*

294. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 289, at 575–76; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

295. Duff, *supra* note 290, at 31; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

296. Duff, *supra* note 290, at 31; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

297. Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

298. *Id.*; Duff, *supra* note 290, at 31; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 289, at 608.

299. Duff, *supra* note 290, at 31–32; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

300. Duff, *supra* note 290, at 32; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

301. Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

actions.³⁰² In 2011, he was elevated by Governor Charlie Crist to the Circuit Court of the Eleventh Judicial Circuit where he served until 2014.³⁰³ He served in the civil and criminal divisions of the Circuit Court, presiding over appeals from the County Court, felony criminal cases, and complex civil matters.³⁰⁴

On August 15, 2013, he applied to the Florida Federal Judicial Nominating Commission, convened by Senators Bill Nelson and Marco Rubio.³⁰⁵ He was interviewed by the Nominating Commission about a month later, and by Senators Nelson and Rubio in November 2013.³⁰⁶ At their joint recommendation, President Obama nominated him in February 2014.³⁰⁷ Judge Gayles was confirmed by the Senate by a vote of 98-0, after a majority of the ABA committee rated him “qualified,” while a minority rated him “well qualified.”³⁰⁸ He was confirmed alongside Judge Staci M. Yandle.³⁰⁹

The biggest difference between state and federal courts, Judge Gayles says, is the resources available to federal judges, including law clerks and magistrate judges, not available to state judges.³¹⁰ He sat with the Eleventh Circuit by designation, dissenting in a voting rights case, *Greater Birmingham Ministries v. Secretary of State for Alabama*, where the Court ultimately upheld an Alabama law requiring voters to present photo identification when casting in-person or absentee ballots.³¹¹

302. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 289, at 589.

303. Duff, *supra* note 290, at 32; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

304. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 289, at 589–90.

305. *Id.* at 621.

306. *Id.*

307. *Id.*; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

308. Duff, *supra* note 290, at 32; Zoom Interview with Judge Darrin P. Gayles, *supra* note 289; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 289, at 736.

309. Zoom Interview with Judge Darrin P. Gayles, *supra* note 289.

310. *Id.*

311. Zoom Interview with Judge Darrin P. Gayles, *supra* note 289; Kayla Goggin, *NAACP Loses 11th Circuit Fight Against Alabama Voter ID Law*, COURTHOUSE NEWS SER. (July 21, 2020), <https://www.courthousenews.com/naacp-loses-11th-circuit-fight-against-alabama-voter-id-law/> [https://perma.cc/YR3-Q8HA].

K. Hon. Staci M. Yandle
(Active Federal Judicial Service: 2014 – Present)

Staci M. Yandle was nominated by President Obama to the Southern District of Illinois on January 16, 2014, to a seat vacated by John Phil Gilbert.³¹² She was confirmed by the Senate on June 17, 2014, receiving her commission two days later, becoming the first openly gay federal judge in Illinois.³¹³ She was previously a solo practitioner in O’Fallon, Illinois.³¹⁴

Born in 1961 in Centreville, Illinois, she graduated from the University of Illinois in 1983 and then attended Vanderbilt University Law School, interning her first summer of law school at the Illinois Attorney General’s Office.³¹⁵ During the fall semester of her second year, she was diagnosed with a brain aneurism and warned she might lose her ability to speak and see, diminishing her prospects of finishing law school.³¹⁶ After spending ten days in the hospital, she miraculously recovered, graduating from Vanderbilt in 1987.³¹⁷

She began at Carr, Korein, Tillery, Kunin, Montroy, Cates, Katz & Glass, representing plaintiffs in employment, education, medical malpractice, civil rights, and nursing home abuse cases.³¹⁸ She became an adjunct professor at St. Louis University School of Law, leading a civil pretrial practice clinic from 1991 to 1999, and teaching a trial advocacy

312. Biography of Staci Michelle Yandle, FED. JUD. CTR., <https://www.fjc.gov/history/judges/yandle-staci-michelle> [<https://perma.cc/QNW4-NRZ5>] (last visited Apr. 7, 2022).

313. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 5 (2014) (statement of Sen. Dick Durbin).

314. Biography of Staci Michelle Yandle, *supra* note 312.

315. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 313, at 5; Grace Renshaw, *Judge Staci Yandle ’87: ‘From Blackacre to Black Robe’*, VAND. L. SCH., <https://law.vanderbilt.edu/news/judge-staci-yandle-’87-’from-blackacre-to-black-robe/> [<https://perma.cc/TLX6-WKGA>] (last visited Apr. 12, 2022).

316. Renshaw, *supra* note 315; Zoom Interview with Judge Staci M. Yandle, U.S. District Judge, Southern District of Illinois (May 11, 2022).

317. Biography of Staci Michelle Yandle, *supra* note 312; Renshaw, *supra* note 315.

318. Biography of Staci Michelle Yandle, *supra* note 312; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 313, at 179.

class in 2000.³¹⁹ In 2003, she joined the Rex Carr Law Firm, the first African American woman partner at the firm, alongside six male partners.³²⁰

In 2007, after 20 years in private practice, she opened her own firm, the Law Offices of Staci M. Yandle, in O'Fallon, Illinois.³²¹ This was a transformative moment in her career because, while anticipating the autonomy of solo practice, she had reservations about leaving her comfortable position at the Carr firm.³²² The move ultimately proved beneficial as she litigated many notable cases, including winning a large jury verdict in a conservative venue for an openly gay Black man who suffered from a delayed diagnosis of AIDS.³²³

While practicing, she served her community by spending between 50 to 60 hours a year on pro bono cases, including “landlord/tenant disputes, guardianship matters, drafting powers of attorney and small personal injury insurance claims.”³²⁴ She served as counsel for Delta Economic Development Corporation, a non-profit associated with the Delta Child Development Center.³²⁵ She arbitrated about ten cases in the 20th Judicial Circuit Court and served on the Illinois Advisory Committee to the U.S. Commission on Civil Rights from 1992 to 1996.³²⁶ From 1999 to 2001, Governor George Ryan appointed her to the Illinois Gaming Board.³²⁷

With Senator Durbin's support, President Obama nominated her to the federal bench in 2014.³²⁸ After the ABA unanimously rated her “qualified,”³²⁹ the Senate confirmed her by a vote of 52-44.³³⁰ While she

319. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 313, at 163, 185–86.

320. *Id.* at 163; Renshaw, *supra* note 315; Zoom Interview with Judge Staci M. Yandle, *supra* note 316.

321. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 313, at 162; Zoom Interview with Judge Staci M. Yandle, *supra* note 316.

322. Zoom Interview with Judge Staci M. Yandle, *supra* note 316.

323. *Id.*

324. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 313, at 189.

325. *Id.*

326. *Id.* at 5.

327. *Id.* at 5, 336.

328. *Id.* at 5.

329. *Id.* at 400.

330. Biography of Staci Michelle Yandle, *supra* note 312; PN1348 - Nomination of Staci Michelle Yandle for The Judiciary, 113th Congress (2014), <https://www.congress.gov/nomination/113th->

never thought she would become a judge, she finds judicial service incredibly rewarding because she can stay in a courtroom and serve the public.³³¹

L. Hon. Robert L. Pitman
(Active Federal Judicial Service: 2014 - Present)

Robert L. Pitman was nominated to the Western District of Texas by President Obama on June 26, 2014, to a seat vacated by William Royal Furguson, Jr.³³² He was confirmed by the Senate on December 16, 2014, receiving his commission three days later, becoming the first openly gay U.S. District Judge in Texas.³³³ He previously served as the U.S. Attorney for the Western District of Texas.³³⁴

Born in 1962 in Fort Worth, Texas, the youngest of five children, his father was a pharmaceutical salesman, and his mother, a homemaker.³³⁵ He earned a B.S. at Abilene Christian University in 1985, the salutatorian of his class and student association president, and a J.D. at the University of Texas at Austin School of Law in 1988.³³⁶ In law school he was a legislative aide to Texas Congressman Bob Hunter for two years, a first-year summer associate at Law, Snakard & Gambill in Fort Worth, and a second-year summer associate at both Haynes & Boone and Fulbright & Jaworski (now Norton Rose Fulbright) in Austin.³³⁷

congress/1348?q=%7B%22search%22%3A%5B%22staci+yandle%22%5D%7D&s=2&r=28
[<https://perma.cc/C4WB-PFRV>].

331. Zoom Interview with Judge Staci M. Yandle, *supra* note 316.

332. Biography of Robert Lee Pitman, FED. JUD. CTR., <https://www.fjc.gov/history/judges/pitman-robert-lee> [<https://perma.cc/G2RX-6VDS>] (last visited Apr. 14, 2022).

333. *Id.*; Marcia Coyle, *Meet the Judge Thrust Back into the Texas Abortion Battle: Robert Pitman*, TEX. LAW. (Sept. 10, 2021), <https://www.law.com/texaslawyer/2021/09/10/meet-the-judge-thrust-back-into-the-texas-abortion-battle-robert-pitman/> [<https://perma.cc/8ECB-UZVV>].

334. Biography of Robert Lee Pitman, *supra* note 332.

335. *Id.*; *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, 113th Cong. 7 (2014) (statement of Nominee Robert Lee Pitman); Coyle, *supra* note 333.

336. Biography of Robert Lee Pitman, *supra* note 332; *see also Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 335, at 207.

337. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 335, at 208–09.

He clerked for U.S. District Judge David O. Belew, Jr. in the Northern District of Texas and then worked as an associate at Fulbright & Jaworski in Austin for a year, before becoming an Assistant U.S. Attorney in the Western District of Texas in 1990.³³⁸ There, Pitman tried 29 cases to verdict, serving as lead counsel in 14, and working on the Attorney General's Advisory Committee, counseling U.S. Attorney's Offices nationwide on personnel, legal ethics, and professional responsibility.³³⁹ He was Interim U.S. Attorney in 2001, forming the first Anti-Terrorism Task Force in the district after the 9/11 attacks, and Deputy U.S. Attorney from 2001 to 2003.³⁴⁰ He received special commendations from the Federal Bureau of Investigation, the U.S. Secret Service, the U.S. Department of State, Bureau of Diplomatic Security, the U.S. Drug Enforcement Administration, the Executive Office for the U.S. Attorneys, and the Federal Deposit Insurance Corporation.³⁴¹

Pitman was appointed U.S. Magistrate Judge for the Western District of Texas in 2003, presiding over a wide variety of criminal and civil cases.³⁴² In 2011, he earned a Master of Studies in International Human Rights Law from the University of Oxford, was named the Texas Jurist of the Year by the Texas Review of Litigation, and rejoined the Department of Justice as the U.S. Attorney for the Western District of Texas after being nominated by President Obama.³⁴³ When a local newspaper article questioned his nomination because of his sexual orientation, Senator John Cornyn responded that he was the most qualified for the job.³⁴⁴

Throughout his career, Judge Pitman engaged with his community, serving on several non-profit boards, including United Cerebral Palsy, the Heritage Society, the Production Team of the Hill Country Ride for AIDS,

338. *Id.* at 208.

339. *Id.* at 256, 265.

340. *Id.*; Biography of Robert Lee Pitman, *supra* note 332.

341. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 335, at 210.

342. *Id.* at 228; Biography of Robert Lee Pitman, *supra* note 332; Zoom Interview with Judge Robert L. Pitman, U.S. District Judge, Western District of Texas (May 11, 2022).

343. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 335, at 207, 210, 252; Zoom Interview with Judge Robert L. Pitman, *supra* note 342.

344. Zoom Interview with Judge Robert L. Pitman, *supra* note 342.

and the Inclusiveness Taskforce of the United Way.³⁴⁵ He was an Adjunct Professor at the University of Texas at Austin for almost 10 years, teaching both a pretrial litigation course at the law school and an undergraduate honors seminar about criminal punishment.³⁴⁶ He has also mentored students in the Austin Independent School District.³⁴⁷

President Obama nominated Judge Pitman in 2014.³⁴⁸ The ABA unanimously rated him “well qualified,” and his nomination was supported by Texas Senators Cornyn and Ted Cruz.³⁴⁹ The Senate confirmed him by a voice vote.³⁵⁰

M. Hon. Mary M. Rowland
(Active Federal Judicial Service: 2019 - Present)

Mary M. Rowland was nominated to the Northern District of Illinois by President Trump on May 21, 2019, to a seat vacated by Amy Joan St. Eve.³⁵¹ She was confirmed by the Senate on July 31, 2019, receiving her commission twenty days later.³⁵² She previously served as a U.S. Magistrate Judge on the same court.³⁵³

Born in 1961 in Akron, Ohio to Richard Rowland, a lawyer, and Mary Rowland, a nurse and homemaker, she earned a B.A. from the University of Michigan in 1984, where she served as president of the student government.³⁵⁴ From May to November of 1984, she worked as the

345. *Confirmation Hearings on Federal Appointments: Hearings Before the Comm. on the Judiciary*, *supra* note 335, at 267.

346. *Id.* at 265.

347. *Id.* at 267.

348. Biography of Robert Lee Pitman, *supra* note 332.

349. John Council, *Q&A with U.S. District Judge Robert Pitman*, TEX. LAW. (Dec. 30, 2014), <https://www.law.com/texaslawyer/almID/1202713699989/QampA-With-US-District-Judge-Robert-Pitman/> [<https://perma.cc/WM4K-JSFL>].

350. *Id.*

351. See Biography of Mary Margaret Rowland, FED. JUD. CTR., <https://www.fjc.gov/history/judges/rowland-mary-margaret> [<https://perma.cc/AST4-EGSX>] (last visited Aug. 17, 2022).

352. *Id.*

353. *Id.*

354. *Id.*; *Nomination of Mary M. Rowland to be United States District Judge for the Northern District of Illinois: Hearings Before the S. Comm. on the Judiciary*, 115th Cong. (2018), <https://www.judiciary.senate.gov/meetings/08/22/2018/nominations> [<https://perma.cc/FTP6-E2M6>]; S.

Southeast Michigan Field Coordinator for Senator Carl Levin's campaign.³⁵⁵ After eight months as an Advertising Sales Associate at Sport Guides, Inc., she earned a J.D. at the University of Chicago Law School in 1988.³⁵⁶ She spent her law school summers interning with the Business & Professional People for the Public Interest and the National Prison Project, while working part-time during the school years for the ACLU of Illinois.³⁵⁷

Following a two-year clerkship for Judge Julian Abele Cook, Jr. in the Eastern District of Michigan, she joined the Federal Defender Program in Chicago in 1990, representing nearly 300 indigent defendants.³⁵⁸ She did not plan on becoming a public defender, as she dreamed of becoming a civil rights lawyer, but the work prepared her to become a judge.³⁵⁹ She became Chief Appellate Attorney in 1995, arguing appeals, supervising staff attorneys, and serving as resource counsel for Criminal Justice Act Panel members.³⁶⁰ She challenged the mandatory sentencing guidelines and proposed a federal problem-solving court, which would come to life 20 years later after she became a judge.³⁶¹ Entering private practice as a partner in 2000 at Hughes, Socol, Piers, Resnick & Dym, a civil rights firm, she secured victories for correctional officers who faced retaliation after reporting other correctional officers' brazen excessive use of force against inmates, minors strip searched at a juvenile detention center without reasonable suspicion, and Black firefighter candidates who were denied

COMM. ON THE JUDICIARY, MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2018)

<https://www.judiciary.senate.gov/imo/media/doc/Rowland%20SJQ.pdf> [<https://perma.cc/2E3U-TUNJ>] (last visited July 10, 2023); Jerry de Jaeger, *Mary Rowland, '88: From Illustrious Public Interest Career to the Judiciary*, UNIV. CHI. L. SCH. (Nov. 5, 2021), <https://www.law.uchicago.edu/news/mary-rowland-88-illustrious-public-interest-career-judiciary> [<https://perma.cc/VD6P-QW52>]; Zoom Interview with Judge Mary M. Rowland, U.S. District Judge, Northern District of Illinois (Sept. 7, 2022). Her father inspired her to become a lawyer at a young age. *Id.*

355. MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 3.

356. *Id.* at 1; See Biography of Mary Margaret Rowland, *supra* note 351.

357. See Jaeger, *supra* note 354; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 2; Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

358. See Biography of Mary Margaret Rowland, *supra* note 351; See Jaeger, *supra* note 354; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 2, 34.

359. Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

360. Biography of Mary Margaret Rowland, *supra* note 351; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 34.

361. Zoom Interview with Judge Mary M. Rowland, *supra* note 354. She now presides over that court. *Id.*

entry-level jobs based on discriminatory hiring.³⁶² She stated that her most challenging work was representing an individual and, separately, an Islamic charity accused of providing material support to a terrorist organization in the wake of 9/11, which tested the commitment to the Rule of Law and constitutional values.³⁶³ She also volunteered for Obama for America in 2008.³⁶⁴ In 2012, she became a U.S. Magistrate Judge for the Northern District of Illinois, where mediations represented a significant amount of her workload.³⁶⁵

She served her community by accepting appointments to serve as pro bono counsel in criminal cases throughout her career, representing a 14-year-old survivor of sexual abuse, and a criminal defendant facing the death penalty who, after a three-month trial, was ultimately sentenced to life in prison.³⁶⁶ She is a member of the Lesbian and Gay Bar Association of Chicago (LAGBAC), the Alliance of Illinois Judges (the LGBTQ judges' association), and serves on the Board of Governors of the Chicago Bar Association and the board of the Federal Bar Association, Chicago Chapter.³⁶⁷ She previously served on the board of Uptown People's Law Center, assisting low-income individuals with legal matters.³⁶⁸ As a judge, she teaches a class at Northwestern School of Law.³⁶⁹

A ten-member screening committee for the Northern District of Illinois chaired by Judge David J. Coar first interviewed her on February 20, 2018.³⁷⁰ She then met with Senators Durbin and Tammy Duckworth before White House Counsel staff and Department of Justice lawyers interviewed her.³⁷¹ After President Trump first nominated her on June 18, 2018, and the

362. Biography of Mary Margaret Rowland, *supra* note 351; Jaager, *supra* note 354; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 35–40. Pat Matthew Piers mentored her at the firm. *Nomination of Mary M. Rowland*, *supra* note 354.

363. Jaager, *supra* note 354; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 37; Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

364. MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 32.

365. Jaager, *supra* note 354; MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 18. She loved the position but had to remind herself that she was no longer a practicing lawyer who could make arguments on behalf of the parties. Jaager, *supra* note 354.

366. MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354 at 41, 46.

367. *Id.* at 46; Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

368. MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 46.

369. Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

370. MARY ROWLAND - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 354, at 47.

371. *Id.*

Senate did not vote, he renominated her in May 2019.³⁷² At her confirmation hearings she introduced her wife, Julie Justicz, and their two children.³⁷³ After the ABA unanimously rated her “well qualified,” she was confirmed by a voice vote alongside Judges Martha M. Pacold and Steven Seeger, Senators Durbin and Duckworth commending the bipartisan agreement that led to her confirmation.³⁷⁴ She credits the openly gay state court judges that came before her for creating her path to the bench, and the next generation of attorneys gives her hope for the future.³⁷⁵

N. Hon. Patrick J. Bumatay
(Active Federal Judicial Service: 2019-Present)

Patrick J. Bumatay was nominated to the U.S. Court of Appeals for the Ninth Circuit by President Trump on October 15, 2019, to a seat vacated by Carlos T. Bea.³⁷⁶ He was confirmed by the Senate on December 10, 2019, receiving his commission two days later, becoming the first openly gay judge on the Ninth Circuit and the first Filipino American to serve as a federal appellate judge.³⁷⁷ He was previously was an Assistant U.S. Attorney in the Southern District of California.³⁷⁸

Born in 1978 in Secaucus, New Jersey, to Joseph and Cristina Bumatay, both doctors who immigrated to the United States in the 1970s, he earned a

372. *Id.*; Biography of Mary Margaret Rowland, *supra* note 351.

373. Jaeger, *supra* note 354; *Nomination of Mary M. Rowland*, *supra* note 354.

374. Lynn Sweet, *Senate Confirms Mary Rowland for Federal Judge in Chicago: Pick of Durbin, Duckworth part of 'Illinois Deal,'* CHI. SUN TIMES (July 31, 2019), <https://chicago.suntimes.com/2019/7/31/20749350/senate-confirms-mary-rowland-federal-judge-chicago-durbin-duckworth-illinois-deal> [<https://perma.cc/N7Z9-BTZB>]. Over ten years ago, Senators Durbin and Peter Fitzgerald agreed to find mutually agreeable federal judicial nominees, no matter the president's party. *Id.* For every three federal district judges in Illinois supported by Republicans, Democrats select one. *Id.*

375. Zoom Interview with Judge Mary M. Rowland, *supra* note 354.

376. Biography of Patrick Joseph Bumatay, FED. JUD. CTR., <https://www.fjc.gov/history/judges/bumatay-patrick-joseph> [<https://perma.cc/X9WC-LUWS>] (last visited Aug. 17, 2022).

377. *Id.*; Anthony Maddela, *Judge Bumatay, A Fil-Am Benchmark*, POSITIVELY FILIPINO (Jan. 26, 2022)

<http://www.positivelyfilipino.com/magazine/judge-bumatay-a-fil-am-benchmark> [<https://perma.cc/A5VC-X4CH>].

378. Biography of Patrick Joseph Bumatay, *supra* note 376.

B.A. at Yale University, graduating *cum laude* in 2000.³⁷⁹ Before earning a J.D. at Harvard Law School in 2006, he worked for three years, including on President Bush's campaign, former Attorney General Mark Earley's race for Virginia Governor, and as Staff Assistant and Paralegal at the Office of Counsel to the President from 2002 to 2003.³⁸⁰ During his law school summers he was a law clerk for President Bush's reelection campaign, the Office of Legal Policy at the Department of Justice, and Gibson, Dunn & Crutcher.³⁸¹

He clerked for Judge Timothy M. Tymkovich on the Tenth Circuit for a year, a transformative experience because he gained lifelong mentors and friends who have been instrumental in his career.³⁸² He then worked at the U.S. Department of Justice for two years, first as Special Assistant and Counsel at the Office of Legal Policy, working on policy issues like import safety, international issues, and judicial confirmations, then as Counsel to the Associate Attorney General, assisting in the oversight of the Tax, Antitrust, Environmental and Natural Resources, Civil Rights, and Civil Divisions.³⁸³ Afterward, he clerked for Judge Sandra L. Townes in the Eastern District of New York, before entering private practice in New York City in 2010 at Morvillo Abramowitz Grad, Iason & Anello, a white-collar and civil litigation boutique firm.³⁸⁴

In 2012, he was named Assistant U.S. Attorney in the Southern District of California, which required a cross-country move to San Diego, an unfamiliar place where he lacked connections.³⁸⁵ The move ended up paying

379. S. COMM. ON THE JUDICIARY, PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, I (Comm. Print 2019),

[https://www.judiciary.senate.gov/imo/media/doc/Patrick%20Bumatay%20Senate%20Questionnaire%20\(PUBLIC\).pdf](https://www.judiciary.senate.gov/imo/media/doc/Patrick%20Bumatay%20Senate%20Questionnaire%20(PUBLIC).pdf) [<https://perma.cc/7YP7-5SC8>] (last visited Aug. 18, 2022); Maddela, *supra* note 377.

380. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 3–4.

381. PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 2–3.

382. Biography of Patrick Joseph Bumatay, *supra* note 376; E-mail from Judge Patrick J. Bumatay, U.S. Circuit Judge for the Ninth Circuit Court of Appeals (Aug. 29, 2022, 06:46 CST) (on file with author).

383. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 13.

384. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 2, 13.

385. Biography of Patrick Joseph Bumatay, *supra* note 376; E-mail from Judge Patrick J. Bumatay, *supra* note 382.

off, however, as he served for seven years in various sections, including the narcotics and appellate sections.³⁸⁶ Beginning in 2017, he received temporary assignments from the U.S. Department of Justice, including in the Office of Legal Policy, the Office of the Deputy Attorney General, and the Office of the Attorney General.³⁸⁷ Some of his duties included addressing the opioid crisis, organized crime, and prison reform.³⁸⁸ His experience in the U.S. Department of Justice prepared him to become a judge because he faced challenging issues, requiring him to make quick and deliberate decisions.³⁸⁹ He served his community by volunteering for various community organizations and participating in mock trials for local elementary school students.³⁹⁰

In March 2017, a colleague encouraged him to apply to a judicial vacancy in the Southern District of California.³⁹¹ Later that year, another colleague at the DOJ gauged his interest in a judicial vacancy on the Ninth Circuit.³⁹² Then the White House, Office of Legal Policy, and the Offices of Senator Kamala Harris and Senator Dianne Feinstein interviewed him.³⁹³ After President Trump nominated him to the Ninth Circuit in 2018 and the Southern District of California in 2019, and both nominations were subsequently withdrawn, President Trump renominated him in October 2019 to the Ninth Circuit.³⁹⁴ The Senate confirmed him by a vote of 53-40, after the ABA unanimously rated him “qualified.”³⁹⁵

386. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 12–13; E-mail from Judge Patrick J. Bumatay, *supra* note 382.

387. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 13.

388. Biography of Patrick Joseph Bumatay, *supra* note 376; PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 13.

389. E-mail from Judge Patrick J. Bumatay, *supra* note 382.

390. PATRICK BUMATAY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 379, at 25.

391. *Id.* at 26.

392. *Id.*

393. *Id.*

394. *Id.*; Biography of Patrick Joseph Bumatay, *supra* note 376.

395. Alex Swoyer, *Patrick Bumatay, Openly Gay Trump Nominee, Confirmed to 9th Circuit*, WASH. TIMES (Dec. 10, 2019) <https://www.washingtontimes.com/news/2019/dec/10/patrick-bumatay-openly-gay-trump-nominee-confirmed/> [https://perma.cc/FK25-FQDB]; Debra Cassens Weiss, *ABA Committee Gives 'Not Qualified' Rating to 9th Circuit Nominee Said to Have 'Entitlement Temperament'*, A.B.A. J. (Oct. 30, 2019) <https://www.abajournal.com/news/article/aba-gives-not->

Judge Bumatay and his husband, Alex Bumatay, are proud fathers of twin daughters.³⁹⁶

O. Hon. Beth Robinson
(Active Federal Judicial Service: 2021 - Present)

Beth Robinson was nominated to the U.S. Court of Appeals for the Second Circuit by President Biden on August 5, 2021, to a seat vacated by Peter W. Hall.³⁹⁷ She was confirmed by the Senate on November 1, 2021, receiving her commission four days later, becoming the first openly gay woman to serve on a federal circuit court.³⁹⁸ She was previously an associate justice on the Vermont Supreme Court.³⁹⁹

Born in 1965 in Karachi, Pakistan, she grew up in Indiana.⁴⁰⁰ In high school, she was student council president, a National Merit Scholar, a varsity basketball and tennis player, and an orchestra member.⁴⁰¹ She earned a B.A. at Dartmouth College, graduating *summa cum laude* in 1986.⁴⁰² As an undergraduate, she studied abroad at the University of Edinburgh.⁴⁰³ In 1989, she earned a J.D. at the University of Chicago Law School, where she

qualified-rating-to-9th-circuit-nominee-said-to-have-entitlement-temperament
[<https://perma.cc/B8NU-EHUP>].

396. Maddela, *supra* note 377.

397. Biography of Beth Robinson, FED. JUD. CTR., <https://www.fjc.gov/history/judges/robinson-beth> [<https://perma.cc/PGH3-B8BB>] (last visited June 5, 2023).

398. *Id.*; Rachel Treisman, *Meet Judge Beth Robinson, the First Out Lesbian to Serve on any Federal Circuit Court*, NPR (Nov. 2, 2021), <https://www.npr.org/2021/11/02/1051466337/beth-robinson-first-out-lesbian-judge-federal-circuit-court#:~:text=in%20Montpelier%2C%20Vt.,The%20U.S.%20Senate%20confirmed%20her%20nomination%20to%20the,Court%20of%20Appeals%20on%20Monday.&text=The%20Senate%20met%20yesterday%20to,abstaining%20and%20two%20Republicans%20%E2%80%94%20Sens> [<https://perma.cc/HR8F-AGDR>].

399. Biography of Beth Robinson, *supra* note 397.

400. S. COMM. ON THE JUDICIARY, BETH ROBINSON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2021), <https://www.judiciary.senate.gov/imo/media/doc/Robinson%20SJQ%20Public%20FINAL.pdf> [<https://perma.cc/5PUT-LW58>] (last visited July 13, 2023); Anne Galloway, *Gay Marriage Activist Named to Vermont Supreme Court*, VTDIGGER (Oct. 18, 2011, 9:15 PM), https://vtdigger.org/2011/10/18/robinson_appointed_vt_supreme_court/ [<https://perma.cc/B4KC-YA4A>].

401. *County's No. 1 Seniors Planning Careers*, THE INDIANAPOLIS NEWS, May 28, 1982, at 8.

402. BETH ROBINSON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 400, at 1.

403. *Id.*

received a full merit scholarship and was elected to the Order of the Coif.⁴⁰⁴ She spent her summers as a law clerk at Langrock Sperry & Wool, Williams & Connolly LLP, and O'Melveny & Myers LLP.⁴⁰⁵

She clerked for United States Court of Appeals Judge David B. Sentelle in the District of Columbia Circuit for a year following graduation.⁴⁰⁶ She then entered private practice at Skadden, Arps, Slate, Meagher & Flom in Washington D.C., working there for a year in the white-collar criminal defense group before joining Hirschkop & Associates in Virginia for a year, primarily conducting legal research and writing for a non-profit organization.⁴⁰⁷ She settled in Vermont after, becoming an associate at Langrock Sperry & Wool in 1993.⁴⁰⁸ She was primarily a civil litigator, handling cases involving family law, civil rights, estate planning, contract disputes, and employment law, making partner in 1998.⁴⁰⁹ She also regularly represented LGBTQIA+ folks, working pro bono as co-counsel in *Baker v. Vermont*, which led to marriage equality in Vermont.⁴¹⁰ In 2006 and 2009, she co-taught an undergraduate class at Dartmouth College exploring sexuality and identity in the context of constitutional and family law.⁴¹¹

In January 2011, Robinson began working as counsel to Vermont Governor Peter Shumlin, providing legal advice, drafting legislation, reviewing documents and bills, and coordinating with the Vermont Attorney General's Office.⁴¹² Ten months later, Governor Shumlin nominated her to the Vermont Supreme Court, where she served as an associate justice, hearing about 1,750 cases during her ten years of service.⁴¹³ The United States Supreme Court denied certiorari in every case that she participated in.⁴¹⁴ When President Biden nominated her, the ABA unanimously rated her "well qualified," and she received high praise from both Senators from

404. *Id.* at 1, 6.

405. *Id.* at 2–3.

406. *Id.* at 2.

407. *Id.* at 2, 96–97.

408. *Id.* at 97.

409. *Id.* at 2, 97.

410. *Id.* at 102; Treisman, *supra* note 398.

411. BETH ROBINSON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 400, at 106.

412. *Id.* at 97–98.

413. *Id.* at 70.

414. *Id.* at 84.

Vermont, Patrick Leahy and Bernie Sanders.⁴¹⁵ She was confirmed by a vote of 51-45.⁴¹⁶

P. Hon. Charlotte N. Sweeney
(Active Federal Judicial Service: 2022 - Present)

Charlotte N. Sweeney was nominated to the District of Colorado by President Biden on January 3, 2022, to a seat vacated by Richard Brooke Jackson.⁴¹⁷ She was confirmed by the Senate on May 25, 2022, and received her commission less than two months later, becoming the first openly gay federal judge in Colorado and the first openly gay woman to serve as a federal judge west of the Mississippi River.⁴¹⁸ She was previously a partner and founding member of Sweeney & Bechtold, LLC.⁴¹⁹

Born in 1969 in Englewood, Colorado, she earned a B.S. from California Lutheran University in 1991, graduating *summa cum laude*.⁴²⁰ She continued her education at the University of Denver College of Law, serving as an editor of the University of Denver Law Review and graduating *summa cum laude* as the National Association of Women Lawyers Outstanding Graduate in 1995.⁴²¹ During law school, unsure about what kind of law she would practice, she analyzed Justice Ginsburg's judicial philosophy on the First Amendment as a summer research assistant, which inspired her to pursue a career in employment law.⁴²² During her last year of law school, she served as a law clerk at Feiger, Collison, & King, P.C.⁴²³

415. Treisman, *supra* note 398; Standing Committee on the Federal Judiciary, *supra* note 109.

416. Treisman, *supra* note 398.

417. Biography of Charlotte Noelle Sweeney, FED. JUD. CTR., <https://www.fjc.gov/history/judges/sweeney-charlotte-noelle> [<https://perma.cc/V82B-Z22C>] (last visited June 6, 2023).

418. *Id.*; Alina Lee, *Senate Confirms Colorado's First Openly Gay Federal Judge*, FOX 21 LOCAL NEWS (May 25, 2022, 12:10 PM), <https://www.fox21news.com/news/senate-confirms-colorados-first-openly-gay-federal-judge/> [<https://perma.cc/T664-BE5B>].

419. Biography of Charlotte Noelle Sweeney, *supra* note 417; *see* Lee, *supra* note 420.

420. S. COMM. ON THE JUDICIARY, CHARLOTTE SWEENEY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2022), <https://www.judiciary.senate.gov/imo/media/doc/Sweeney%20SJQ%20Public%20FINAL.pdf> [<https://perma.cc/Q2LP-8ZNC>] (last visited July 13, 2023).

421. *Id.* at 1, 4.

422. Zoom Interview with Judge Charlotte Sweeney, U.S. District Judge, District of Colorado (July 19, 2023).

423. CHARLOTTE SWEENEY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 420, at 2.

Upon graduation, she entered private practice, where she remained until she was nominated to the bench.⁴²⁴ She began her career as an associate with LaFond & Clausen, LLC, a small firm specializing in employment law.⁴²⁵ She continued her career at the successor firm, LaFond & Bove, LLC, making partner in 1998.⁴²⁶ In 1999, she became a named partner at LaFond & Sweeney, LLC, where she litigated cases under Title VII of the Civil Rights Act of 1994, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and other state and federal employment statutes.⁴²⁷ In July 2008, she became a founding member of Sweeney & Bechtold, LLC, and remained a partner at the firm until her nomination.⁴²⁸ During her career, she secured victories at trial, which resulted in large awards for her clients.⁴²⁹ For example, she was lead counsel at trial in *Gonzales v. University of Colorado*, where Dr. Gonzales was awarded \$680,000 in economic and non-economic damages after he faced race and national origin discrimination and retaliation in the workplace.⁴³⁰ She represented six of seven female law professors employed at her alma mater in a suit challenging a decades-long pay disparity because of sex discrimination.⁴³¹ After discovery, the University of Denver agreed to pay \$2.66 million to the seven female law professors to settle the case.⁴³² She also represented Ms. Vanech, who alleged her employer, the U.S. Department of Labor, failed to accommodate her degenerative eye disease and terminated her.⁴³³ The jury awarded Ms. Vanech \$300,000 in compensatory damages, and the Court reinstated her position with reasonable accommodations, ordering back pay from the date of her termination.⁴³⁴ She also helped draft and advocated for Colorado's Equal

424. *Id.* at 1–2.

425. *Id.* at 2, 22.

426. *Id.*

427. *Id.* at 22.

428. *Id.* at 2, 22.

429. *Id.* at 24–26.

430. *Id.* at 24.

431. *Id.* at 26.

432. *Id.*

433. *Id.* at 25; Zoom Interview with Judge Charlotte Sweeney, *supra* note 422.

434. CHARLOTTE SWEENEY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 420, at 25–26; Zoom Interview with Judge Charlotte Sweeney, *supra* note 422.

Pay for Equal Work Act, which enhanced protections against sex-based wage discrimination in 2019.⁴³⁵

Throughout her career, she served her community as the President of Colorado Plaintiff Employment Lawyers Association, as the Co-Chair of the Colorado Bar Association's Labor and Employment Law Section, as the President of the Faculty of Federal Advocates, and as an avid supporter of the Matthew Shepard Foundation.⁴³⁶ She was a member of the U.S. District Court of Colorado's Pro Bono Panel, representing clients alleging age and sex discrimination.⁴³⁷ She travels annually with a team to Juarez, Mexico to build homes in impoverished communities.⁴³⁸ She has been recognized as one of the Best Lawyers in America in Labor & Employment Litigation and Employment Law, a Colorado Super Lawyer, and one of the Top 150 Women in Litigation, among other accolades.⁴³⁹ She is the proud mother of two daughters.⁴⁴⁰

After receiving a memo from President Biden's White House Counsel seeking appointees to the bench, she decided to apply, taking a risk and leaving her well-established practice.⁴⁴¹ Senators Michael Bennet and John Hickenlooper recommended her, and she was confirmed by the Senate by a vote of 48-46.⁴⁴² A substantial majority of the ABA rated her "well qualified," and a minority rated her "qualified."⁴⁴³

435. Michael Karlik, *U.S. Senate Confirms Charlotte Sweeney as Colorado's First Openly Gay Federal Judge*, COLO. POLITICS (May 25, 2022), https://www.coloradopolitics.com/courts/u-s-senate-confirms-charlotte-sweeney-as-colorados-first-openly-gay-federal-judge/article_328bc2b2-dc34-11ec-9531-9f2509cd52cf.html [<https://perma.cc/F8NC-YMC8>].

436. *Charlotte Sweeney*, MATTHEW SHEPARD FOUNDATION, <https://www.matthewshepard.org/people/charlotte-sweeney/> [<https://perma.cc/566B-29YB>] (last visited June 8, 2023).

437. CHARLOTTE SWEENEY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 420, at 34.

438. *Charlotte Sweeney*, *supra* note 436.

439. CHARLOTTE SWEENEY - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 420, at 3-4.

440. *Charlotte Sweeney*, *supra* note 436.

441. Zoom Interview with Judge Charlotte Sweeney, *supra* note 422.

442. Karlik, *supra* note 420.

443. Standing Committee on the Federal Judiciary, *supra* note 109.

Q. Hon. Nina R. Morrison
(Active Federal Judicial Service: 2022 - Present)

Nina R. Morrison was nominated to the Eastern District of New York by President Biden on December 15, 2021, to a seat vacated by Dora L. Irizarry.⁴⁴⁴ She was confirmed by the Senate on June 8, 2022, and received her commission about a month later, becoming the second openly gay federal judge to serve in the Eastern District of New York.⁴⁴⁵ She was previously Senior Litigation Counsel at the Innocence Project in New York City.⁴⁴⁶

Born in 1970 in New York City to Anne Morrison, an executive search consultant for nonprofit organizations, and Alan Morrison, a lawyer who worked closely with Ralph Nader, arguing 20 cases before the Supreme Court, and now a dean at George Washington University Law School, she earned a B.A. at Yale College in 1992, graduating *magna cum laude*.⁴⁴⁷ Before law school, she worked as a field organizer for the United Democratic Campaign of Northern California, as a substitute preschool teacher, and as a legal investigator at the California Appellate Project.⁴⁴⁸ She then earned a J.D. from New York University Law School, graduating *magna cum laude* in 1998, after being elected to the Order of the Coif.⁴⁴⁹ In

444. Biography of Nina Rauh Morrison, FED. JUD. CTR., <https://www.fjc.gov/history/judges/morrison-nina-rauh> [<https://perma.cc/ZMU5-228E>] (last visited June 28, 2023).

445. *Id.*; Nate Raymond, *U.S. Senate Confirms Innocence Project Lawyer Morrison to be Federal Judge*, REUTERS (June 8, 2022), <https://www.reuters.com/legal/government/us-senate-confirms-innocence-project-lawyer-morrison-be-federal-judge-2022-06-08/> [<https://perma.cc/4AFN-EFTP>].

446. Biography of Nina Rauh Morrison, *supra* note 444.

447. S. COMM. ON THE JUDICIARY, NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2022), <https://www.judiciary.senate.gov/imo/media/doc/Morrison%20SJQ%20Public%20Final.pdf> [<https://perma.cc/5W7D-8BXW>] (last visited July 13, 2023); *Nina Morrison and Carina Biggs*, N.Y. TIMES (July 29, 2011), <https://www.nytimes.com/2011/07/31/fashion/weddings/nina-morrison-carina-biggs-weddings.html> [<https://perma.cc/C99H-V84N>]; *Alan B. Morrison Joins GW Law School as its First Lerner Family Associate Dean for Public Interest and Public Service Law*, GEORGE WASH. UNIV. (Apr. 28, 2009) <https://web.archive.org/web/20100529213044/http://www.gwu.edu/explore/mediaroom/newsreleases/alanbmorrisonjoinsgwlawschoolasitsfirstlernerfamilyassociatedeanforpublicinterestandpublicservicelaw> [<https://perma.cc/N2UR-H95X>]; Zoom Interview with Judge Nina Morrison, U.S. District Judge, Eastern District of New York (July 19, 2023).

448. NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 447, at 2–3.

449. *Id.* at 2, 4.

law school, she was a legal intern at the Legal Aid Society of New York in the Prisoners' Rights Project, at the Sanctuary for Families/Center for Battered Women's Legal Services, and at NOW Legal Defense and Educational Fund.⁴⁵⁰

Upon graduation, she clerked for United States Court of Appeals Judge Pierre N. Leval on the Second Circuit, before joining Emery, Cuti, Brickerhoff & Abady, a small litigation firm in New York, as an associate in 1999.⁴⁵¹ She worked there for two years on commercial litigation matters, including debt collection actions on behalf of an international publishing house.⁴⁵² In 2001, she had a brief stint as a contract attorney for the American Civil Liberties Union.⁴⁵³

She joined the Innocence Project in 2002 as an executive director.⁴⁵⁴ At the time, the Innocence Project was run by two young lawyers out of Yeshiva University Benjamin N. Cardozo School of Law.⁴⁵⁵ Her former co-clerk knew one of the young lawyers leaving and recommended her for the role after she expressed interest in leaving private practice.⁴⁵⁶ She quickly became a senior staff attorney in 2004, before becoming Senior Litigation Counsel in 2019.⁴⁵⁷ She represented wrongly convicted individuals in state and federal courts across the country, seeking access to DNA evidence, requesting post-conviction relief, and retrying cases when the government did not agree to dismiss charges.⁴⁵⁸ Thirty of her clients were freed from prison or death row.⁴⁵⁹ One of her biggest professional risks was taking on prosecutorial misconduct, where she sometimes asked the bar to revoke prosecutors' law licenses or impose other sanctions.⁴⁶⁰ She feared the project would damage her reputation, harming her clients when she attempted to work with prosecutors for their freedom.⁴⁶¹ She found,

450. *Id.* at 2.

451. *Id.* at 2, 17; Zoom Interview with Judge Nina Morrison, *supra* note 447.

452. NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 447, at 17.

453. *Id.* at 18.

454. *Id.* at 18; Zoom Interview with Judge Nina Morrison, *supra* note 447.

455. Zoom Interview with Judge Nina Morrison, *supra* note 447.

456. *Id.*

457. NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 447, at 18.

458. *Id.*; Zoom Interview with Judge Nina Morrison, *supra* note 447.

459. NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 447, at 18.

460. Zoom Interview with Judge Nina Morrison, *supra* note 447.

461. *Id.*

however, after some individual accountability there was general deterrence for future prosecutors in difficult cases to avoid the same misconduct.⁴⁶² From 2002 to 2016, she co-taught the Innocence Project Clinic at the Yeshiva University Benjamin N. Cardozo School of Law.⁴⁶³ In 2016, she successfully represented the first Innocence Project client freed from prison through clemency by New York's Governor.⁴⁶⁴

In March 2021, she applied to Senator Schumer's and Senator Kirsten Gillibrand's Office for positions on the United States District Courts for the Eastern and Southern Districts of New York.⁴⁶⁵ She interviewed with the senators' judicial screening committees, before attorneys from the White House Counsel's Office interviewed her in September 2021.⁴⁶⁶ The Senate confirmed her by a vote of 53-46, after the ABA unanimously rated her "well qualified."⁴⁶⁷ Her confirmation was particularly meaningful to her former clients, 20 of whom attended her investiture ceremony.⁴⁶⁸

R. Hon. Daniel J. P. Calabretta
(Active Federal Judicial Service: 2023 - Present)

Daniel J. P. Calabretta was nominated to the Eastern District of California by President Biden on January 3, 2023, to a seat vacated by John A. Mendez.⁴⁶⁹ He was confirmed by the Senate on February 16, 2023, and received his commission five days later, becoming the first openly gay person to serve in the Eastern District of California.⁴⁷⁰ He was previously a California Superior Court Judge for the County of Sacramento assigned to the juvenile court.⁴⁷¹

462. *Id.*

463. NINA MORRISON - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 447, at 33.

464. *Id.* at 32-33.

465. *Id.* at 35.

466. *Id.*

467. Raymond, *supra* note 445; Standing Committee on the Federal Judiciary, *supra* note 109.

468. Zoom Interview with Judge Nina Morrison, *supra* note 447.

469. Biography of Daniel Joe Powell Calabretta, FED. JUD. CTR., <https://www.fjc.gov/history/judges/calabretta-daniel-joe-powell> [<https://perma.cc/HLF8-TBXZ>] (last visited June 29, 2023).

470. *Id.*; Matthew S. Bajko, *Biden Names Gay Judge to Federal CA Bench*, BAY AREA REPORTER (July 29, 2022),

https://www.ebar.com/story.php?ch=news&sc=latest_news&id=317709 [<https://perma.cc/S37A-24LJ>].

471. Biography of Daniel Joe Powell Calabretta, *supra* note 469.

Born Daniel J. Powell in 1978 in Union City, Tennessee to Kathleen G. Van Ness and later adopted by Charles L. Silber, he grew up in New Jersey.⁴⁷² He earned an A.B. at Princeton University, graduating *summa cum laude* in 2000.⁴⁷³ While earning a J.D. at the University of Chicago Law School where he served as Topics and Comments Editor of the *University of Chicago Law Review*, he was a summer associate at Proskauer Rose LLP in New York City, and Hogan and Hartson in Washington, D.C.⁴⁷⁴ He graduated *magna cum laude* in 2003, after being elected to the Order of the Coif.⁴⁷⁵

Upon graduation, he served as a law clerk to United States Court of Appeals Judge William A. Fletcher in the Ninth Circuit for a year, before serving as a law clerk to Justice John Paul Stevens on the Supreme Court for a year.⁴⁷⁶ He then worked as a litigation associate at Munger, Tolles & Olson LLP for three years, serving his community during this time by representing Equality California, including in litigation supporting the constitutionality of a statute that allowed domestic partners to take advantage of a tax benefit in the same manner as married couples.⁴⁷⁷ In 2008, he began serving as a Deputy Attorney General in the Government Law Section of the California Department of Justice under future governor Jerry Brown, and for two years under future Vice President Kamala Harris, defending litigation brought against the Attorney General, providing advice to the Attorney General and other state agencies, vetting nominations for the California Courts of Appeal and the California Supreme Court on behalf of the Commission on Judicial Appointments, and drafting titles and summaries for proposed initiative measures.⁴⁷⁸ He also appeared as counsel

472. S. COMM. ON THE JUDICIARY, DANIEL CALABRETTA - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2023), <https://www.judiciary.senate.gov/imo/media/doc/Calabretta%20SJC%20Public%20Final.pdf> [<https://perma.cc/SWG9-FWN9>] (last visited July 13, 2023); Bajko, *supra* note 470; Jonathan Calabretta, Daniel Powell, N.Y. TIMES (Dec. 14, 2014), <https://www.nytimes.com/2014/12/14/fashion/weddings/jonathan-calabretta-daniel-powell.html> [<https://perma.cc/49B2-PKTC>].

473. DANIEL CALABRETTA - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 472, at 1.

474. *Id.* at 2–3.

475. *Id.* at 1, 3.

476. *Id.* at 2.

477. *Id.* at 2, 13, 26.

478. *Id.* at 13–14; Bajko, *supra* note 470.

of record in the Ninth Circuit, California Supreme Court, and the United States Supreme Court on behalf of the attorney general and other state officials, when the proponents of Proposition 8 appealed the district court's decision⁴⁷⁹ granting a permanent injunction that prohibited officials from enforcing Proposition 8.⁴⁸⁰ In 2013, he began serving as a deputy legal affairs secretary in the Office of Governor Edmund G. Brown, Jr., advising members of the governor's office, assisting members of the governor's office with their financial reporting obligations, and working closely with the California Office of Emergency Services when the Governor was asked to declare a state of emergency.⁴⁸¹

On January 4, 2019, he began serving as a California Superior Court Judge for the County of Sacramento assigned to the juvenile court, after being elected by Governor Jerry Brown and then reelected to a full six-year term in November 2020.⁴⁸² He heard cases concerning allegations of child abuse and neglect until March 2022, when he began serving as the Presiding Judge of the Juvenile Court, where he supervised judges in juvenile dependency and juvenile justice, sat on various committees, and heard cases involving juvenile dependency and juvenile justice.⁴⁸³ He has taught Direct Democracy in California at the University of California, Davis School of Law and Lincoln Law School.⁴⁸⁴

In February 2021, he applied to Senators Dianne Feinstein and Alex Padilla to be a district judge in the Eastern District of California.⁴⁸⁵ He was interviewed by Senators Feinstein and Padilla's selection committees in late 2021 and early 2022, before interviewing with attorneys from the White House Counsel's Office in May 2022.⁴⁸⁶ He was confirmed by a vote of 51-45, after the ABA unanimously rated him "well qualified."⁴⁸⁷

479. Judge Vaughn Walker presiding. DANIEL CALABRETTA - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 472, at 16.

480. *Id.*

481. *Id.* at 14.

482. *Id.* at 8, 14.

483. *Id.* at 8.

484. *Id.* at 24–25.

485. *Id.* at 26.

486. *Id.* at 26–27.

487. Standing Committee on the Federal Judiciary, *supra* note 109; Brandy Tuzon Boyd, *Senate Confirms Judge Daniel J. Calabretta for Federal Judgeship in Eastern District of California*, SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO 1 (Feb. 16, 2023),

He married his husband, Jonathan Calabretta, on December 13, 2014.⁴⁸⁸

S. Hon. Ana C. Reyes
(Active Federal Judicial Service: 2023 - Present)

Ana C. Reyes was nominated to the District of Columbia by President Biden on January 3, 2023, to a seat vacated by Colleen Kollar-Kotelly.⁴⁸⁹ She was confirmed by the Senate on February 15, 2023, and received her commission six days later, becoming the first openly gay and Latina person to serve in the District of Columbia.⁴⁹⁰ She was previously in private practice.⁴⁹¹

Born in 1974, in Montevideo, Uruguay, she moved to Spain before immigrating to Louisville, Kentucky as a kindergartener.⁴⁹² Her first-grade teacher spent countless hours tutoring her before school each day so she could learn English.⁴⁹³ She received a B.A. from Transylvania University, graduating *summa cum laude* in 1996.⁴⁹⁴ She then worked as Assistant to the President of Feminist Majority, an organization that sought to defeat the 1996 California Proposition 209, an anti-affirmative action initiative.⁴⁹⁵ She

<https://www.saccourt.ca.gov/general/docs/pr-calabretta-appointed-to-federal-court.pdf>
[<https://perma.cc/69UL-TGHM>].

488. See Jonathan Calabretta, Daniel Powell, *supra* note 472.

489. Biography of Ana Cecilia Reyes, FED. JUD. CTR., <https://www.fjc.gov/history/judges/reyes-ana-cecilia> [<https://perma.cc/25DL-8Q6S>] (last visited June 30, 2023).

490. *Id.*; Seth Stern, *First Latina, LGBTQ Judge Confirmed to DC District Court*, BLOOMBERG L. (Feb. 15, 2023),

https://www.bloomberglaw.com/bloomberglawnews/us-law-week/X7U9RA3000000?bna_news_filter=us-law-week#jcite [<https://perma.cc/P8PP-V7BM>].

491. Biography of Ana Cecilia Reyes, *supra* note 489.

492. S. COMM. ON THE JUDICIARY, ANA REYES - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2023),

<https://www.judiciary.senate.gov/imo/media/doc/Reyes%20SJQ%20Public%20Final%20for%20OneDrive.pdf> [<https://perma.cc/L76N-C27J>] (last visited June 21, 2022); Sydney Paige, *A D.C. Lawyer Learned English as a Child From a Teacher who Tutored her Each Day. She Found Her to Say Thank You*, WASH. POST (Dec. 1, 2020), <https://www.washingtonpost.com/lifestyle/2020/12/01/dc-lawyer-learned-english-child-when-her-teacher-tutored-her-free-each-day-she-just-found-her-say-thank-you/> [<https://perma.cc/67LJ-NSZH>].

493. Paige, *supra* note 492; Stern, *supra* note 490.

494. ANA REYES - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 492, at 1.

495. *Id.*; 1995 – 1999, FEMINIST MAJORITY FOUNDATION, <https://feminist.org/about/history/1995-1999/> [<https://perma.cc/QCN2-ZN5H>] (last visited July 3, 2023).

then earned a J.D. at Harvard Law School, graduating *magna cum laude* in 2000.⁴⁹⁶ In law school she was a summer associate at Stites & Harbison LLP in Louisville, Kentucky and Williams & Connolly in Washington, D.C.⁴⁹⁷

Upon graduation, she served as a law clerk to United States Court of Appeals Judge Amalya Kearsse on the Second Circuit for a year in New York City.⁴⁹⁸ She then entered private practice at Williams & Connolly in 2001, where she remained until she was nominated to the Court.⁴⁹⁹ As an associate, and then partner in 2009, she worked in the international disputes practice group and served on their executive committee from 2017 to 2020.⁵⁰⁰ She handled litigation and arbitrations involving foreign governments, foreign officials, multinational corporations, and international organizations throughout the world.⁵⁰¹ She tried ten cases to verdict, judgment, or final decision, and has served as lead counsel representing the Kingdom of Spain, Republic of Paraguay, and Republic of Uruguay.⁵⁰² Meanwhile, she still found ways to give back to her community, representing asylum seekers pro bono, mentoring young attorneys at her firm, and teaching at Yale Law School and Georgetown University Law School.⁵⁰³ She earned a Masters of International Public Policy from Johns Hopkins University School of Advanced International Studies, graduating with honors in 2014.⁵⁰⁴

On February 15, 2021, she applied to Representative Eleanor Holmes Norton's D.C. Federal Law Enforcement Nominating Commission, meeting with the Commission and Representative Norton in the following month.⁵⁰⁵ She applied again in December 2021, meeting again with the Commission the following month.⁵⁰⁶ On January 14, 2022, Representative Norton recommended her to the White House, and she subsequently met with

496. ANA REYES - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 492, at 1.

497. *Id.* at 1–2.

498. *Id.* at 2.

499. *Id.* at 1–2.

500. *Id.* at 17.

501. *Id.*

502. *Id.* at 18, 20, 25, 27.

503. *Id.* at 29, 31.

504. *Id.* at 1.

505. *Id.* at 31.

506. *Id.* at 32.

attorneys from the White House Counsel's Office.⁵⁰⁷ She was confirmed by a vote of 51-47, after the ABA unanimously rated her "well qualified."⁵⁰⁸

T. Hon. Gina R. Méndez-Miró
(Active Federal Judicial Service: 2023 - Present)

Gina R. Méndez-Miró was nominated to the District of Puerto Rico by President Biden on June 15, 2022, to a seat vacated by Carmen Consuelo Cerezo, and on which the Senate did not vote.⁵⁰⁹ She was renominated on January 3, 2023, to the same seat.⁵¹⁰ She was confirmed by the Senate on February 14, 2023, and received her commission ten days later, becoming the first openly gay person to serve in the District of Puerto Rico.⁵¹¹ She was previously a judge on the Puerto Rico Court of Appeals.⁵¹²

Born in 1974 in San Juan, Puerto Rico, she earned a B.A. at the University of Puerto Rico, graduating *magna cum laude* in 1996.⁵¹³ She then earned a M.A. at Princeton University, attending from 1996 to 1998, and graduating in 2000.⁵¹⁴ At Princeton, she served as an assistant in instruction, teaching beginner's Spanish I and II.⁵¹⁵ She earned a J.D. from the University of Puerto Rico School of Law, graduating in 2001.⁵¹⁶ During law school, she was a law clerk at Goldman Antonetti & Cordova, LLC in San Juan.⁵¹⁷

507. *Id.*

508. Standing Committee on the Federal Judiciary, *supra* note 109; Stern, *supra* note 490.

509. Biography of Gina Raquel Méndez-Miró, FED. JUD. CTR., <https://www.fjc.gov/history/judges/m-ndez-mir-gina-raquel> [<https://perma.cc/3TQ2-HZ7Y>] (last visited July 5, 2023).

510. *Id.*

511. *Id.*; Andrés I. Jové Rodríguez, *Gina Méndez Miró Confirmed as First LGBTQ Federal Judge in Puerto Rico*, WASH. BLADE (Feb. 15, 2023), <https://www.washingtonblade.com/2023/02/15/gina-mendez-miro-confirmed-as-first-lgbtq-federal-judge-in-puerto-rico/> [<https://perma.cc/55RJ-LWFR>].

512. Biography of Gina Raquel Méndez-Miró, *supra* note 509.

513. S. COMM. ON THE JUDICIARY, GINA MÉNDEZ-MIRO - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2022), <https://www.judiciary.senate.gov/imo/media/doc/Mendez%20Miro%20SIJQ%20Public%20Final.pdf> [<https://perma.cc/2EJB-9SRP>].

514. *Id.*

515. *Id.* at 43.

516. *Id.* at 1.

517. *Id.* at 2.

Upon graduation, she entered private practice at O'Neill & Borges LLC in San Juan, where she primarily handled civil litigation in labor and employment matters, appearing before federal and state courts until 2006.⁵¹⁸ She then became an Assistant Attorney General for Human Resources at the Puerto Rico Department of Justice, where she directed human resources policies, provided legal counsel to the Attorney General and staff, litigated charges filed before the U.S. Equal Employment Opportunity Commission, and briefly became a Special Prosecutor, litigating criminal cases.⁵¹⁹

In 2008, as the Director of Judicial Programs at the Puerto Rico Judicial Branch's Office of Courts Administration, she advised the Chief Justice of the Supreme Court and the Director of Courts Administration on public and administrative policies and spearheaded the development of the Adult and Juvenile Drug Courts, Specialized Domestic Violence Courts, Self-Represented Litigant Centers, Justice for the Elderly, Unified Family and Juvenile Courts, Court Improvement Project, and Protocol for Access to Courts for Homeless People.⁵²⁰ In 2010, she became the General Counsel and the Director of the Legal Affairs Office at the Office of Courts Administration, where she advised and represented the Puerto Rico Judicial Branch in civil and administrative matters, providing legal counsel to the Chief Justice of the Supreme Court, the Director of Courts Administration, and supervisors in all 13 judicial regions on employment discrimination and compliance with state and federal regulations.⁵²¹ She also litigated cases before the trial court and Commission of Judicial Discipline of the Supreme Court of Puerto Rico.⁵²²

In 2013, she became the Chief of Staff for the Puerto Rico Senate, where she worked for three years managing the adoption of legislation, including criminal justice reform, education reform, energy reform, and anti-discrimination bills, which were signed into law.⁵²³ She also appeared on behalf of the Senate President and seven other Senators as amici curiae in a

518. *Id.* at 31.

519. *Id.*

520. *Id.*

521. *Id.* at 31–32.

522. *Id.* at 32.

523. *Id.* The anti-discrimination law prohibits employers from discriminating against any employee or job applicant based on their sexual orientation or gender identity. *Id.*

marriage equality case before the United States Court of Appeals for the First Circuit.⁵²⁴

In 2016, Governor Alejandro Garcia Padilla appointed her to the Puerto Rico Court of Appeals, and she was unanimously confirmed by the Puerto Rico Senate.⁵²⁵ Only four of her decisions were reversed by the Puerto Rico Supreme Court.⁵²⁶ She was the appellate court's trainer and educator on access to justice for incarcerated, indigent, and pro se litigants.⁵²⁷

On September 14, 2021, she was contacted by the White House Counsel's Office to interview for a vacancy.⁵²⁸ She interviewed with attorneys from that office a few days later.⁵²⁹ She was confirmed by a vote of 54-45, after the ABA unanimously rated her "qualified."⁵³⁰

U. Hon. Jamar K. Walker
(Active Federal Judicial Service: 2023 - Present)

Jamar K. Walker was nominated to the Eastern District of Virginia by President Biden on January 3, 2023, to a seat vacated by Raymond Alvin Jackson.⁵³¹ He was confirmed by the Senate on February 28, 2023, and received his commission less than a month later, becoming the first openly gay person to serve in the Eastern District of Virginia.⁵³² He was previously an Assistant U.S. Attorney in the Eastern District of Virginia.⁵³³

Born in 1986 in Nassawadox, Virginia, he earned a B.A. from the University of Virginia, graduating with distinction in 2008 and working his

524. *Id.*

525. *Id.* at 10.

526. *Id.* at 22–24.

527. *Id.* at 45.

528. *Id.* at 46.

529. *Id.*

530. Standing Committee on the Federal Judiciary, *supra* note 109; Rodríguez, *supra* note 511.

531. Biography of Jamar Kentrell Walker, FED. JUD. CTR., <https://www.fjc.gov/history/judges/walker-jamar-kentrell> [<https://perma.cc/SJE9-4KDH>] (last visited July 3, 2023).

532. *Id.*; Whitney Evans, *First Federal LGBTQ+ Judge to Take the Bench in Virginia*, VPM (Feb. 28, 2023), <https://www.vpm.org/news/2023-02-28/biden-nominates-lgbtq-judge-virginia-jamar-walker> [<https://perma.cc/R2MX-VGQ5>].

533. Biography of Jamar Kentrell Walker, *supra* note 531.

last two years as a customer sales representative.⁵³⁴ He then attended the University of Virginia School of Law, earning a J.D. in 2011.⁵³⁵ He was a summer associate at Patton Boggs LLP and Covington & Burling LLP in Washington, D.C.⁵³⁶

Upon graduation, he served as a law clerk for a year for United States District Judge Raymond A. Jackson, the judge he would eventually replace on the Court.⁵³⁷ He then worked as an associate at Covington & Burling LLP, where he handled civil litigation, including commercial insurance and product liability matters.⁵³⁸ In 2015, he became an Assistant U.S. Attorney in the Eastern District of Virginia assigned to the Financial Crimes & Public Corruption Unit.⁵³⁹ He handled every aspect of federal criminal proceedings, including investigations, grand jury proceedings, jury trials, and appeals.⁵⁴⁰ He tried five cases to verdict, judgment, or final decision.⁵⁴¹ In 2022, he became Deputy Chief, and then Acting Chief, of the Unit.⁵⁴² Meanwhile, he served his community as the coach of the University of Virginia's undergraduate mock trial team, and as a mentor to law students and young lawyers.⁵⁴³

On November 8, 2021, he applied to Senators Mark Warner and Tim Kaine for the position.⁵⁴⁴ He interviewed with the Senators' selection committees about two months later.⁵⁴⁵ On March 4, 2022, attorneys from the White House Counsel's Office interviewed him.⁵⁴⁶ After a substantial majority of the ABA rated him "well qualified" and a minority rated him "qualified," the Senate confirmed him by a vote of 52-41.⁵⁴⁷

534. S. COMM. ON THE JUDICIARY, JAMAR WALKER - QUESTIONNAIRE FOR JUDICIAL NOMINEES, U.S. SENATE COMM. ON THE JUDICIARY, 1-2 (Comm. Print 2023), <https://www.judiciary.senate.gov/imo/media/doc/Walker%20SJQ%20Public%20Final.pdf> [<https://perma.cc/DLA3-CBDX>].

535. *Id.* at 1.

536. *Id.* at 2.

537. *Id.*

538. *Id.* at 13.

539. *Id.*

540. *Id.*

541. *Id.* at 15.

542. *Id.* at 14.

543. *Id.* at 27.

544. *Id.* at 28.

545. *Id.*

546. *Id.*

547. Evans, *supra* note 532; Standing Committee on the Federal Judiciary, *supra* note 109.

V. Hon. P. Casey Pitts
(Active Federal Judicial Service: 2023 - Present)

P. Casey Pitts was nominated to the Northern District of California by President Biden on September 6, 2023, to a seat vacated by Lucy Haeran Koh, and was renominated on January 23, 2023 after his initial nomination expired at the end of 2022.⁵⁴⁸ He was confirmed by the Senate on June 14, 2023, and received his commission on July 7, 2023, becoming the first openly gay nominee to be confirmed to an Article III position in the Northern District of California.⁵⁴⁹ He was previously in private practice.⁵⁵⁰

Born in 1980 in Moorhead, Minnesota to two primary care physicians and raised in Fargo, North Dakota, he earned a B.A. at Yale University, graduating *summa cum laude* in 2003.⁵⁵¹ He began college committed to public service, volunteering in both public health and education, but it wasn't until he took a class on civil rights law called "Blacks in the Law," taught by then-Connecticut Supreme Court Justice Flemming Norcott, that he discovered he might want to pursue a legal career.⁵⁵² After researching firms, he worked as a paralegal for two years at Altshuler, Berzon, Nussbaum, Rubin & Demain (now Altshuler Berzon LLP) in San Francisco, where he met his now-husband.⁵⁵³ He then attended Yale Law School, graduating in 2008 after interning at the ACLU Immigrants' Rights Project, working as a summer associate at Altshuler Berzon LLP, serving as a senior

548. Biography of Patrick Casey Pitts, FED. JUD. CTR., <https://www.fjc.gov/history/judges/pitts-patrick-casey> [<https://perma.cc/3ZVP-K9C8>] (last visited July 4, 2023); Press Release, The White House, Office of the Press Sec'y, Nominations Sent to the Senate (Sept. 6, 2022).

549. Biography of Patrick Casey Pitts, *supra* note 548; Bob Egelko, *Senate Confirms First Openly Gay Judge to San Francisco Federal Bench*, S.F. CHRON. (June 14, 2023), <https://www.sfchronicle.com/politics/article/casey-pitts-federal-judge-18152546.php> [<https://perma.cc/859N-CWJD>]; Zoom Interview with Judge P. Casey Pitts, U.S. District Judge, Northern District of California (July 10, 2023).

550. Biography of Patrick Casey Pitts, *supra* note 548.

551. S. COMM. ON THE JUDICIARY, CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, 1 (Comm. Print 2023), <https://www.judiciary.senate.gov/imo/media/doc/Pitts%20SJQ%20Public%20Final1.pdf> [<https://perma.cc/7NS8-RYSB>] (last visited July 10, 2023); Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

552. Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

553. *Id.*; CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 2.

editor of the Yale Law Journal, working as a Coker Teaching Fellow for Professor Reva Siegel, and helping lead Outlaws, the organization for LGBTQ+ students at Yale Law School.⁵⁵⁴

Upon graduation, he served as a law clerk to United States Court of Appeals Judge Stephen Reinhardt on the Ninth Circuit.⁵⁵⁵ He then entered private practice as an associate at Altshuler Berzon LLP in 2009, where he remained until his nomination to the Court, making partner in 2017.⁵⁵⁶ At Altshuler Berzon LLP, his work primarily involved complex impact and appellate litigation in federal and state courts, legal advice to public interest clients, and representation of local labor unions in collective bargaining.⁵⁵⁷ Most of his work was for disadvantaged clients, including Indonesian factory workers denied severance payments guaranteed to them by law, a transgender man terminated from his job, Latino voters denied their right to participate in city politics, and fast-food workers denied minimum wage.⁵⁵⁸ He litigated more than 100 federal cases and more than 40 state cases, while also serving as lead counsel in numerous arbitrations and administrative proceedings.⁵⁵⁹ Meanwhile, he has served as a volunteer attorney supervisor for Legal Aid at Work's Workers' Rights Clinic, supervising and mentoring law student participants in the clinic, as a Ninth Circuit Appellate Lawyer Representative, and as an active member of BALIF, the Bay Area's LGBTQ+ bar association.⁵⁶⁰

In February 2021, he applied to Senators Dianne Feinstein and Alex Padilla's Judicial Evaluation Commissions.⁵⁶¹ He interviewed with the Senators' committees in early 2022.⁵⁶² On June 8, 2022, attorneys from the White House Counsel's Office interviewed him.⁵⁶³ After a majority of the

554. CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 1–3; Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

555. CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 2; Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

556. Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

557. CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 14–15.

558. *Id.* at 34; Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

559. Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

560. CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 3, 34–35; Zoom Interview with Judge P. Casey Pitts, *supra* note 549.

561. CASEY PITTS - QUESTIONNAIRE FOR JUDICIAL NOMINEES, *supra* note 551, at 35.

562. *Id.*

563. *Id.*

ABA rated him “qualified” and a minority rated him “well qualified,” the Senate confirmed him by a vote of 53-46.⁵⁶⁴

III. PATTERNS IN BACKGROUND AND EXPERIENCES OF THE FIRST EIGHT GAY FEDERAL JUDGES

A. Occupation Before Federal Judicial Appointment

Five of the first 22 judges worked for the U.S. Department of Justice before taking the federal bench. Judge Oetken worked in the DOJ’s Office of Legal Counsel during the end of President Clinton’s second term. Judge Chen served in the Special Litigation Section in the DOJ’s Civil Rights Division for seven years. Judge Hughes served in the DOJ’s Commercial Litigation Branch for his entire career before becoming a federal judge. Judge Pitman served as U.S. Attorney for the Western District of Texas. Judge Bumatay also served in the DOJ, primarily on behalf of the attorney general.

Another eight judges worked in the private sector before their judicial appointment. Judges Fitzgerald, Yandle, Sweeney, Reyes, and Pitts were in private practice, Judge Batts was a law professor at Fordham, Judge Oetken was Senior Vice President and in-house counsel at Cablevision, and Judge Morrison was Senior Litigation Counsel at the Innocence Project.

Eight judges had judicial experience before their lifetime appointment. Judges McShane, Quiñones Alejandro, and Gayles served as state trial judges immediately before their federal trial judgeship. Although a U.S. Attorney when appointed, Judge Pitman previously served as U.S. Magistrate Judge, as did Judge Rowland. Judge Robinson was an Associate Justice on the Vermont Supreme Court, Judge Calabretta served as a California Superior Court Judge for the County of San Francisco assigned to the juvenile court, and Judge Méndez-Miró served on the Puerto Rico Court of Appeals.

Judge Nathan served as Special Counsel to the Solicitor General of New York immediately before becoming a federal judge.

Eight judges served as Assistant U.S. Attorneys at some point in their

564. Egelko, *supra* note 549; Standing Committee on the Federal Judiciary, *supra* note 109.

careers, including Judges Batts, Fitzgerald, Chen, Levy, Gayles, Pitman, Bumatay, and Walker. Judges Chen and Levy served as Chief of the Civil Rights Units in the Eastern District of New York and the Eastern District of Michigan, respectively. Judges Batts, Fitzgerald, Gayles, Pitman, Bumatay, and Walker served in criminal divisions of the office.

Nine judges served as law clerks early in their career, including Judges Batts, Oetken, Nathan, Fitzgerald, Hughes, Levy, Pitman, Rowland, Bumatay, Robinson, Morrison, Calabretta, Reyes, Walker, and Pitts. Judges Oetken, Nathan, and Calabretta had Supreme Court clerkships. Judges Batts, Fitzgerald, Levy, Morrison, Calabretta, Walker, and Pitts clerked in the same districts or circuit where they would serve as Article III judges.

B. Political Activity Before Federal Judicial Appointment

Nine of the first 22 judges were involved in politics before their federal judgeship. Judges Oetken and Nathan served as Associate Counsel to Presidents Clinton and Obama, respectively. Governor Spitzer appointed Judge Chen as Deputy Commissioner for Enforcement in the New York State Division of Human Rights. Governor Ryan appointed Judge Yandle to the Illinois Gaming Board. President Obama appointed Judge Pitman as U.S. Attorney for the Western District of Texas before taking the bench. Judges McShane, Quiñones Alejandro, Gayles, Robinson, and Calabretta were judges on state courts, which required participation in an election to fill or retain their position. As a judge on the Puerto Rico Court of Appeals, Judge Méndez-Miró was appointed by the governor with the advice and consent of the Puerto Rican Senate. Judges Rowland and Bumatay assisted with political campaigns.

C. Community Involvement

The first 22 judges gave back to their communities throughout their careers. Judges Batts, Oetken, Nathan, Chen, McShane, Hughes, Levy, Pitman, Rowland, Robinson, Morrison, Calabretta, Reyes, and Méndez-Miró have taught university or law school courses. Judges Fitzgerald, Oetken, Hughes, Yandle, Robinson, Calabretta, Méndez-Miró, and Pitts were involved in cases impacting the LGBTQIA+ community. Judge Fitzgerald worked on *Buttino v. FBI*, which ultimately led to the FBI

renouncing its practice of not hiring openly LGBTQIA+ agents and employees. Judge Oetken wrote amicus briefs in cases challenging laws that discriminated against LGBTQIA+ people. Judges Hughes and Yandle both handled cases for individuals diagnosed with AIDS, an issue that disproportionately affected the LGBTQIA+ community in the '90s. Judge Robinson worked pro bono as co-counsel in *Baker v. Vermont*, which led to marriage equality in Vermont. Judge Calabretta represented state officials when proponents of Proposition 8 appealed the district court's decision. Judge Méndez-Miró appeared on behalf of the Senate President and seven other Senators as amici curiae in a marriage equality case before the United States Court of Appeals for the First Circuit. Judge Pitts represented a transgender man terminated from his job. Judge Levy also had a career as a community organizer, working as a "paid troublemaker"⁵⁶⁵ to address economic disparities and LGBTQIA+ rights. Judges Rowland, Bumatay, and Morrison represented criminal defendants pro bono. Judge Sweeney was a member of the U.S. District Court of Colorado's Pro Bono Panel. All of the judges served as mentors to young attorneys and law students.

D. Educational Background

The first three openly gay federal judges were graduates of Ivy League law schools. Judge Batts graduated from Harvard Law School, Judge Oetken from Yale Law School, and Judge Nathan from Cornell University, where she also earned her undergraduate degree. Judge Bumatay, the 14th openly gay federal judge, and Judge Reyes, the 19th openly gay federal judge, graduated from Harvard Law School. Judge Pitts, the 22nd openly gay federal judge, graduated from Yale Law School.

Nine openly gay judges are graduates of law schools located in the state where they sit. Judge Fitzgerald, the Central District of California, is a graduate of the University of California-Berkeley School of Law. Judge McShane, the District of Oregon, is a graduate of Northwestern School of Law of Lewis and Clark College. Judge Levy, the Eastern District of Michigan, is a graduate of the University of Michigan School of Law, where she also earned her undergraduate degree. Judge Pitman, the Western

565. Zoom Interview with Judge Judith E. Levy, *supra* note 262.

District of Texas, is a graduate of the University of Texas at Austin School of Law. Judge Rowland, the Northern District of Illinois, is a graduate of the University of Chicago Law School. Judge Sweeney, the District of Colorado, is a graduate of the University of Denver College of Law. Judge Morrison, the Eastern District of New York, is a graduate of New York University Law School. Judge Méndez-Miró, the District of Puerto Rico, is a graduate of the University of Puerto Rico School of Law. Judge Walker, the District of Virginia, is a graduate of the University of Virginia School of Law.

Most of the first 14 judges excelled academically. Judges Nathan, Fitzgerald, McShane, Hughes, Levy, Robinson, Sweeney, Morrison, Calabretta, and Reyes graduated from law school with honors. Judges Oetken, Quiñones Alejandro, Pitman, Bumatay, Robinson, Sweeney, Morrison, Calabretta, Reyes, Méndez-Miró, Walker, and Pitts completed their undergraduate education with honors. Judge Gayles was selected as a Patricia Robert Harris Public Affairs Program fellow during his undergraduate education.

E. Geographic Location of Judicial Vacancy to Which Appointed

Of the first five judges, four were appointed to seats in New York: Judges Batts, Oetken, and Nathan in the Southern District of New York, and Judge Chen in the Eastern District of New York. The rest of these judicial pioneers are dispersed throughout the country. Judges Fitzgerald, Bumatay, Sweeney, Calabretta, and Pitts serve on courts out West, with Judge McShane in the Pacific Northwest. Judges Quiñones Alejandro, Hughes, Robinson, Morrison, Reyes, and Walker serve in the East. Judge Levy sits in the Upper Midwest, Judge Gayles in the Deep South, Judges Yandle and Rowland in the Midwest, Judge Pittman in the Southwest, and Judge Méndez-Miró in Puerto Rico.

F. ABA Ratings

On July 3, 1946, the ABA Standing Committee on the Federal Judiciary was established.⁵⁶⁶ The Committee was formed to investigate federal judicial candidates and then promote or oppose the candidate depending on whether it found them competent.⁵⁶⁷ It operates through a “15-person screening committee” that contacts lawyers and judges about a nominee’s qualifications.⁵⁶⁸ The ABA then rates that candidate as “not qualified,” “qualified,” or “well qualified,” which is meant to illustrate “the legal profession’s level esteem for the candidate” to the President and Senate.⁵⁶⁹

Ten judges were rated “qualified” by the ABA, including Judges Batts, Oetken, Chen, Quiñones Alejandro, Hughes, Levy, Gayles, Yandle, Bumatay, and Méndez-Miró. Four judges were rated “well qualified” by the ABA, including Judges Fitzgerald, McShane, Pitman, Rowland, Robinson, Morrison, Calabretta, and Reyes. Judge Nathan was rated “qualified” when she was nominated to the Southern District of New York, although she was later rated “well qualified” when elevated to the Second Circuit. Judges Sweeney and Walker were rated “well qualified” by a substantial majority and “qualified” by a minority.

CONCLUSION

The first 22 openly gay federal judges were trailblazers, many sitting on the federal bench before they were afforded the right to marry or were federally protected from employment discrimination.⁵⁷⁰ This article captures their journeys, using their own descriptions of their paths to the bench. Since there are still only 21 openly gay federal judges on the bench, it is difficult to find detailed patterns in their journeys. Their journeys,

566. *Bar Sets Up Group to Test Judiciary: New Committee Will Pass on Candidates and Act to Oust ‘Unfit’ From the Bench*, N.Y. TIMES, July 4, 1946, at 12.

567. *Id.*; *Bar Would Name Federal Judges*, N.Y. TIMES, Feb. 25, 1947, at 30.

568. Mike Zubrensky, *Trump, Lower Court Nominees Need American Bar Association Review*, THE HILL, Apr. 25, 2017, 2017 WL 1478883.

569. Bell, *supra* note 26, at 301.

570. Adam Liptak, *Civil Rights Law Protects Gay and Transgender Workers, Supreme Court Rules*, N.Y. TIMES (June 15, 2020), <https://www.nytimes.com/2020/06/15/us/gay-transgender-workers-supreme-court.html> [https://perma.cc/A6HZ-BYNQ].

however, may shed light on the backgrounds of future LGBTQIA+ judicial nominees, and the confirmation processes they face. As the federal bench continues to diversify, the first 22 judges may lead the way for transgender, bisexual, or nonbinary nominees.

Thirty years ago, Judge Reinhardt urged Americans to accept openly gay judges on the federal bench. While 21 openly gay federal judges now serve as Article III judges, they represent only a small fraction of the entire federal judiciary. It is our hope that the first 22 judges will leave the door open for future generations of LGBTQIA+ lawyers, and their stories will inspire continued change.