

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Patty Shwartz
Formerly Patty Shwartz-Dorsey

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

United States Circuit Judge for the Third Circuit

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Frank R. Lautenberg Post Office and Courthouse
2 Federal Square
Newark, New Jersey 07101

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

1961; Paterson, New Jersey

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1983 – 1986, University of Pennsylvania Law School; J.D., 1986

1979 – 1983, Rutgers College, Rutgers – The State University of New Jersey; B.A. (with highest honors), 1983

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2003 – Present
United States District Court for the District of New Jersey
Frank R. Lautenberg Post Office and Courthouse
2 Federal Square
Newark, New Jersey 07101
United States Magistrate Judge

2009 – Present
Fordham University School of Law
140 West 62nd Street
New York, New York 10023
Adjunct Professor

1989 – 2003
United States Attorney's Office for the District of New Jersey
970 Broad Street
Newark, New Jersey 07102
Assistant United States Attorney (1989 – 2003)
Deputy Chief, Criminal Division (1995 – 1999)
Chief, Criminal Division (1999 – 2001; 2002 – 2003)
Executive Assistant U.S. Attorney (2001 – 2002)

1987 – 1989
United States District Court for the District of New Jersey
Frank R. Lautenberg Post Office and Courthouse
2 Federal Square
Newark, New Jersey 07101
Law Clerk to Judge Harold A. Ackerman

1986 – 1987
Pepper, Hamilton & Scheetz (now Pepper Hamilton LLP)
3000 Two Logan Square
Philadelphia, Pennsylvania 19103
Associate

Summer 1985
Pitney, Hardin, Kipp & Szuch (now Day Pitney LLP)
One Jefferson Road
Parsippany, New Jersey 07054
Summer Associate

1985 – 1986
University of Pennsylvania Law School
3400 Chestnut Street
Philadelphia, Pennsylvania 19104
Research Assistant to Paul Shechtman (unpaid)

1984 – 1985

National Center for Educational Testing (no longer exists at this address)
1622 Chestnut Street
Philadelphia, Pennsylvania 19103
LSAT Instructor

Summer 1984

Margolis, Edelstein, Scherlis, Sarowitz & Kraemer (now Margolis Edelstein)
The Curtis Center
170 South Independence Mall West
Suite 400 E
Philadelphia, Pennsylvania 19106
Summer Law Clerk

Summer 1983

University of Pennsylvania
Department of Regional Science
3718 Locust Walk
Philadelphia, Pennsylvania 19104
Research Assistant to Steve Weiss Wik

Summer 1983

Temporary employment agency (I believe it was Manpower, but I cannot confirm this)
Temporary employee

1981 – 1983

Rutgers University
School of Communication and Information
4 Huntington Street
New Brunswick, New Jersey 08901
Teaching and Research Assistant to Stella Ting-Toomey, William Gudykunst, Brent Ruben, Katherine Yost, and William Todd-Mancillas (unpaid)

Other affiliations (uncompensated):

2010 – Present

Federal Magistrate Judges Association
P.O. Box 267
Scranton, Pennsylvania 18501
Board of Directors, representing the Third Circuit

2007 – Present
Association of the Federal Bar of New Jersey
P.O. Box 172
West Allenhurst, New Jersey 07711
Advisory Board Member

2000 – Present
Historical Society of the United States District Court for the District of New Jersey
Office of the Clerk
50 Walnut Street
Newark, New Jersey 07102
Board of Advisors (2003 – present)
Board of Directors (approximately 2000 – 2003)

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

I have not served in the military. I have not registered for selective service.

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

Professional:

Sustained Superior Performance Award (2002)

Special Achievement Awards from the Department of Justice (1991, 1993, 1994 and 1998)

Special Act Award from the Department of Justice (1997)

Director's Award for Superior Performance as an Assistant U.S. Attorney (1997)

Commendations and recognition from federal agencies, including the Federal Bureau of Investigation (1991, 1992, 1996, 1997, 2000, 2001, 2002), Drug Enforcement Administration (1992, 2000), Immigration and Naturalization Service, U.S. Customs Inspection Service (1990, 1995), U.S. Postal Inspection Service (1993), Department of Justice – Office of the Inspector General (1998), Department of the Army (1993), and the Federal Bureau of Prisons (1998).

At the time of my departure from the United States Attorney's Office in 2003, I also received recognition from several agencies, including the Federal Bureau of Investigation, Drug Enforcement Administration, Internal Revenue Service, United States

Secret Service, United States Postal Inspection Service, United States Pretrial Services, United States Probation Office, United States Customs Inspection Service, and United States Immigration and Naturalization Service.

Academic:

Editor, University of Pennsylvania Law Review

Outstanding Woman Law Graduate of the Class of 1986

Who's Who Among American Law Students

Rutgers College Honors Graduate

Henry Rutgers Scholar

Graduated with Highest Distinction in Major

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

American Bar Association

American Judicature Society

Association of the Federal Bar of New Jersey
Advisory Board Member (2007 – present)

Federal Magistrate Judges Association
Board of Directors, representing the Third Circuit (2010 – present)

Historical Society of the United States District Court for the District of New Jersey
Board of Advisors (2003 – present)
Board of Directors (approximately 2000 – 2003)

John C. Liffand Inn of Court

Judicial Council for the Court of Appeals for the Third Circuit Magistrate Judge
Committee

New Jersey Bar Association

Pennsylvania Bar Association

Phi Delta Phi Gibson – Alexander Inn, University of Pennsylvania, Student Inn member

Philadelphia Bar Association

United States District Court for the District of New Jersey

Patent Rules Committee

Criminal Law & Probation Committee

Education Committee

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

New Jersey, 1986

Pennsylvania, 1986 (out-of-state active)

There have been no lapses in membership.

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

United States Court of Appeals for the Third Circuit, 1987

United States District Court for the District of New Jersey, 1986

United States District Court for the Eastern District of Pennsylvania, 1986

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

River Renaissance Condominium Association (1994 – present)

Rutgers Alumni Association (1989 – present)

United States Attorney's Office for the District of New Jersey Alumni Association (2003 – present)

University of Pennsylvania Law School Alumni Society (1986 – present)

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

To the best of my knowledge, none of the organizations listed in response to Question 11a currently discriminates or previously discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

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

Thoughts from our Magistrate Judges, Nunc Pro Tunc, February 2008. Copy supplied.

The United States Attorney . . . A Brief History, Nunc Pro Tunc, January 2005. Copy supplied.

An Analysis of Perceived Similarity and Perceived Confirmation in the Context of Socially Penetrated Relationships, Henry Rutgers Honors Thesis, December 1982. Copy supplied.

I am credited for research conducted while in law school in the following article: Richard Delgado, Chris Dunn, Pamela Brown, Helena Lee, and David Hubbert, *Fairness and Formality: Minimizing Prejudice in Alternative Dispute Resolution*, 1985 Wis. L. Rev. 1359 (1985).

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

To the best of my recollection, I have not prepared any reports, memoranda, or policy statements on behalf of any bar association, committee, conference or organization of which I was or am a member. As a member of the Board of

Directors of the Federal Magistrate Judges Association, however, I was asked if I concurred in recommendations from our rules committees concerning proposed amendments to the Federal Rules of Criminal Procedure. Along with the other directors, I concurred in the recommendation, which was presented to the Administrative Office of the Courts. A copy of the February 8, 2011 letter embodying the recommendation is supplied.

I am quoted in a May 30, 2011 letter signed by one of my fellow Magistrate Judges submitted in support of the nomination of the Hon. John C. Lifland (retired) for recognition by the American Inn of Courts. A copy of the letter is supplied.

I am also a member of the Patent Rules Committee of the United States District Court for the District of New Jersey. The Committee recommended Local Patent Rules that govern the management of patent cases filed in the District of New Jersey. Copies of the 2008 and 2011 Local Patent Rules are supplied.

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

To the best of my recollection, I have not given testimony, made official statements, or engaged in communications relating, in whole or in part, to matters of public policy or legal interpretation, to public bodies or public officials.

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

I have not kept a comprehensive list of the presentations I have made. The following list is compiled from my calendars and other sources and is my best effort to recreate my history of speaking engagements. It is possible I have omitted presentations for which I did not retain records.

October 3, 2011: Ceremonial Swearing-In of the Hon. Donna Gallucio, New Jersey Superior Court, Passaic County. Served as Master of Ceremonies. Remarks supplied.

September 22, 2011: Federation of Defense and Corporate Counsel Eighth Annual Corporate Counsel Symposium, Electronic Discovery: Where Are We Now and Where Are We Headed? Notes supplied.

July 26, 2011: NJ LEEP (Law and Education Empowerment Project) high school students visited the United States District Court to discuss the court system and legal careers. I have no notes, transcripts, or recordings. The address for NJ LEEP is Seton Hall Law School, Room 425A, One Newark Center, Newark, New Jersey 07102.

July 15, 2011: Luncheon recognizing George Graves' departure from the Newark Field Division of the Federal Bureau of Investigation. Remarks supplied.

July 11, 2011: Fordham University Law School, William Hughes Mulligan Memorial Moot Court Competition Judge (preliminary round). I have no notes, transcripts, or recordings. The address for Fordham University Law School is 140 West 62nd Street, New York, New York 10023.

June 22 – 23, 2011: ALI-ABA Environmental Litigation Course. Discussed discovery in environmental litigation and in limine motions, and presided over a mock preliminary injunction hearing. DVD supplied.

June 13, 2011: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

June 9, 2011: United States District Court for the District of New Jersey, Bedminster School Fifth Grade Visit. Spoke about the court system and lawyers. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

May 20, 2011: Pompton Lakes High School Career Day. Spoke to high school students about my career path and careers in the law. I have no notes, transcripts, or recordings. The address for Pompton Lakes High School is 44 Lakeside Avenue, Pompton Lakes, New Jersey 07442.

May 12, 2011: Association of Criminal Defense Lawyers of New Jersey, Administration of the Oath of Office to its Officers and Board of Trustees. I have no notes, transcripts, or recordings. The address for the Association of Criminal Defense Lawyers is P.O. Box 180, West Allenhurst, New Jersey 07711.

March 24, 2011: Association of the Federal Bar of New Jersey, Everything You Wanted to Know about the Practice of Law in the United States District Court for the District of New Jersey in 2011. Transcript supplied.

February 23, 2011: Dinner recognizing George Leone's Departure from the United States Attorney's Office for the District of New Jersey. Remarks supplied.

January 10, 2011: John C. Lifland Inn of Court. Master Presentation on Pretrial Conference Procedures. Notes supplied.

December 1, 2010: Golda Och Academy, West Orange, New Jersey, Voters of Tomorrow. Spoke to high school students about the courts and government. Notes supplied.

November 17, 2010: Association of the Federal Bar of New Jersey, Practice Tips on Practicing Law in the Federal Courts in New Jersey. Notes supplied.

November 12, 2010: New Jersey Association for Justice, Pretrial Practice in the Federal Courts – Thriving and Surviving. DVD supplied.

November 3, 2010: Rutgers Law School – Newark, Nathan Baker Mock Trial Competition Judge (preliminary round). I have no notes, transcripts, or recordings. The address for Rutgers Law School – Newark is 123 Washington Street, Newark, New Jersey 07102.

October 25, 2010: New York Intellectual Property Law Association Young Lawyer's Committee, IP Litigation: Perspective on the Practice. Outline supplied.

July 22, 2010: Luncheon recognizing Robert Klotz's retirement from the United States Attorney's Office for the District of New Jersey. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the District of New Jersey is 970 Broad Street, Newark, New Jersey 07102.

June 21, 2010: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

June 14, 2010: United States District Court for the District of New Jersey in association with the Sedona Conference Institute, Electronic Information in Criminal Actions. Transcript supplied.

April 22, 2010: United States District Court for the District of New Jersey's Office of the Clerk, Attorney Electronic Case Filing Program. Notes supplied.

April 21, 2010: Federal Executive Board of Metropolitan Northern New Jersey, Professional Development Seminar for Support Staff. Notes supplied.

February 18, 2010: Dinner recognizing Charles B. McKenna's departure from the United States Attorney's Office for the District of New Jersey. Remarks supplied.

January 18, 2010: John C. Lifland Inn of Court, Master Presentation on Rule 16 Conferences and Rule 26 Disclosures. I have no notes, transcripts or recordings. The Inn does not have a physical address.

December 11, 2009: New York Intellectual Property Law Association, The District of New Jersey's Local Patent Rules and Their Impact on Pharmaceutical Patent Litigation. Notes supplied.

December 2009: United States District Court's Service Award Ceremony recognizing Amparo Andersonn. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

November 11, 2009: Association of the Federal Bar of New Jersey, Principles of Cross Examination in Federal Courts, Testimony From the Masters. Remarks supplied.

June 15, 2009: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

March 9, 2009: New Jersey Intellectual Property Law Association Patent Litigation Seminar, Operating Under the New Local Patent Rules of the New Jersey District Courts. I have no notes, transcripts, or recordings. The address for the New Jersey Intellectual Property Law Association is P.O. Box 693, Westfield, New Jersey 07091.

February 4, 2009: New Jersey State Bar Association – Federal Practice and Procedure Section, Perspectives on Best Practices Before a Magistrate Judge. Notes supplied.

December 2008: United States District Court's Service Award Ceremony recognizing Iris Liriano. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

October 6, 2008: John C. Lifland Inn of Court, Master Presentation, Preparing a Pretrial Order. I have no notes, transcripts, or recordings. The Inn does not have a physical address.

June 9, 2008: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

May 6, 2008: United States District Court for the District of New Jersey Arbitrator's Workshop. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

April 24, 2008: Bergen County Bar Association Seminar on Federal Practice. Notes supplied.

March 29, 2008: Seton Hall Law School, John J. Gibbons Criminal Procedure Moot Court Competition Judge (final round). I have no notes, transcripts, or recordings. The address for Seton Hall Law School is One Newark Center, Newark, New Jersey 07102.

January 16, 2008: New Jersey Institute of Continuing Legal Education Practice Before U.S. Magistrate Judges. CD supplied.

November 19, 2007: Association of the Federal Bar of New Jersey, Navigating in the Federal Courts in the Age of Technology: From E-Discovery to E-Trial. Notes supplied.

September 28, 2007: United States Pretrial Services 12th Annual Training Conference. Notes supplied.

September 17, 2007: John C. Lifland Inn of Court, Master Presentation on Ethics. Notes supplied.

June 12, 2007: Legal Services of New Jersey, Basic Federal Practice Training. Materials supplied.

June 11, 2007: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

March 30, 2007: United States District Court for the District of New Jersey, Girl Scout Troop 2086 visit. Spoke about the court system and our historic courthouse. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

March 21, 2007: Essex County Bar Association, E-Discovery in 2007 and Beyond. Notes supplied.

January 10, 2007: New Jersey Institute for Continuing Legal Education, Practice Before U.S. Magistrate Judges. CD supplied.

December 1, 2006: IQPC Securities Litigation, Perspectives from the Court. Notes supplied.

November 15, 2006: Association of the Federal Bar of New Jersey, Nuts and Bolts of Federal Practice. A view from District Court Judges, Magistrates and Lawyers. Notes supplied.

October 17, 2006: John C. Lifland Inn of Court, Master Presentation: Final Pretrial Conferences. Notes supplied.

September 20, 2006: American Bar Association, Section of Litigation, Regional CLE Workshop: Contamination Examination, Discovery the New Frontier: Discovery Management in the Age of New Science and New Legal Theories. Notes supplied.

September 13, 2006: United States District Court for the District of New Jersey, New Law Clerk Orientation, Newark Vicinage. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

June 12, 2006: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

April 27, 2006: Association of Trial Lawyers of America – New Jersey, Women Litigators' Luncheon, The Voice of Women on the Bench, the Judge's Perspective. The organization is now known as the New Jersey Association for Justice. Notes supplied.

March 30, 2006: Drug Enforcement Administration, New Jersey Division, Making a Difference – Women in Leadership. Notes supplied.

March 23, 2006: Association of the Federal Bar of New Jersey, Trying a Civil Case in the District of New Jersey, The Do's and Don'ts of Jury Trials, Bench Trials, Orders to Show Cause Hearings. Transcript supplied.

February 9, 2006: Luncheon recognizing Joyce Ingram's departure from the United States Attorney's Office for the District of New Jersey. Notes supplied.

January 11, 2006: Essex County Bar Foundation, Prosecuting and Defending Federal Public Corruption Cases. Notes supplied.

November 16, 2005: New Jersey Institute for Continuing Legal Education, Practice Before Federal Magistrate Judges. CD supplied.

November 14, 2005: John C. Lifland Inn of Court, Introduction of the Essentials of a Rule 16 Conference. Notes supplied.

November 9, 2005: Rutgers Law School – Newark, Nathan Baker Mock Trial Competition Judge (preliminary round). I have no notes, transcripts, or recordings. The address for Rutgers Law School – Newark is 123 Washington Street, Newark, New Jersey 07102.

October 2005: Administrative Office of the United States Courts. Appeared in a video regarding a program to gather Magistrate Judge workload statistics, entitled “MJStar: It Really Works.” DVD supplied.

June 14, 2005: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

May 20, 2005: New Jersey State Bar Association Annual Conference on Federal Practice and Procedure. I have no notes, transcripts, or recordings. The address for the New Jersey State Bar Association is One Constitution Square, New Brunswick, New Jersey 08901.

May 18, 2005: Bergen County Bar Association Seminar on Federal Practice. Notes supplied.

April 2005: United States District Court for the District of New Jersey. Spoke with the children of attorneys from McElroy, Deutsch, Mulvaney, and Carpenter about the court system. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

February 28, 2005: Association of the Federal Bar of New Jersey, Welcome to the Federal Court. I have no notes, transcripts, or recordings. The address for the Association of the Federal Bar of New Jersey is P.O. Box 172, West Allenhurst, New Jersey 07711.

February 3, 2005: Association of the Federal Bar of New Jersey, Welcome to the Federal Court, Initial Conference and Discovery. I have no notes, transcripts, or recordings. The address for the Association of the Federal Bar of New Jersey is P.O. Box 172, West Allenhurst, New Jersey 07711.

November 29, 2004: Pompton Lakes High School Class of 1979 25th Class Reunion. Remarks supplied.

November 10, 2004: Association of the Federal Bar of New Jersey, Welcome to the Federal Court Workshop. I have no notes, transcripts, or recordings. The

address for the Association of the Federal Bar of New Jersey is P.O. Box 172, West Allenhurst, New Jersey 07711.

October 14, 2004: Georgetown University Law Center, Continuing Legal Education, Litigating Employment Cases – Views from the Bench, Discovery Strategies & Techniques. Notes supplied.

August 19, 2004: Luncheon recognizing Bradley Orsini's departure from the Newark Field Division of the Federal Bureau of Investigation. I have no notes, transcripts, or recordings. The address for the Federal Bureau of Investigation's Newark Office is Claremont Tower, 11 Centre Place, Newark, New Jersey 07102.

June 14, 2004: John C. Lifland Inn of Court. Presided over mock oral argument. I have no notes, transcripts or recordings. The Inn does not have a physical address.

April 22, 2004: New Jersey Institute for Continuing Legal Education, Practice Before U.S. Magistrate Judges. Notes supplied.

March 24, 2004: St. John's University School of Law, 2004 Judicial Clerkship Panel & Reception. I have no notes, transcripts, or recordings. The address for St. John's University School of Law is 8000 Utopia Parkway, Jamaica, New York 11439.

November 15, 2003: New Jersey Institute for Continuing Legal Education, Introduction to Federal Practice. I have no notes, transcripts, or recordings. The address for the New Jersey Institute for Continuing Legal Education is One Constitution Square, New Brunswick, New Jersey 08901.

November 11, 2003: John C. Lifland Inn of Court, Essentials of the Rule 16 Conference. Notes supplied.

October 27, 2003: Luncheon recognizing Carolyn Murray's departure from the United States Attorney's Office for the District of New Jersey. Remarks supplied.

September 15, 2003: United States District Court for the District of New Jersey, Overview of the American Criminal Justice System for delegation of Russian judges. I have no notes, transcripts or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

June 11, 2003: John J. Gibbons American Inn of Court (now known as the John C. Lifland Inn of Court). Presided over mock oral argument. I have no notes, transcripts, or recordings. The Inn of Court does not have a physical address.

April 10, 2003: Ceremonial Swearing-In as a United States Magistrate Judge. DVD supplied.

March 27, 2003: Seton Hall Law School, Eugene Grossman Appellate Moot Court Competition Judge (preliminary round). I have no notes, transcripts, or recordings. The address for Seton Hall Law School is One Newark Center, Newark, New Jersey 07102.

March 25, 2003: Luncheon recognizing Iris Liriano's departure from the United States Attorney's Office for the District of New Jersey. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the District of New Jersey is 970 Broad Street, Newark, New Jersey 07102.

February 19, 2003: Remarks at a dinner marking my departure from the U.S. Attorney's Office. Notes supplied.

2001: Luncheon recognizing Jane Myers's departure from the United States Attorney's Office for the District of New Jersey. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the District of New Jersey is 970 Broad Street, Newark, New Jersey 07102.

January 22, 2000: New Jersey Institute for Continuing Legal Education, Second Annual Criminal Justice Act Forum. I have no notes, transcripts, or recordings. The address for the New Jersey Institute for Continuing Legal Education is One Constitution Square, New Brunswick, New Jersey 08901.

January 6, 2000: Remarks Celebrating Judge Harold A. Ackerman's Twentieth Year on the Federal Bench. Transcript supplied.

February 20, 1999: New Jersey Institute for Continuing Legal Education, First Annual Criminal Justice Act Forum. I have no notes, transcripts, or recordings. The address for the New Jersey Institute for Continuing Legal Education is One Constitution Square, New Brunswick, New Jersey 08901.

1999: Dinner recognizing Martin Cronin's departure from the United States Attorney's Office for the District of New Jersey. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the District of New Jersey is 970 Broad Street, Newark, New Jersey 07102.

February 3, 1998: United States District Court Historical Society Ceremony recognizing the senior judges. I have no notes, transcripts, or recordings. The address for the United States District Court for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

January 10, 1998: Bergen County Bar Association Federal Criminal Practice Seminar. Notes supplied.

December 15, 1997: Bergen County Bar Association, Federal Criminal Practice for Both Novice and Expert. I have no notes, transcripts, or recordings. The address for the Bergen County Bar Association is the George W. Newman Law Building, 15 Bergen Street, Hackensack, NJ 07601.

November 16, 1995: Rutgers University Administration of Justice Program, Law & Criminal Justice Career Forum, Rutgers University. I have no notes, transcripts, or recordings. The address for the Rutgers University Administration of Justice Program is 33 Livingston Avenue, New Brunswick, New Jersey 08901.

May 4, 1993: United States Probation Office for the District of New Jersey, training for new officers. I have no notes, transcripts, or recordings. The address for the United States Probation Office for the District of New Jersey is 50 Walnut Street, Newark, New Jersey 07101.

December 1991: Seton Hall Law School Moot Court Competition. I have no notes, transcripts, or recordings. The address for Seton Hall Law School is One Newark Center, Newark, New Jersey 07102.

May 19, 1986: University of Pennsylvania Law School Commencement. Remarks supplied.

May 1983: National Undergraduate Honors Conference, Memphis, Tennessee. Presented a synopsis of my honors thesis entitled, "An Analysis of Perceived Similarity and Perceived Confirmation in the Context of Socially Penetrated Relationships." Copy of thesis supplied in response to 12a.

April 1983: Eastern Communication Association, Ocean City, Maryland. Presented a synopsis of my honors thesis entitled, "An Analysis of Perceived Similarity and Perceived Confirmation in the Context of Socially Penetrated Relationships." Copy of thesis supplied in response to 12a.

December 1982: Rutgers University, Department of Communication, Colloquium, New Brunswick, New Jersey. Oral presentation of my honors thesis entitled, "An Analysis of Perceived Similarity and Perceived Confirmation in the Context of Socially Penetrated Relationships." Copy of thesis supplied in response to 12a.

On October 3, 2003, March 11, 2008 and November 18, 2009, I met with foreign prosecutors and/or government officials visiting the United States for the purpose of learning about the federal criminal justice system. Their visits were coordinated through the Department of Justice and United States Attorney's Office. The October 2003 event involved visitors from Latvia, and the March 2008 and November 2009 events involved visitors from Russia. I have no notes, transcripts, or recordings. The address for the United States Attorney's Office for the District of New Jersey is 970 Broad Street, Newark, New Jersey 07102.

On March 18, 2008, September 23, 2008, March 10, 2009, October 6, 2009, February 23, 2010, October 19, 2010, March 22, 2011 and September 20, 2011, I was a guest lecturer at Judge Michael Chagares' Advanced Civil Practice Class at Seton Hall Law School. Notes supplied.

Throughout my time as a judge, I also have sworn-in various people for admission to practice law in New Jersey state and federal courts and to serve as United States Pretrial Service and Probation officers or assistants. When I knew the individual personally (such as law clerks or former interns), I made an effort to personalize the occasion. I do not have a comprehensive list of the individuals I administered the oath to or the dates on which I administered it. Based upon a review of calendars and other records, I have identified the following dates on which I administered such oaths: July 14, 2003 (Probation Officer Assistant), December 17, 2003 (former intern from the United States Attorney's Office), January 26, 2006 (law clerk), December 27, 2007 (law clerk), September 25, 2008 (Pretrial Services Officers), November 25, 2008 (former court intern), November 13, 2009 (law clerk to Judge Ackerman and the law clerk's wife), May 27, 2010 (law clerk), and November 19, 2010 (former court intern).

As an Assistant U.S. Attorney, I participated in the annual training for U.S. Pretrial Services and Probation Offices. In addition, I spoke to members of the New Jersey American Correctional Association, the Office of the Chief Medical Examiner of New York County, Federal Bureau of Investigation, Drug Enforcement Administration, Internal Revenue Service, United States Postal Inspection Service, United States Customs Inspection Service, Immigration and Naturalization Service, and the Bureau of Alcohol Tobacco and Firearms. In addition, in about 1999, I was on a panel of professional women discussing advancement in the workplace. I have no notes, transcripts, or recordings of these events and do not have a recollection of the specific date or location of the sessions.

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

Joe Ryan, *Harold Ackerman, Federal Judge in Newark who Presided over Lucchese Crime Family Trial, Dies at 81*, The Star-Ledger, Dec. 3, 2009. Copy supplied.

Rosemary Feitelberg, *Furrier Harold Shwartz Dead at 87*, Women's Wear Daily, Dec. 26, 2006. Copy supplied.

George Berkin, *Claudia Flynn, 52, Champion of Justice*, The Star-Ledger, Oct. 28, 2006. Copy supplied.

Robert Rudolph, *Justice Dept. Green-Lights Appeal in Faison Case*, The Star-Ledger, Aug. 29, 2001. Copy supplied.

Wayne Parry, *U.S. Attorney to Appeal Overturning of Cops' Convictions*, Associated Press, Aug. 28, 2001. Copy supplied.

Bob Braun, *An Officer's Truth Lies in a Tangled Tale*, The Star-Ledger, Nov. 15, 2000. Copy supplied.

Robert Rudolph, *Mounds of Phony 20s Filling the Tills in Jersey*, The Star-Ledger, Jan. 28, 1999. Copy supplied.

Russell Ben-Ali and Robert Rudolph, *Massive Smuggler Network Smashed*, The Star-Ledger, Nov. 21, 1998. Copy supplied.

Metro News Briefs, *Four Crewmen Charged in Immigrant Smuggling*, New York Times, Sept. 5, 1998. Copy supplied.

Illegal Immigrants Held in Bahamas Return to China, Associated Press, Aug. 4, 1998. Copy supplied.

Adam Geller, *Bahamas Flies Chinese Illegal Immigrants Home; 21 Were Part of Group Bound for a Landing on Jersey Shore*, The Record (Bergen County, N.J.), Aug. 4, 1998. Copy supplied.

Larry Lewis, *3 Prison Workers Plead Guilty to Bribery*, Philadelphia Inquirer, Jan. 31, 1998. Copy supplied.

Associated Press, *Fort Dix Prison Workers Accused of Taking Bribes*, Press of Atlantic City, Dec. 16, 1997. Copy supplied.

Terry Pristin, *New Jersey Daily Briefing; Man Convicted in Carjacking*, New York Times, Dec. 12, 1996. Copy supplied.

Tina Traster, *2 Ex-School Officials Get Prison Time; Judge Turns Down Appeals for Leniency*, The Star-Ledger, June 19, 1996. Copy supplied.

Terry Pristin, *Man Convicted in Carjacking*, New York Times, Dec. 12, 1996. Copy supplied.

Henry Gottlieb, *Happy Clients Don't Help an Imposter*, N.J. Law Journal, Feb. 6, 1995. Copy supplied.

Richard Pliskin, *Imposter Lawyer Pleads Guilty to Fraud*, N.J. Law Journal, Aug. 29, 1994. Copy supplied.

Henry Gottlieb, *The Not-So-Great Imposter*, N.J. Law Journal, Mar. 14, 1994. Copy supplied.

Joe Tyrrell and Bill Gannon, *Bogus Practice Disbarred Attorney Charged for Using Alias*, The Star-Ledger, Mar. 3, 1994. Copy supplied.

Associated Press, *Ocean County Publisher Indicted in Embezzlement*, Philadelphia Inquirer, Apr. 14, 1993 [re-printed in multiple outlets]. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed as a United States Magistrate Judge for the District of New Jersey by the District Judges of the United States District Court for the District of New Jersey in 2003 and continue to serve in that position. As a Magistrate Judge, I am authorized to handle cases pursuant to 28 U.S.C. § 636.

In the District of New Jersey, civil actions (with limited exceptions) are automatically assigned to a United States District Judge, who serves as the presiding judge, and a Magistrate Judge, who serves as the referral judge. The assigned Magistrate Judge is responsible for managing all aspects of the pretrial process. This includes convening scheduling conferences, resolving discovery disputes, ruling on other nondispositive motions, holding settlement conferences, and presiding over final pretrial conferences. In addition, a Magistrate Judge may be asked to prepare Reports and Recommendations on dispositive motions (e.g., motions to dismiss, motions for summary judgment, motions for class certification). I have been designated as the referral judge in more than 4000 civil cases. In addition, parties have consented to my jurisdiction in whole or in part in more than 70 civil cases. In consent cases, I serve as the presiding judge and thus have the authority to render case-dispositive rulings and preside over trials. I have presided over ten civil jury trials and three civil bench trials.

I also handle criminal cases that are presented when I am serving as the criminal duty judge. In addition to presiding over preliminary proceedings in felony cases, I have handled more than 20 misdemeanor cases with the consent of the parties, including one criminal jury trial. In addition, United States District Judges have referred more than 185 felony guilty plea proceedings to me for Reports and Recommendations.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 14

i. Of these, approximately what percent were:

jury trials:	79%
bench trials:	21%
civil proceedings:	93%
criminal proceedings:	7%

b. Provide citations for all opinions you have written, including concurrences and dissents.

The Clerk's Office's electronic filing and case management system reflects that I issued 55 written opinions and 34 Reports and Recommendations. These items are set forth on the attached list. This is not the universe of dispositions memorialized in writing. I issue hundreds of orders each year. Some of these orders embody the opinions explaining the reasons for the ruling. The Clerk's electronic case filing system does not have a tool to distinguish orders containing the opinions from among the hundreds of orders I have issued. In addition, there may be opinions that have been filed but not docketed in a fashion that would cause them to be captured in the electronic filing system's report.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

For each case, the addresses listed for counsel reflect their last known business address.

1. *Stillman v. Staples*, Civ. No. 07-849

This was a collective action under the Fair Labor Standards Act filed on behalf of employees who held the position of assistant store sales manager. I presided over the case with the consent of the parties. After a six-week trial, the jury returned a verdict against the defendant and in favor of the more than 300 members of the collective action. After the judgment was entered, the Judicial Panel on Multi-District Litigation ["MDL"] transferred cases from other jurisdictions to a United States District Judge in the District of New Jersey. As part of the MDL case, the parties have sought approval of a settlement that would also resolve the *Stillman* case. As a result, the appeal of the *Stillman* judgment has been dismissed on the joint motion of the parties. The motion for final approval for a settlement class and a class settlement was referred to me and my recommendation concerning the motion was adopted, but final disposition regarding the attorney fee award is pending before the United States District Court Judge. The following are citations of opinions from *Stillman*: *Stillman v. Staples*, Civ. No. 07-849, 2007 WL 7261450 (D.N.J. July 20, 2007); *Stillman v. Staples*, Civ. No. 07-849, 2008

WL 1843998 (D.N.J. Apr. 22, 2008); *Stillman v. Staples*, Civ. No. 07-849, 2009 WL 1437817 (D.N.J. May 15, 2009).

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2. *Araoz v. United States*, Civ. No. 06-2149

This was a medical malpractice action under the Federal Tort Claims Act. I presided over the case with the consent of the parties. I resolved several in limine

applications and presided over a five-day bench trial that included testimony from several witnesses, such as competing expert obstetricians and pediatric neurologists. Based upon the evidence, there was a finding of no cause for action on the part of the plaintiff. *Araoz v. United States*, Civ. No. 06-2149, 2008 U.S. Dist. LEXIS 23495 (Mar. 24, 2008). The verdict was affirmed. *Araoz v. United States*, 337 F. App'x 207 (3d Cir. 2009).

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Counsel for the Defendant:

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3. *United States v. Hartman*, Civ. No. 07-3843

In this case, defendant Hartman was alleged to have failed to pay estate taxes and several co-defendants were accused of receiving real estate on which the government placed estate tax liens. Certain defendants filed third-party and fourth-party complaints against real estate and legal professionals involved in the real estate transactions. I presided over the case with the consent of the parties. All parties, except the United States and defendant Hartman, reached resolution without trial, and defendant Hartman proceeded to trial. After a six-day trial, the jury returned a verdict in favor of the plaintiff and against the defendant.

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4. *United States v. Rucci*, Mag. No. 07-3163

This was a criminal tax case against an accountant who failed to file his tax returns despite having earned over \$250,000 during a four-year period. I presided over this case with the consent of the parties, made in limine rulings and addressed disputes concerning the jury charge. After a four-day trial, the jury returned a guilty verdict and, thereafter, the defendant was sentenced to a term of incarceration. The conviction and sentence were affirmed. *United States v. Rucci*, Crim. No. 08-665, 2009 U.S. Dist. LEXIS 37981 (D.N.J. May 1, 2009).

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5. *O'Connor v. Great Northern Insurance Co.*, Civ. No. 07-4388

This was a diversity action in which the plaintiff sought payment pursuant to his homeowner's insurance policy for damage due to a fire. The defendant denied coverage, in part, based upon the arson exclusion. I presided over the case with the consent of the parties. During the trial, and with counsel's consent, the jury was permitted to submit written questions of each witness for the Court to ask on the jury's behalf. After a four-day trial, the jury returned a verdict in favor of the defendant and against the plaintiff.

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6. *Mastrolia v. Potter*, Civ. No. 08-5967

This was a Rehabilitation Act case in which the plaintiff alleged discrimination and retaliation for his complaints of discrimination. I presided over the case with the consent of the parties. I resolved the motion for summary judgment, which limited the number of claims for the jury to consider. *Mastrolia v. Potter*, Civ. No. 08-5967, 2010 WL 1752531 (D.N.J. Apr. 27, 2010). After a six-day trial, the jury returned a verdict in favor of the defendant and against the plaintiff.

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7. *Morano v. New Jersey Transit*, Civ. No. 07-2407

This was a claim under the Federal Employee Liability Act in which the plaintiff alleged that his work on the railroad caused tinnitus. I presided over the case with

the consent of the parties, which involved a defense of contributory negligence based upon the plaintiff's alleged failure to avail himself of safety equipment. After a four-day trial, the jury returned a verdict in favor of the plaintiff.

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8. *Harold v. Black & Decker*, Civ. No. 04-2427

This was a diversity case alleging that a rotary hammer was defective and injured the plaintiff's hand. I presided over the case with the consent of the parties and resolved several in limine and post-trial applications. After a ten-day trial, the jury returned a verdict in favor of the plaintiff and against the defendant. The verdict was reversed based upon an evidentiary ruling. *Harold v. Black & Decker*, 295 F. App'x 530 (3d Cir. 2008). The appellate court noted that at the time of trial, the trial court did not have the benefit of an appellate ruling governing the evidentiary issue. After remand, a second jury was empanelled and the case settled.

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9. *Linz v. Great Atlantic & Pacific Tea Co. et al.*, Civ. No. 04-785

This patent case involved a claim that the defendants infringed the plaintiff's patent on an item used to dispense cans of soup. I addressed motion practice, which resulted in allowing the defendants to assert antitrust and common law tortious interference counterclaims. During the discovery period, the plaintiff asserted that he had shared his idea for this dispensing device with representatives of one of the defendants and, as a result, sought and obtained an order that permitted him to inspect items in one of the defendants' archives. I presided over the case with the consent of the parties. The case settled.

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10. *Rosario v. Carson*, Civ. No. 06-1287

This diversity action arose from allegations of sexual abuse of two minors. I presided over the case with the consent of the parties. The defendant was incarcerated for these actions and was amenable to a settlement. Hurdles arose concerning marshalling assets and securing the position of the victims' biological, noncustodial mother regarding the proposed settlement. Following an evidentiary hearing, the settlement was approved.

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Dewey v. Volkswagen of Am.*, 728 F. Supp. 2d 546 (D.N.J. 2010).

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2. *Newman v. Gen. Motors*, slip. op. (D.N.J. Mar. 24, 2005), *aff'd*, slip. op., (D.N.J. Mar. 30, 2006), *aff'd*, 228 F. App'x 245 (3d Cir. 2007). Copy supplied.

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3. *Ngai v. Old Navy*, Civ. No. 07-5653, 2009 WL 2391282 (D.N.J. July 31, 2009).

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4. *Nycomed v. Tolmar*, Civ. No. 10-2635, 2011 WL 1675027 (D.N.J. Apr. 28, 2011).

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5. *Beye v. Horizon Blue Cross & Blue Shield*, Civ. Nos. 06-5337, 06-6219, 2007 WL 7403210 (D.N.J. Oct. 30, 2007), *reconsideration denied as modified*, 2007 WL 7393489 (D.N.J. Dec. 14, 2007).

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6. *Big M, Inc. v. Dryden Advisory Group*, Civ. No. 08-3567, 2009 WL 1905106 (D.N.J. June 30, 2009).

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7. Solid Waste Servs., Inc. v. Morris County Mun. Utils. Auth., Civ. No. 08-327, 2008 WL 5046715 (D.N.J. Nov. 20, 2008).

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8. *In re Neurontin Antitrust Litig.*, MDL Doc. 1479, Civ. No. 02-1390, 2011 WL 253434 (D.N.J. Jan. 25, 2011) (corrected opinion), *aff'd*, 2011 WL 2357793 (D.N.J. June 9, 2011).

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9. *Transweb, LLC v. 3M Innovative Props.*, Civ. No. 10-4413, 2011 WL 2181189 (D.N.J. June 1, 2011).

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10. *Mayer v. Gottheiner*, 382 F. Supp. 2d 635 (D.N.J. 2005).

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Counsel for Defendants:

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- e. Provide a list of all cases in which certiorari was requested or granted.

I know of no cases in which certiorari was requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

In the cases in which the parties consented to magistrate judge jurisdiction, I was reversed one time. In *Harold v. Black & Decker*, 295 F. App'x 530 (3d Cir. 2008), the Court of Appeals for the Third Circuit reversed an oral ruling that barred the defendant from offering evidence of the absence of any complaints about the allegedly defective product. The Court of Appeals noted, however, that I did not have the benefit of a ruling that it had rendered after the trial. A copy of the order is supplied.

In all other cases, appeals of a Magistrate Judge's decision are filed with the presiding United States District Judge. The Clerk's Office Electronic Filing system has reports of appeals to the extent the appellant properly docketed the appeal. Based upon searches of electronic databases and my recollection, the following are cases in which decisions I made were reversed or a report and recommendation was not adopted:

BCI Comm's, Inc. v. Nat'l Grid Wireless Holdings, Inc., Civ. No. 07-2143, slip op. (D.N.J. Feb. 6, 2008), *declined to adopt*, slip op. (D.N.J. May 20, 2008). The United States District Judge declined to adopt a Report and Recommendation to compel the parties to participate in contractual arbitration. The decision of the District Judge was appealed to the Court of Appeals for the Third Circuit but the case settled before the appeal was decided. Copies of the opinions are supplied.

Beye v. Horizon Blue Cross & Blue Shield, Civ. Nos. 06-5337, 06-6219, slip op. (D.N.J. May 6, 2008), *rev'd in part*, 2008 WL 3064757 (D.N.J. July 29, 2008). This case involved a challenge to an insurance company's decision not to pay health benefits. Certain plaintiffs were covered by ERISA plans and others were covered by non-ERISA plans. I permitted similar discovery to occur without regard to whether a plaintiff's plan was subject to ERISA. A copy of the Order is supplied. The United States District Judge reversed the portion of the discovery

ruling that permitted discovery from individuals who were covered by ERISA plans.

Boyd v. John Doe Doctor, Civ. No. 07-769, slip op. (D.N.J. Nov. 16, 2009), *rev'd*, slip op. (D.N.J. Feb. 3, 2010). I entered an order denying the pro se plaintiff leave to file a Second Amended Complaint to substitute certain individuals for fictitiously named defendants because the plaintiff had not provided a copy of the proposed pleading as required by the Local Rules and because the Final Pretrial Order made no mention of these individuals. After the order was entered, the United States District Judge reopened discovery for defendants named in the First Amended Complaint and vacated the Final Pretrial Order. As a result, the procedural posture of the case changed. In addition, the pro se plaintiff attached a copy of the proposed pleading to his appeal papers. Based on these subsequent events, the District Judge vacated the order and permitted the pro se plaintiff to file the Second Amended Complaint. Copies of the orders are supplied.

Cataldo v. Moses, Civ. No. 02-2588, slip op. (D.N.J. May 11, 2004), *declined to adopt in part*, 361 F. Supp. 2d 420 (D.N.J. Nov. 3, 2004). The United States District Judge adopted all aspects of the recommendation granting summary judgment in favor of the defendants except for a part concerning the New Jersey Tort Claim Act in light of the new rulings from the New Jersey Supreme Court. These decisions were issued after the Report and Recommendation was filed, and dictated a result different from the one recommended. A copy of the Report and Recommendation is supplied.

Chevra Kadisha of Bobov, Inc. v. Washington Cemetery Mgmt. Corp., Civ. 06-5473, slip op. (D.N.J. Jan. 24, 2007), *rev'd*, slip op. (D.N.J. Mar. 28, 2007). I denied a motion for intervention filed by an entity and three individuals. The proposed intervenors appealed. In an oral ruling, the United States District Judge reversed the order denying the entity and certain individuals permission to intervene. The Court's order reflects that, after my order was entered, a third-party complaint was filed against the intervenors, which gave them a separate basis to be parties. Copies of the orders are supplied.

E-Beam Services, Inc. v. AECL Techs., Civ. No. 02-2256, slip op. (D.N.J. July 1, 2003), *vacated*, slip op. (D.N.J. July 10, 2003). I imposed monetary sanctions against a party for knowingly disclosing information in a public filing that had been subject to a mediation confidentiality agreement. The United States District Judge entered an order vacating the sanction in conjunction with a consent order dismissing the case.

Franco v. Connecticut General Life, Civ. No. 07-6039, slip op. (D.N.J. Sept. 20, 2010), *rev'd*, slip op. (D.N.J. Dec. 22, 2010). In an oral ruling, the United States District Judge reversed an order denying an extension of the deadline to raise discovery disputes arising from requests for information from nonparties. Copies of the orders are supplied.

In re Gabapentin Patent Litig., MDL 1384, Civ. No. 00-2931, slip ops. (D.N.J. Oct. 8, 2010), *rev'd in part*, slip op. (D.N.J. Jan. 25, 2011). In an oral ruling, the United States District Judge reversed orders that struck a surreply expert report and limited the testimony of another expert concerning late-disclosed data. The Court concluded that the testimony may aid the jury and disagreed with a finding concerning whether actions of the party demonstrated bad faith sufficient to warrant preclusion of evidence. Copies of the orders are supplied.

Kounelis v. Sherrer, Civ. No. 04-4714, slip op. (D.N.J. Oct. 4, 2007), *rev'd in part*, 529 F. Supp. 2d 503 (D.N.J. 2008). After a hearing, I found that the defendants had failed to preserve a video tape that would have recorded an area where an alleged assault occurred. I imposed certain spoliation sanctions, which included a payment to the pro bono fund, but declined to impose an adverse inference instruction or award the plaintiff's pro bono counsel attorney's fees. A copy of the Order is supplied. The United States District Judge affirmed the decision on sanctions but reversed the instruction, pro bono fund payment, and fee ruling and awarded plaintiff's pro bono counsel attorney's fees, vacated the pro bono fund payment in light of the fee award, and granted the request for an adverse instruction.

Lee v. Krieg, Civ. No. 06-278, slip op. (D.N.J. June 22, 2006), *adopted*, 2006 U.S. Dist. LEXIS 58486 (D.N.J. Aug. 21, 2006), *vacated and remanded*, 227 Fed. App'x 146 (3d Cir. 2007). The United States District Judge adopted the recommendation that the Complaint be dismissed as it involved the same claims as those pending in an earlier case that had been closed. The recommendation did not specify whether the dismissal should be with or without prejudice. The District Judge dismissed the Complaint with prejudice. The Court of Appeals for the Third Circuit vacated the order that dismissed the case with prejudice, stating that the District Court did not consider measures less drastic than dismissal with prejudice, such as dismissal without prejudice to the plaintiff's filing a motion to reopen the earlier case. A copy of the Report and Recommendation is supplied.

Louis v. NCR, Civ. No. 06-422, slip op. (D.N.J. Oct. 20, 2006), *adopted in part, declined to adopt in part*, 2006 WL 3419834 (D.N.J. Nov. 27, 2006). As a result of the plaintiff's failure to provide responses to discovery and failure to appear for a court-ordered settlement conference, I issued an order directing him to show cause in writing by a specific deadline why sanctions should not be imposed. The order to show cause specifically notified him that if he failed to respond, I would recommend to the United States District Judge that the complaint be dismissed. He provided no response and I recommended dismissal. The United States District Judge adopted the recommendation to impose sanctions, but chose to impose monetary sanctions instead of adopting the recommendation to dismiss the complaint based upon explanations provided to the District Judge as to why the plaintiff failed to appear at the settlement conference and the representation that a deposition had occurred after the recommendation had been issued that enabled

the defendant to obtain discovery and thereby ameliorate the prejudice that the defendant suffered from the absence of the written discovery from the plaintiff. A copy of the Report and Recommendation is supplied.

Ngai v. Old Navy, Civ. No. 07-5653 slip op. (D.N.J. May 21, 2009), *partially vacated*, slip op. (D.N.J. May 27, 2009). The United States District Judge vacated a portion of an order directing that a deposition occur on a particular date based upon a representation made to the District Judge that the witness retained counsel. Copies of the orders are supplied.

Patterson v. City of Perth Amboy, Civ. No. 06-4780, slip op. (D.N.J. June 29, 2007), *rev'd in part*, 2007 WL 3054939 (D.N.J. Oct. 11, 2007). I barred plaintiff from serving two expert reports because they were untimely. A copy of the order is supplied. The United States District Judge affirmed the ruling as to one of the experts, but reversed the ruling as to the other expert based upon the Court's view of the significance of the expert's opinion on an issue in the case.

Richards v. Johnson & Johnson, Inc., Civ. No. 05-3663, slip op. (D.N.J. Nov. 21, 2006), slip op. (D.N.J. Dec. 29, 2006), *reconsideration denied*, slip op. (D.N.J. Jan. 4, 2007) *rev'd*, 2007 WL 2123697 (D.N.J. July 20, 2007). In this employment discrimination case, I precluded the plaintiff from obtaining discovery concerning the employee ratings of individuals who held the same positions as plaintiff as well as other positions that he sought but did not obtain and denied the request to reconsider this decision. Copies of the orders are supplied. The United States District Judge found that the discovery might reveal how similarly situated employees were treated under the employee rating system and remanded to enable the defendant to develop a record concerning the burden of producing such information and to enable the plaintiff to make arguments concerning whether a uniform employee evaluation system for all employees existed.

Sery v. Fed. Bus. Ctrs., Civ. No. 06-1026, slip op. (D.N.J. May 7, 2007), *set aside and remanded*, slip op. (D.N.J. July 20, 2007). In this case, I precluded the plaintiff from offering an expert report because it was untimely. The United States District Judge set aside the order and remanded for further findings on whether or not the plaintiff flagrantly disregarded the scheduling order and whether the defendant would be prejudiced by the untimely report. Copies of the orders are supplied.

United States ex rel. Anthony Kite v. Besler Consulting, Civ. No. 05-3066, slip op. (D.N.J. Sept. 2, 2008), *rev'd*, slip op. (D.N.J. Nov. 3, 2008). I administratively terminated a motion to sever a defendant based upon a claim of improper joinder without prejudice to refile at a later time, explaining that coordinated pretrial proceedings advanced judicial economy and would conserve resources. The United States District Judge vacated the termination order because the Court believed it lacked a full explanation addressing the movant's arguments of

prejudice and efficiency. On remand, I issued an order denying the motion without prejudice to it being renewed as part of the final pretrial process. The movant appealed. The United States District Judge affirmed and agreed with the view I expressed both before and after remand that pretrial case management supported consolidated pretrial proceedings for all defendants. Copies of the orders are supplied.

Wachtel v. Guardian Life Ins. Co., Civ. No. 01-4183, and *McCoy v. Health Net, Inc.*, 03-1801, slip op. (D.N.J. July 28, 2005), *rev'd in part*, 239 F.R.D. 376 (D.N.J. 2006). The United States District Judge affirmed several discovery rulings but reversed one decision that barred plaintiffs from supplementing their expert report. A copy of the order is supplied.

Wachtel v. Guardian Life Ins. Co., Civ. No. 01-4183, and *McCoy v. Health Net, Inc.*, 03-1801, slip op. (D.N.J. Sept. 28, 2005), *rev'd in part*, 2006 WL 2506771 (D.N.J. Aug. 29, 2006). I issued an order barring plaintiff from making in limine motions not listed in the final pretrial order. The United States District Judge reversed the order based on additional evidence disclosed at hearings before the Court. The evidence was not disclosed at the time the final pretrial order was signed. The District Judge also reversed based upon logistical issues that were contemplated to occur during trial. A copy of the order is supplied.

Worthy v. City of Newark, Civ. No. 05-2115, slip op. (D.N.J. Aug. 22, 2007), *rev'd in part*, 2008 WL 413309 (D.N.J. Feb. 13, 2008). The United States District Judge reversed a ruling that partially granted a motion to quash a subpoena served upon the plaintiff's former criminal defense counsel. The decision to quash was based upon the assertion of privilege. A copy of the order is supplied. The District Judge found that the plaintiff had waived the privilege based upon the plaintiff's disclosure of privileged information in a brief filed in a state court proceeding.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a Magistrate Judge, I issue orders on nondispositive matters that range from discovery disputes, motions to amend pleadings, motions to extend discovery schedules, motions to disqualify, and other motions and applications. I issue hundreds of such orders each year. If the issue is dispositive and the parties have not consented to magistrate judge jurisdiction, then the orders must be done in the form of a Report and Recommendation to the presiding United States District Judge. If the parties consent to the jurisdiction of the magistrate judge, then I issue orders addressing both dispositive and nondispositive motions and applications. Very few of the opinions and orders that I issue are published, although I file all of my orders, written opinions, and written reports and recommendations on the Court's electronic filing system. In addition, to facilitate

the expeditious resolution of disputes, I frequently prepare opinions that I dictate into the record. Although orders memorializing the ruling are electronically filed, these oral opinions are not captured on the Clerk's electronic filings. If a party or the Court orders the transcript of the opinion, then it may be filed as part of the docket but, to my knowledge, there is no electronic filing report that keeps track of these transcripts. Other than the few opinions that I have designated for publication or requested to be transcribed, I have no control over which opinions and orders are published on Westlaw or Lexis Nexis or which dictated opinions are transcribed.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Mayer v. Gottheiner, 382 F. Supp. 2d 635 (D.N.J. 2005)

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

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

The Clerk of the Court has a system that randomly assigns civil cases to pairs of United States District Judges and Magistrate Judges. Before final assignment is made, the Clerk reviews a list of persons or entities whose presence automatically causes a recusal. At present, I own no stock and have no financial interests that

require automatic recusal. When a case is assigned to me, I review the parties, counsel, and facts to ensure there are no conflicts or other grounds for recusal. I have recused from certain cases the Clerk has automatically assigned to me based upon my former duties as an Assistant U.S. Attorney and the current role of my significant other as an Assistant U.S. Attorney, and I have identified such cases on the attached list.

I also receive assignments of criminal cases and matters when I serve as the week's criminal duty judge. The duty assignment rotates approximately every six weeks. When a case or matter is presented, my staff immediately asks if the case or matter was pending in the United States Attorney's Office before March 10, 2003. If the case or matter was pending before that date, I recuse because of the breadth of my former duties at that Office. In addition, I recuse from all cases that are assigned to Assistant U.S. Attorneys in the division that my significant other supervises as well as any cases that he handles or handled. I do not have a list of case or matters that have triggered these immediate recusals.

Listed below are cases from which I recused based upon my relationship with either a lawyer or a party:

Unum Life Ins. Co. v. Estate of Morabito, Civ. No. 09-4320; *Metro. Life Ins. Co. v. Delrusso*, Civ. No. 10-1250: At the initial conference, I notified the parties that I had worked with defense counsel when he was an Assistant U.S. Attorney and met his client during at least one social event. At plaintiff's request, I recused.

Trelease v. Metro. Life Ins. Co., Civ. No. 07-3841: A childhood friend served as defense counsel and, at her request, I recused.

N.Y. Susquehanna v. Campbell, Civ. No. 05-4010: I recused because a party was a relative of my significant other.

Listed below are cases in which a party sought or discussed my recusal:

N.J. Sand Hill Band of Lenape & Cherokee Indians v. New Jersey, Civ. No. 09-683, 2011 U.S. Dist. LEXIS 36874 (D.N.J. Mar. 31, 2011): Plaintiffs sought recusal of both the United States District Judge and me based upon disagreement with certain rulings. The movant also generally asserted that the District Judge and I were biased and prejudiced. The District Judge found that the plaintiffs had presented no facts showing either prejudice or bias. The motion was denied.

Goldberg v. County of Essex, Civ. No. 04-3901: At the early stage of the case, I notified the parties that I once worked with one of the defendants, who was named in her official capacity. The plaintiff initially submitted a letter suggesting recusal may be warranted. The plaintiff was instructed to file a formal motion if he decided to seek recusal. The plaintiff did not pursue the issue.

Abdel-Whab v. Middlesex County Jail, Civ. No. 04-1846: The pro se plaintiff sought recusal based upon his disagreement with an adverse ruling. There were no facts showing bias or partiality. The motion was denied.

Jones v. Green, Civ. No. 02-6029: The pro se plaintiff sought recusal based upon my judicial decisions. There were no facts showing bias or partiality. The motion was denied.

Jones v. Zara, Civ. No. 03-3947: The pro se plaintiff sought recusal based upon a claim that improper telephone conversations had transpired between the Court and defense counsel. The plaintiff was notified that no such conversations occurred and the motion was denied.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public office other than judicial office. I have had no unsuccessful candidacies or elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any office in or rendered services to any political party or election committee. I have not held a position or played a role in a political campaign.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

1987 – 1989; I served as a law clerk to Judge Harold A. Ackerman, United States District Court for the District of New Jersey.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have not practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1986 – 1987

Pepper, Hamilton & Scheetz (now Pepper Hamilton LLP)
3000 Two Logan Square
Philadelphia, Pennsylvania 19103
Associate

1987 – 1989

United States District Court for the District of New Jersey
Frank R. Lautenberg Post Office and Courthouse
2 Federal Square
Newark, New Jersey 07101
Law Clerk to Judge Harold A. Ackerman

1989 – 2003

United States Attorney's Office for the District of New Jersey
970 Broad Street
Newark, New Jersey 07102
Assistant United States Attorney (1989 – 2003)
Deputy Chief, Criminal Division (1995 – 1999)
Chief, Criminal Division (1999 – 2001; 2002 – 2003)
Executive Assistant U.S. Attorney (2001 – 2002)

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

I never served as a private mediator or an arbitrator.

b. Describe:

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

After law school graduation, I joined the labor department of Pepper, Hamilton & Scheetz (now Pepper Hamilton LLP) and received assignments ranging from responding to discovery to drafting in limine motions and client letters. I also had the opportunity to appear before a state court judge and seek a temporary restraining order. I left the firm to

begin my District Court clerkship. At the conclusion of my clerkship, I joined the United States Attorney's Office and was assigned to the Criminal Division, where I handled violent crime, drug, and white collar cases. After several years in the Criminal Division, I was assigned to the Special Prosecutions Division, which focuses on public corruption cases. After a brief tenure in that division, I was promoted to Deputy Chief of the Criminal Division, where I supervised dozens of Assistant U.S. Attorneys. In February 1999, I was appointed Chief of the Criminal Division. I served in that position until August 2001, when I was appointed Executive Assistant U.S. Attorney. In that role, I supervised the Criminal, Civil and Fraud Divisions. I returned as Criminal Chief in January 2002 and remained in that position supervising an expanded and reorganized division until my appointment as a United States Magistrate Judge in March 2003.

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

While working at Pepper, Hamilton, & Scheetz, I was assigned to the labor department. It represented parties in both traditional labor matters and employment discrimination cases. While working for the United States Attorney's Office, I represented the United States in federal criminal cases.

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

My entire career has involved federal litigation, and I have appeared in court frequently. That frequency, however, decreased as my supervisory duties increased. To the best of my recollection, I appeared before New Jersey state judges less than five times, and I appeared with a client while in private practice before a representative on the National Labor Relations Board one time.

- i. Indicate the percentage of your practice in:

1. federal courts:	99.9%
2. state courts of record:	.09%
3. other courts:	0%
4. administrative agencies:	.01%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	.01%
2. criminal proceedings:	99.99%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather

than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have tried more than 15 cases to verdict in the United States District Court. In each case, I was either sole or chief counsel. I also served in a supervisory capacity at trials with relatively junior Assistant U.S. Attorneys who were handling their first trials.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: 0%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

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

Listed below are ten cases in which I was sole or chief counsel for the United States before the United States District Court. I was responsible for the case throughout its entire investigation and prosecution. Any appeals were handled by other Assistant U.S. Attorneys assigned to the Office's Appeals Division. Certain defendants may have had post-conviction proceedings after I became a Magistrate Judge and, accordingly, I had no role in those proceedings. The addresses for the attorneys are the most recent business addresses I could locate.

- I. *United States v. Smith*, Crim. No. 00-399, before the Hon. John C. Lifland, United States District Court for the District of New Jersey.

The defendants were five police officers who were convicted of violating the civil rights of an individual whom the officers had wrongly suspected of having murdered a fellow police officer. The individual died as a result of the defendants' acts of police brutality. The trial lasted more than two months, and involved dozens of fact witnesses and several medical experts. I delivered the opening statement and rebuttal summation, handled numerous witnesses and motions as well as the charge conference. The jury returned guilty verdicts on all counts. The United States District Judge granted the post-trial motion for acquittal on the conspiracy count. The Court of Appeals of the Third Circuit reinstated the conviction on the conspiracy count. *United States v. Smith*, 294 F.3d 473 (3d Cir. 2002). The defendants were sentenced after I became a Magistrate Judge.

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2. *United States v. Nunes*, Crim. No. 96-231, before the Hon. William H. Walls, United States District Court for the District of New Jersey.

A jury convicted the defendant of carjacking an employee of the Federal Bureau of Investigation. The defendant brutally assaulted her both physically and sexually. There was no fingerprint, DNA or other forensic evidence. Rather, the case rested on eyewitness testimony, corroboration of statements that the defendant made to the victim during their encounter that confirmed his identity as the perpetrator, and other-act evidence admitted under Fed. R. Evid. 404(b). Specifically, the investigation revealed that the defendant had engaged in similar violent conduct against other women. The conviction was affirmed. *United States v. Nunes*, 135 F.3d 767 (3d Cir. 1997) (table).

Counsel for the Defendant:

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River Edge, NJ 07661
(201) 258-3984

3. *United States v. Pollard*, Crim. No. 91-210, before the Hon. Garrett E. Brown, Jr., United States District Court for the District of New Jersey.

Two defendants were charged with conspiring to transport, transporting, and kidnapping minor boys for the purpose of engaging in illegal sexual activities with them. The defendants used various lures to convince the boys to travel with them, including telling them that they ran a modeling agency and that they could get the boys jobs as models. Some of the victims reported that they were offered something to drink which caused them to pass out and that upon awakening they were partially disrobed and in pain. One defendant entered a guilty plea. Because of my role from the outset of the investigation, I handled all of the victims who testified and many of the law enforcement witnesses as well as all of the jury addresses, many motions, and the charge conference. Following an approximately one-month trial, involving multiple youthful victims who were asked to recount sensitive details, a jury convicted the remaining defendant. The jury verdict was affirmed. *United States v. Pollard*, 986 F.2d 44 (3d Cir. 1993).

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(609) 581-8556

James Weinberg
deceased

4. *United States v. Santtini*, Crim. No. 91-443, before the Hon. Dickinson R. Debevoise, United States District Court for the District of New Jersey.

The defendants were involved in the manufacture of cocaine at a clandestine cocaine conversion laboratory in New York. The chemical conversion process polluted the property and resulted in its placement on the New York Superfund list of hazardous sites. Another noteworthy portion of the case involved an emergent petition to the Court of Appeals for the Third Circuit seeking review of the trial court's order precluding the execution of a lawfully issued arrest warrant for a fugitive residing outside of the United States. The Third Circuit ruled that the doctrine of separation of powers prevents the court from interfering with the power of the executive branch to arrest fugitives pursuant to a valid warrant. *United States v. Santtini*, 963 F.2d 585 (3d Cir. 1992). Three defendants entered guilty pleas. Following a trial that lasted several weeks, in which I handled multiple witnesses, motions, jury addresses, and the charge conference, a jury convicted the remaining defendant.

Co-counsel for the United States:

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Kinnelon, NJ 07405
(973) 838-4405

Howard Brownstein
512 42nd Street
Union City, NJ 07087
(201) 866-4949

5. *United States v. Vitacco*, Crim. No. 95-132, before the Hon. Harold A. Ackerman, United States District Court for the District of New Jersey.

These defendants were, respectively, the superintendent of schools and the business administrator for the Board of Education in Lincoln Park, New Jersey. Together with my co-counsel, we conducted a grand jury investigation, which resulted in the return of a multiple count indictment charging each defendant with tax evasion and fraud associated with the manipulation of their vacation and sick time. In the midst of trial preparation, the defendants pleaded guilty to felony tax offenses embodied in the indictment filed against them.

Co-counsel for the United States:

Perry Carbone
U.S. Attorney's Office
300 Quarropas Street
White Plains, NY 10601
(914) 993-1900

Counsel for the Defendants:

Joseph Afflitto, Sr.
Afflitto Raimondi & Afflitto
500 Valley Road
Box 3097
Wayne, NJ 07474
(973) 633-8700

Michael D'Alessio, Jr.
Walder, Hayden & Brogan
5 Becker Farm Road
Roseland, NJ 07068
(973) 992-5300

6. *United States v. D.T.*, Crim. No. 99-65, before the Hon. Nicholas H. Politan, United States District Court for the District of New Jersey.

The defendant was a juvenile offender charged with bank robbery. Because of his lengthy and increasingly violent juvenile record, the defendant was transferred for prosecution as an adult. Very strict procedural protections are accorded to juveniles and to ensure that these protections were satisfied, the agent and I

closely examined both the offense and the criminal, educational, and social history of the offender to ensure that a request to transfer him to adult status was warranted. He entered a guilty plea to bank robbery.

Counsel for the Defendant:

Michael N. Pedicini
60 Washington Street
Morristown, NJ 07960
(973) 285-1555

7. *United States v. Redmond*, Crim. No. 92-270, before the Hon. H. Lee Sarokin, United States District Court for the District of New Jersey.

The defendant committed a series of bank robberies. Because forensic evidence was not recovered from each bank, other means were used to identify the perpetrator, including a live line-up. Working with law enforcement, we brought together individuals who resembled the defendant and allowed the defense counsel to challenge those he did not believe to sufficiently resemble his client. The defendant was ultimately identified as the robber of more than a dozen banks. After he was charged, the defendant provided law enforcement with information concerning how he selected his targets and this information helped law enforcement educate banks about ways to protect themselves from robberies. He entered a guilty plea to multiple bank robberies.

Counsel for the Defendant:

Donald McCauley
Federal Public Defender
1002 Broad Street
Newark, NJ 07102
(973) 645-6347

8. *United States v. Williams*, Crim. No. 01-490, before the Hon. William G. Bassler, United States District Court for the District of New Jersey.

The defendant was under investigation for committing automobile lease fraud. During the investigation, law enforcement approached the defendant while he was driving one of the fraudulently obtained vehicles. Instead of complying with their requests to exit the vehicle, the defendant accelerated and struck two federal agents. Following a jury trial, during which I handled multiple witnesses, jury addresses, and the charge conference, the defendant was convicted of fraud and assault on federal agents. The jury verdict was affirmed. *United States v. Williams*, 157 F. App'x 537 (3d Cir. 2005).

Co-counsel for the United States:

Phillip H. Kwon
First Assistant Attorney General
Office of the Attorney General for New Jersey
Richard J. Hughes Justice Complex, 8th Floor
West Wing
25 Market Street
Trenton, NJ 08625
(609) 292-4925

Counsel for the Defendant:

Muhammad Ibn Bashir
P.O. Box 2598
Elizabeth, NJ 07201
(908) 965-2033

9. *United States v. Londono*, Crim. No. 90-241, before the Hon. John C. Lifland, United States District Court for the District of New Jersey.

The defendant was involved in an international drug trafficking organization that distributed multiple kilograms of cocaine. Following a several week trial, which involved multiple witnesses and motions, a jury convicted the defendant for violating the federal drug laws. The conviction was affirmed. *United States v. Londono*, 998 F.2d 1006 (3d Cir. 1993).

Counsel for the Defendant:

Mark W. Catanzaro
Blason Iv Suite 208
513 South Lenola Road
Moorestown, NJ 08057
(856) 235-4266

10. *United States v. Barkerswoode*, Crim. No. 93-309, before the Hon. Joseph H. Rodriguez, United States District Court for the District of New Jersey.

The defendants were convicted for their role in a multinational drug trafficking organization following a wiretap investigation. Among the members was a professional soccer player from Ghana. To facilitate resolution of the case, my co-counsel and I made presentations to almost every defendant and his counsel that highlighted the evidence, including readings of portions of wiretapped conversations that implicated the particular defendant in the conspiracy. All defendants entered guilty pleas to drug offenses. One defendant appealed his

sentence. The sentence was affirmed. *United States v. Barkerswoode*, 103 F.3d 114 (3d Cir. 1996) (table).

Co-counsel for the United States:

Joan Thomas
Herrick, Feinstein LLP
104 Carnegie Center
Princeton, NJ 08540
(609) 452-3800

Counsel for the Defendants:

Mark W. Catanzaro
Blason Iv Suite 208
513 South Lenola Road
Moorestown, NJ 08057
(856) 235-4266

Hon. John L. Call, Jr.
Burlington County Court Facility
49 Rancocas Road
Mount Holly, NJ 08060
(609) 518-2716

Robert Shapiro
Shapiro, Croland, Reiser, Apfel & Di Iorio, LLP
Continental Plaza II
411 Hackensack Avenue
Hackensack, NJ 07601
(201) 488-3900

Jerrold D. Colton
CS Sports Management
1103 Laurel Oak Road, Suite 111
Voorhees, NJ 08043
(856) 782-8600

Ronald C. Hunt
60 Park Place, 16th Floor
Military Park Building
Newark, NJ 07102
(973) 242-4471

Kenneth N. Rubin
Law Offices of Kenneth Rubin
38 Haddon Avenue
Haddonfield, NJ 08033
(856) 428-7000

Noah Lipman
Lipman & Booth LLC
11 Broadway, Suite 967
New York, NY 10004
(212) 363-6969

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

Most of my career has been spent in public service and my legal work has been in the federal trial court. More specifically, as an Assistant and Supervisory Assistant U.S. Attorney, my work was almost exclusively focused on federal criminal law. I personally investigated, prosecuted, and supervised hundreds of cases. In addition, I was responsible for several special matters, including coordinating the United States Attorney's Office's investigative support in the aftermath of September 11, 2001.

Outside of court, I have devoted my time to training. As a Supervisory Assistant U.S. Attorney, I developed an in-house training program for new Assistant U.S. Attorneys, lectured Assistant U.S. Attorneys on various topics, including ethics and plea bargaining, and provided training to law enforcement officers on various aspects of federal criminal law and procedure. In my current position, I have participated in continuing legal education through participation on panels and teaching. I also assisted the Administrative Office of the United States Courts with a video regarding a program to gather Magistrate Judge workload statistics. A copy of the DVD is supplied in response to question 12d. In addition, I serve on several court governance committees, including the Patent Rules committee, which recommended Local Patent Rules that govern the management of patent cases filed in the District of New Jersey. A copy of the Rules is supplied as part of my response to Question 12b.

I have performed no lobbying activities.

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

In the Spring of 2009, 2010, and 2011, I taught an evening course entitled “Discovery and the Pretrial Process” at Fordham University Law School. This is a “skills” class focused on pretrial federal civil litigation. A copy of the 2011 syllabus is supplied.

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

Upon retirement, I am eligible to receive benefits from the Federal Employee Retirement System. Otherwise, I do not expect to receive any deferred income or future benefits.

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

Subject to the approval of the Chief Judge of the Circuit, I am scheduled to teach one evening class at Fordham Law School in the Spring of 2012. I have no other commitments to pursue outside employment.

22. **Sources of Income**: List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth**: Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth statement.

24. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

My significant other supervises one division of the United States Attorney's Office and, if confirmed, I would continue to recuse myself from all matters he handles or supervises and would recuse from any cases in which he has a financial

interest. In addition, because of the various supervisory positions I held, I would continue to recuse myself from any matters pending in the United States Attorney's Office before March 10, 2003.

Other than those situations, I am not aware of any conflicts in the categories described, but in any event, I would review each case to determine if any conflict existed, and if it did, I would recuse myself from the case.

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

I would continue to follow and carefully apply the Code of Conduct for United States Judges as well as other ethical canons and statutory provisions.

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

As a judicial law clerk, Assistant U.S. Attorney, and Magistrate Judge, I have been limited in the type of pro bono work that I can do. While I was an Assistant United States Attorney, the Code of Federal Regulations prevented all Assistant U.S. Attorneys from undertaking the type of pro bono representation required of New Jersey bar members and Assistant United States Attorneys were granted an exemption from the requirement of accepting such pro bono appointments. Consistent with the limitations of my positions, I have attempted to fulfill Canon 2 through teaching and speaking to various groups, including bar associations, law enforcement groups, and students.

In addition, I organized and managed the summer intern programs at both the United States Attorney's Office and the United States District Court, participated in our law clerk orientation program, participated in the "Take Your Child To Work Day" events, and have met with elementary, high school, college, and law students to educate them about careers in the law, our government, and public service. During the academic year 2006 – 2007, I also served as a workplace mentor for a high school senior participating in the Senior Experience Internship from the Bergen Academy, Hackensack, New Jersey.

26. **Selection Process:**

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

regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

To my knowledge, there is no selection commission for appointments to this court. Since July 26, 2011, I have spoken with attorneys at the White House Counsel's Office. On August 4, 2011, I was notified that my name was being forwarded to the Department of Justice for vetting for a potential nomination. Since August 4, 2011, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 8, 2011, I interviewed with officials from the White House Counsel's Office and the Department of Justice in Washington, DC. I have also interviewed with Senator Frank Lautenberg and Senator Robert Menendez. On October 5, 2011, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Shwartz, Patty	2. Court or Organization Third Circuit	3. Date of Report 10/05/2011
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) Circuit Judge	5a. Report Type (check appropriate type) ☒ Nomination, Date 10/05/2011 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2010 to 09/23/2011
7. Chambers or Office Address Frank R. Lautenberg Post Office & Courthouse Federal Square, P.O. Box 999 Newark, New Jersey 07101	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Member, Board of Director (representing the Third Circuit)	Federal Magistrate Judges Association
2.	
3.	
4.	
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Shwartz, Patty

Date of Report

10/05/2011

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2009	Fordham University Law School - Teaching	\$5,000.00
2. 2010	Fordham University Law School - Teaching	\$5,000.00
3. 2011	Fordham University Law School - Teaching	\$5,000.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☒ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS *-- transportation, lodging, food, entertainment**(Includes those to spouse and dependent children; see pp. 23-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

Page 3 of 6

Name of Person Reporting

Shwartz, Patty

Date of Report

10/05/2011

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐ NONE *(No reportable gifts.)*

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. EXEMPT		
2.		
3.		
4.		
5.		

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☒ NONE *(No reportable liabilities.)*

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.		
2.		
3.		
4.		
5.		

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Shwartz, Patty

Date of Report

10/05/2011

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Columbia Bank Account & CD	B	Interest	M	T					
2. Hudson City Savings Bank Account & CD	B	Interest	M	T					
3. PNC Bank CD	A	Interest	K	T					
4. Bank of America NA CD	A	Interest	M	T					
5. Investor Savings Bank CDs (now Investors Bank)	B	Interest	M	T					
6. Amalgamated Bank CD	A	Interest	K	T					
7. Wachovia Bank NA Accounts (now Wells Fargo)	A	Interest	N	T					
8. Met Life MAX - 1A (Fixed Annuities)	A	Interest	K	T					
9. U.S. Savings Bonds		None	J	T					
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes.
(See Columns B1 and D4)

A = \$1,000 or less

F = \$50,001 - \$100,000

J = \$15,000 or less

N = \$250,001 - \$500,000

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

R = \$1,001 - \$2,500

G = \$100,001 - \$1,000,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)

V = Other

C = \$2,501 - \$5,000

H1 = \$1,000,001 - \$5,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

P4 = More than \$50,000,000

S = Assessment

W = Estimated

D = \$5,001 - \$15,000

H2 = More than \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

Page 5 of 6

Name of Person Reporting

Shwartz, Patty

Date of Report

10/03/2011

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Shwartz, Patty

Date of Report

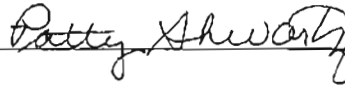
10/05/2011

IX. CERTIFICATION.

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

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

Signature



NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		995	210	Notes payable to banks-secured (auto)		7	612
U.S. Government securities-Series EE Bonds		1	300	Notes payable to banks-unsecured			
Listed securities				Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable			
Real estate owned – see schedule		479	167	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		35	000				
Cash value-life insurance							
Other assets itemize:							
Thrift Savings Plan		447	301				
MetLife MAX-1 A Fixed Annuity		18	692				
				Total liabilities		7	612
				Net Worth	1	969	058
Total Assets	1	976	670	Total liabilities and net worth	1	976	670
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Real Estate Owned

Personal residence	\$300,000
Family residence (1/3 ownership)	179,167
Total Real Estate Owned	<u>\$479,167</u>

AFFIDAVIT

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

October 4, 2011

(DATE)

Patty Shwartz

(NAME)

John Kevin Stone

(NOTARY)

JOHN KEVIN STONE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires ~~June 2, 2014~~
SEP. 13, 2015