UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Anthony Joseph Battaglia

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

   United States District Judge for the Southern District of California

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.

   940 Front Street
   Room 1145
   San Diego, California 92101

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

   1949; San Diego, California

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.

   1971-1974, California Western School of Law; J.D., 1974
   1969-1971, United States International University; B.A., 1971
   1967-1969, San Diego Mesa Junior College; no degree

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.

   1993-present
   United States District Court for the Southern District of California
   940 Front Street
   San Diego, California 92101
   United States Magistrate Judge

1991-1993
Battaglia, Fitzpatrick & Battaglia, A partnership of Professional Corporations
2550 Fifth Avenue
San Diego, California 92103
Attorney and Partner

1981-1991
Anthony J. Battaglia, A Professional Corporation
2550 Fifth Avenue, Suite 629
San Diego, California 92103
Attorney & Sole Proprietor

1980-1981
Anthony J. Battaglia Attorney at Law
1200 Third Avenue, Suite 1200
San Diego, California 92101
Attorney

1974-1980
Law Offices of John Marin
304 Kalmia Street
San Diego, California 92101
Attorney

1972-1974
Law Offices of Marinos & Styn
111 Elm Street, Suite 400
San Diego, California 92101
Law Clerk

1969-1974
Bank of America, Five Points Branch
1491 Hancock Street
San Diego, California 92103
Part-time Teller

Other Affiliations (uncompensated)

1999-present
Federal Magistrate Judges Association
c/o Hon. Tom Mummert, President
111 South 10th Street, Suite 13.156
St. Louis, Missouri 63102
Board of Directors (1999-present)
Immediate Past President (2009) / President (2008) / President Elect (2007)
Vice President (2006) / Treasurer (2005) / Secretary (2004)

1994-2004
San Diego County Judges Association
Hon. Adam Wertheimer, President
San Diego Superior Court, PO Box 12274
San Diego, California 92112
Board of Directors (1994-2004)
President (1997) / Vice President (1996) / Treasurer (1995)

1989-1992
San Diego County Bar Association
1333 7th Avenue
San Diego, California 92101
Board of Directors (1989-1992)
President (1992) / Vice President (1991) / Treasurer (1990)

1992-1993
San Diego County Law Library
1105 Front Street
San Diego, California 92101
Trustee

1992-1993
Law Library Justice Foundation
1105 Front Street
San Diego, California 92101
Trustee

1977-1993
San Diego Trial Lawyers Association
Consumer Attorneys of San Diego
3633 Camino del Rio South Ste 100
San Diego, California 92108
Board of Directors (1981-1988)
President (1987) / Vice President (1985-1986) / Secretary (1984)

1980-1993
California Trial Lawyers Association
770 L St, Ste 1200
Sacramento, California 95814
Board of Directors (1987-1988)

1980-1993
Say No to Drugs, Inc
4688 Alvarado Canyon Road
San Diego, California 92120
Trustee and Pro Bono Attorney

1989-1992
San Diego Volunteer Lawyers Program
625 Broadway, Suite 925
San Diego, California 92101
Board of Directors

1987-1990
San Diego Trial Lawyers Foundation
Consumer Attorneys of San Diego
3633 Camino del Rio South Ste 100
San Diego, California 92108
Chairman (1987-1988)
Secretary (1989-1990)

1980-1993
Scripps Ranch Old Pros
No physical address, contact by website and email
www.srop.org; jed@mediadirect.com
Board of Directors

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

   I have not served in the U.S. Military. I registered for selective service in 1967 upon turning 18 years of age.

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.

   Recognition for Service and Support of the San Diego Chapter, Federal Bar Association, 2006
   Outstanding Trial Lawyer Award, San Diego Trial Lawyers Association, 1992
   (for trial work in Kulick v. Hawthorne Rent It Service and Calavar Corporation, San Diego Superior Court, Case No. 61405)
   Distinguished Service Award, San Diego Volunteer Lawyer Program, 1992
   Recognition of Exceptional Service to the Building Operations Committee, San Diego County Bar Association, 1990
   Special Commendation for Outstanding Leadership, San Diego Trial Lawyers Association, 1982

   Law School Honors
   $1000 Academic Scholarship from the Phi Delta Phi Legal fraternity
   (for my second year of law school based upon my first year grades)

Bancroft-Whitney Award for the Trial Practice Course
Diane C. Gafford Trial Practice Award
American Jurisprudence Award for the Trial Practice Course
Dean's Award for Academic Achievement (multiple semesters)

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.

Judicial Conference of the United States, Magistrate Judge Observer to the Judicial Conference, Appointed by Chief Justice John Roberts (2009-2011)
    Ex officio member of the Judicial Conference of the United States Committee on the Magistrate Judges System and an invitee to the Ninth Circuit Conference of Chief District Judges
Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure, Appointed by Chief Justice William Rehnquist (2003-2006), Reappointed by Chief Justice John Roberts (2006-2009)
    Chair, Subcommittee on Preliminary Procedures
    Chair, Subcommittee on Rule 41
    Chair, Subcommittee on Search Warrants for Electronically Stored Information
    Member, Subcommittee on Rule 16
    Member, Subcommittee on Victims Rights Amendments
Administrative Office of the United States Courts, Magistrate Judges Advisory Group (2008-2010)
    Member, Rule 16 Special Subcommittee (2010)
    Member, Working Group on Pro Se Attorney Staffing Formula (2009)
    Ex-officio Member (2000-2008)
Ninth Circuit Executive Board of Magistrate Judges (2005-2009)
    Chair (2006-2008)
Magistrate Judge Observer to the Judicial Council of the Ninth Circuit (2006-2008)
San Diego County Judges Association (1994-present)
    Board of Directors (1994-2004)
    President (1997)
    Vice President (1996)
    Treasurer (1995)
    Committees on Education, Bylaws and Public Relations (1995)
Federal Magistrate Judges Association (1993-present)
    Board of Directors (1999-present)
    Immediate Past President (2009)
    President (2008)
    President Elect (2007)
    Vice President (2006)
    Treasurer (2005)
    Secretary (2004)
    Chair, Past Presidents' Committee (2009-2010)
        Nominations and Elections Committee (2009-2010)

Bylaws Committee (2006-2007)
Member, Budget Committee (2005-2009), Chair (2006-2008)
Member, Federal Rules Committee (1995-present), Chair (1996-2004)
Member, Annual Meeting Committee (2005-2009)
Host Committee and Co-Chair, Thirty Third Annual Convention (1995); and Thirty Ninth Annual Convention (2001)
Member, Diversity Committee (2000-2001)
Member, Special Projects Committee (2001-2002)

San Diego County Bar Association (1974-present)
- Board of Directors (1989-1992)
- President (1992)
- Vice President (1991)
- Treasurer (1990)
- Chair, Building Committee (2006-2007)
  - Communications Committee (1996-1997)
  - Commission on Long Range Planning (1994)
  - Building Subcommittee (1994)
  - Judicial Funding Committee (1993)
  - Subcommittee on Judicial Compensation (1993)
  - Task Force on Fairness (1992)
  - Lawyer Referral and Information Service Committee (1990-1992)
- Liaison, Federal Court Committee (1989-1991)
  - Municipal Court Committee (1990)
  - Judicial Relations Committee (1990)
- Member, Courthouse Funding Committee (1991-1992)
  - Subcommittees on Settlement Conferences and Fast Track Monitoring (1988-1989)
  - Judicial Evaluation (1988)
  - Bench-Bar "Fast-Track" (1987-1989)
  - Committees on Arbitration (1980-1984)
  - Subcommittee on Trial Continuances (1987)

Federal Bar Association, Judicial Member (1994-present)
- Member, Advisory Board of the San Diego Chapter (2001-present)

San Diego Trial Lawyers Association (1977-1993)
- Board of Directors (1981-1988)
- President (1987)
- Vice President (1985-1986)
- Secretary (1984)
- Chair, Education Committee (1986)
  - Attorney Referral Service (1982-1985)
  - Lawyers Round Table (1982-1984)
  - Membership Committee (1981-1984)
- Numerous Committee Memberships (1981-1989)

San Diego Trial Lawyers Foundation (1987-1990)
- Chairman (1987-1988)
- Secretary (1989-1990)

California Trial Lawyers Association (1981-1993)
Board of Directors (1987-1988)
Member, Committee on Long Range Planning (1987)
San Diego Volunteer Lawyers Program
Board of Directors (1989-1992)
Executive Committee (1989-1991)
Ninth Circuit Judicial Conference
Lawyer Delegate for Southern District of California (1992-1993)
San Diego County Law Library Board of Trustees (1992-1993)
Vice President (1993)
Law Library Justice Foundation Trustees (1992-1993)
State Bar Local Committee on Professionalism and Public Action (1988)
American Bar Association (1974-present)
Member, Judicial Administration Division (1995-present)
Association of Trial Lawyers of America (1977-present)
Judicial Member (1993-present)
Maritime Law Association (1983-present)
Granted Proctor status (1993)
National Conference of Bar Presidents (1991-1993)
California Association of Local Bars, Executive Committee (1991-1992)
Advisory Panel to University of California Extension Program, Paralegal Certification Program for Advanced Litigation Support
Member, (2009-present)

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.

California, 1974

There has been no lapse in my membership. Under California law, a person serving as a judge of a court of record is not considered to be a member of the State Bar while in office.

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.

Supreme Court of the United States, 1980
United States Circuit Court of Appeals for the Ninth Circuit, 1984
United States District Court for the District of Arizona, 1990
United States District Court for the Central District Court of California, 1983
United States District Court for the Southern District of California, 1974
Supreme Court of California, 1974

There has been no lapse in my memberships. I have not appeared as counsel in these courts since my appointment as a judge on November 15, 1993. Under California law, a person serving as a judge of a court of record is not considered to be a member of the State Bar while in office.

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.

Scripps Ranch Old Pros (1980-1993)
    Board of Directors (1980-1983)
Scripps Ranch Soccer Club, Youth Soccer Coach (1989-2000)
All Saints Episcopal School (1994-1995)
    Parents Advisory Association

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.

The Scripps Ranch Old Pros is a men's fraternal organization. It operated in conjunction with the Women's Athletic Club in Scripps Ranch to sponsor adult athletic leagues, Men's, Women's and Co-ed, as well as social events. I cancelled my membership in 1993 at the time of my appointment to the federal judiciary to avoid any appearance of impropriety. I took no direct steps to change the membership policy during my association with the organization.

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.

The Path to Success in Motion Practice, San Diego County Bar Association, Young/New Lawyer Division newsletter, FOR THE RECORD; Scheduled for publication in February or May, 2010

Letters to the Editor, American Bar Association, ABA Journal, October 2009. A comment about an article on the "25 Greatest Legal TV Shows"

From the President, Federal Magistrate Judge Association, THE BULLETIN, October 2008, March 2009, and May 2009

Basic Rules of the Interrelationship between Federal and State Law under the Assimilative Crimes Act, Ninth Circuit Magistrate Judges Pretrial & Misdemeanor Sentencing Institute, San Diego, California, November 5, 2008

The Purpose of the Petty Offense Exception of 18 U.S.C. § 3561(a)(3), Ninth Circuit Magistrate Judges Pretrial & Misdemeanor Sentencing Institute, San Diego, California, November 5, 2008; republication pending, THE BULLETIN, Federal Magistrate Judges Association, Spring 2010

Pretrial Release and Supervision of Sex Crime Defendants, Ninth Circuit Magistrate Judges Pretrial & Misdemeanor Sentencing Institute, San Diego, California, November 5, 2008; republished by THE BULLETIN, Federal Magistrate Judges Association, May 2009

Navigating the Intersection of the Speedy Trial Act and the Medical Competency Statutes, Ninth Circuit Magistrate Judges Pretrial & Misdemeanor Sentencing Institute, San Diego, California, November 5, 2008; republished, THE BULLETIN, Federal Magistrate Judges Association, March 2009

Standards of Review and Burden of Proof Outline, United States Court of Appeals for the Ninth Circuit, published online (internal) May 2008

Surviving E-discovery: Rules and Realities, ABTL Report, Vol. XV, No. 1, Association of Business Trial Lawyers, San Diego Chapter, March 2008

What's Up With Dues? THE BULLETIN, Federal Magistrate Judges Association, June, 2007 (a financial status report on the Association regarding dues)

Sex, Lies & Magistrate Judges: Common Misconceptions in the Federal Judiciary, FEDERAL LAWYER, Vol. 54, No. 5, Federal Bar Association, June 2007

Settling Cases in Federal Court: A Summary of Issues, Seminar Syllabus, Ninth Circuit Judicial Conference, New Judge Orientation, Panel Discussion on Substantive Issues Effecting Settlement, San Francisco, California. May 4, 2007; updated and republished as syllabus for Panel on "Rules of the Road in ENE's," Federal Bar Association, Fifth Annual Judith N. Keep Civil Practice Seminar, San Diego, California, September 24, 2009

2006 To Bring High Tech Changes to Rule 41, THE BULLETIN, Vol. 32, No. 1, Federal Magistrate Judges Association, June 2006

Dealing with Electronically Stored Information: Preservation, Production, Privilege, FEDERAL LAWYER, Vol. 53, No. 4, Federal Bar Association, May 2006

What is it About the Meet and Confer Process That You Don't Understand? (Resolving Discovery Disputes in the Southern District of California), San Diego Chapter Newsletter, Federal Bar Association, Summer 2005

A Victim's Right to Notice and to be Heard, The Justice for All Act of 2004, THE BULLETIN, Vol. 31, No. 2, Federal Magistrate Judges Association, June 2005

The Federalization of Class Actions Cases, co-authored with the Hon. Jan M. Adler, ABTL Report, Vol. XII, No. 2, Association of Business Trial Lawyers, San Diego Chapter, May 2005

Sneak and Peek Warrants Under the USA Patriot Act, THE BULLETIN, Vol. 30, No. 1, Federal Magistrate Judges Association, Nov. 2003

Class Action Rules Poised for Change, San Diego Chapter Newsletter, Federal Bar Association, Fall 2003

When Can You Keep a Secret? Protective Orders and Sealed Documents in Federal Court, San Diego Chapter Newsletter, Federal Bar Association, Summer, 2003

A Guide to Initial Criminal Proceedings Under the Amended Federal Rules of Criminal Procedure, San Diego Chapter News Letter, Federal Bar Association Summer 2002; republished in THE BULLETIN, Vol. 29, No. 2, Federal Magistrate Judges Association, March 2003

Operations Manual for the Central Violations Bureau Docket, Bench book, Honorable Louisa S. Porter, United States Magistrate Judge (1994) (after its production in 1994, I took over responsibility for its continued editing, reorganization and republication of updates. I have produced revisions in 1998, 2000, 2002 and 2003)

Bench Book on Settlement of Claims Involving Minor's and Incompetents, August 1999 (this Bench Book was published for the use of the judges of the U.S. District Court for the Southern District of California. The most recent edition is November 2006)

Protective Orders and Sealed Documents in Federal Court, The Federal Bar Association San Diego Chapter, Program Syllabus, Oct. 2002

Expanded Contempt Authority for Magistrate Judges, San Diego Chapter Newsletter, Federal Bar Association, Fall 2001

Disclosure and Discovery under the Federal Rules of Civil Procedure, Federal Bar Association Seminar Syllabus, Oct. 2001; current edition is January, 2010

The Appropriate Remedy for Rule 5 Violations, THE BULLETIN, Vol. 27, No. 3, Federal Magistrate Judges Association, June 2001

Trial Before Magistrate Judge - A Sometimes Overlooked Resource, Trial Bar News, Vol. 24, No. 4, April 2001 (republication)

Recurring Issues At Detention Hearings, THE BULLETIN, Vol. 27, No. 1. Federal Magistrate Judges Association, Nov. 2000

The Impact of the Y2K Discovery Amendments on the Southern District of California, San Diego County Bar Association, Association of Business Trial Lawyers and Federal Bar Association Seminar Syllabus, September 2000

Consent Jurisdiction on Specific Issues, Ninth Circuit Magistrate Judges' Executive Board/Liaison Committee Newsletter, Summer 1995.

Enforcement of Settlement in Federal Court, DICTA, Vol. XLII, No.2, Feb. 1995

Trial Before Magistrate Judge - A Sometimes Overlooked Resource, DICTA, Vol. XLI, No. 5, May 1994

Presidents Column, San Diego County Bar Association Bar Briefs Newsletter, Jan. and Feb. 1992

President's Page, San Diego County Bar Association DICTA, Vol. XXXVIIII, Nos. 1-12, inclusive, 1992

U.S. Court of Appeals says Finders Keepers--Not! LOS ANGELES DAILY JOURNAL, practitioner's column, October 29, 1992; republished in THE SAN DIEGO COMMERCE, October 30, 1992; THE SAN FRANCISCO DAILY JOURNAL, November 9, 1992; THE WASHINGTON JOURNAL, November 9, 1992

Celebrate Our Law, Our Rights and Our Courts, SAN DIEGO DAILY TRANSCRIPT, May 1, 1992

The Rights of Injured Workers, Metal Trades People, 1991 Edition

Deposition of the Rehabilitation Specialist, California Trial Lawyers Association, 29th Annual Convention Program Syllabus, Nov. 1990

Gross Income As The Basis Of Economic Loss In Personal Injury Cases, TRIAL BAR NEWS, Vol. XI, No. 6, July 1988

President's Column, TRIAL BAR NEWS, Vol. X, Nos. 1-10, inclusive, 1987

Round Table Review, TRIAL BAR NEWS, April, May, August, September, October, November, 1983; January, February, 1984.

Maritime Personal Injury, TRIAL BAR NEWS, Vol. IV, No. 4, April 1981

The list of writings above includes all those that I was able to locate after diligent review of my records and online searches. Still, there may be other publications I have not been able to identify.

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

I have served as an officer and on committees of many bar associations during the last two decades. I have not retained nor have I been able to recreate a list of all reports produced by these organizations. All of the business, discussion and reports are contained in the meeting minutes of these associations, where they are archived. All of these associations have been identified in this questionnaire and contact information has been provided. The list below includes reports, memoranda, and policy statements that I personally prepared or contributed to that I have been able to identify and have copies to provide.

President's Message, Federal Magistrate Judges Website, Posted January to July, 2009

Program Announcement as Chair of the Magistrate Judges Executive Board on Ninth Circuit Website, Oct. 28, 2008
Letter to the Federal Magistrate Judges Membership, Oct. 23, 2008
Letter to the Federal Magistrate Judges Membership, March 16, 2009

From 2003 to 2009 I was on the Criminal Rules Advisory Committee. I Chaired the Subcommittees on Technology, Preliminary Procedures, Rule 41 and Search Warrants for Electronically Stored Information. I also served on almost every other subcommittee since I was the only magistrate judge on the Committee.

I have a few, but not all, of the memos I personally approved and I have supplied copies of those I possess. I also offered suggestions and revisions in the preparation of many memos and reports of the Committee which are part of the official records of Criminal Rules Advisory Committee. I could not reconstruct, nor do I have copies of, the many memos or reports where I offered suggested language or revision. The official records are maintained at the Rules Support Office of the AOUSC at the address below. These records are also available on the Judiciary website, www.uscourts.gov under the Federal Rules of Procedure tab and in the files of the Administrative Office of the United States Courts at Thurgood Marshall Federal Judiciary Building, One Columbus Circle, Washington, D.C. 20002-8003 in the Rules Support Office, Fourth Floor. What I have retained in my records, I provide as follows:

Memorandum from the Subcommittee on Technology to the Criminal Rules Advisory Committee, Feb. 23, 2009
Memorandum: Proposed Rule 41 Amendments: searches for electronic stored information, March 12, 2007
Memorandum on Possible Amendments to Rules 32.1 and 46 - Follow up, Feb. 16, 2007
Memorandum: The Next Step, Oct. 18, 2006
Memorandum: Possible Amendments to Rule 32.1 and 46, Oct. 5, 2006
Criminal Rules Sub-Committee Telephone Conference Agenda, Feb. 3, 2004

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.

None that I have been able to identify.

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.

Very few of my speeches or talks were recorded or transcribed. I usually speak from an article that I wrote without other notes or I transform my notes into an article after the talk and dispose of the notes. I have listed and supplied all of these articles in response to Question 12a. In recent years, I have used PowerPoint slides as outlines. These PowerPoint slides are referenced below and copies are supplied. A number of my talks were as part of a panel where no notes or PowerPoint slides were used and the discussion comprised an ad hoc give and take with other panelists or in response to audience questions. I have searched and contacted others involved in the various programs and have obtained the PowerPoint presentations not otherwise in my records. The lists and materials provided are as complete as I can make them, but I will continue to search and supplement this questionnaire should I discover anything else. Educational programs make up the bulk of all my speeches and talks. These are listed in detail below by group and date. If a tape exists, it is noted and supplied. Typically, the programs do not tape because the expense outweighs the after-market demand for the program.

Association of Business Trial Lawyers, 1050 Rosecrans Street, Suite B,
San Diego, California 92106
Panelist, "Navigating E-Discovery Disputes in the Southern District of California," San Diego, California (June 19, 2009)
Panelist, "E: Discovery," Napa, California (Oct 7, 2007)
Civil Practice Before Magistrate Judges (June 7, 1999)
Panelist, "The Inside View of Practice Before the Federal Magistrates," "Consent Trials by Magistrate Judge," San Diego, California (Oct. 17, 1994)

California Trial Lawyers Association, now Consumer Attorneys of California
770 L St, Ste 1200 Sacramento, California 95814
29th Annual Convention, Case Winning Deposition Strategies, "Rehabilitation Specialists" (Nov. 9, 1990)
Moderator, "A Day In Court" (Jan. 24, 1987)
A Day In Court, "Discovery in Civil Cases" (March 3, 1984)

California Western School of Law, 350 Cedar Street, San Diego, California 92101
Guest Lecturer, Pre Trial Practice Course, "Motion Practice and Discovery Disputes," San Diego, California (Nov. 5, 2009)
Transition to Practice Program, "Courthouse Policy-Filing and Procedural Practice" San Diego, California (Sept. 30, 2009)
Guest Lecturer, Pre Trial Practice Class, "Motion Practice, Briefing and Oral Argument," San Diego, California (Jan. 5, 2009)

Transition to Practice Program, "Courthouse Policy- Filing and Procedural Practice" San Diego, California (Oct. 7, 2008)

Federal Bar Association c/o Edward G. Fates, Allen Matkins et al LLP, 501 W. Broadway, 15th Floor, San Diego, California, 92101

Fifth Annual Judith N. Keep Civil Practice Seminar Program Chair and Panel Moderator, "Riding Down Rule 56" San Diego, California (Sept. 24 2009) PowerPoint attached.

Criminal Pretrial Issues Panel, Program Chair and Speaker, Magistrate Judge Criminal Jurisdiction," San Diego, California (Oct. 7, 2008)

Fourth Annual Judith N. Keep Civil Practice Seminar, Program Chair and Panelist, "Discovery: Selected Issues Concerning the Attorney Client Privilege," San Diego, California (Sept. 18, 2008) PowerPoint attached.

Third Annual Judith N. Keep Civil Practice Seminar, Program Chair and Moderator of Panel, "Experts: Can't Live With Them, Can't Live Without Them!" San Diego, California (Sept. 27 2007)

Second Annual Judith N. Keep Civil Practice Seminar, Program Chair and Moderator of Panel, "CAFA- The Evolving Jurisprudence." San Diego, California (September 29, 2006)

The Judith N. Keep Federal Civil Practice Seminar, "Handling Discovery Disputes," San Diego, California (Sept. 23, 2005)

"Civil Settlements, Tips From Magistrate Judges," San Diego, California (Nov. 4 2004)

Magistrate Judges Criminal Law Forum, "Magistrate Judge Jurisdiction and Title," San Diego, California (April 28, 2004)

"Changes in Class Action Practice Under Rule 23: What You Need to Know," San Diego, California (Nov. 13, 2003) PowerPoint attached.

"Keys to the 2002 Amendments of the Federal Rules of Criminal Procedure," San Diego, California (Jan. 22, 2003)

"When Can You Keep a Secret? Developments in Protective Order Practice in Federal and State Courts," San Diego, California (Oct. 30, 2002)

U.S. Magistrate Judges Forum On Policy, Procedure and Recent Developments, "Pending Changes To The Federal Rules of Criminal Procedure" (March 14, 2002)

"Disclosure and Discovery Under New Rule 26: What Every Practitioner Should Know," San Diego, California (Oct. 25, 2001)

Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, One Columbus Cir NE, Washington DC 20002-8003

Workshop for United States Magistrate Judges, "Criminal Law Issues: Proposed Changes to Rule 41 on Searches for Electronically Stored Information," Seattle, Washington (July 10, 2008) PowerPoint attached.

Workshop for United States Magistrate Judges, “Criminal Law Issues: Proposed Changes to Rule 41 on Searches for Electronically Stored Information,” Memphis, Tennessee (April 6, 2008) PowerPoint attached.

Workshop for United States Magistrate Judges, “Immigration Issues,” Orlando, Florida (July 6, 2005)

Workshop for United States Magistrate Judges, “Discovery and Rule 26,” Minneapolis, Minnesota (June 12, 2002)

Workshop for United States Magistrate Judges, “Discovery and Rule 26,” San Diego, California (April 8, 2002)

Workshop for United States Magistrate Judges, “Recent Amendments to Rule 26,” San Diego, California (July 23, 2001)

Workshop for United States Magistrate Judges, Special Bond and Detention Issues. Border Court Issues,” Albuquerque, New Mexico (Sept. 19, 2000)

Workshop for United States Magistrate Judges, “Border Court Issues,” Portland, Oregon (July 27, 2000)

Ninth Circuit Conference, James R. Browning U.S. Courthouse, 95 Seventh Street, San Francisco, CA 94103

Ninth Circuit Pro Se Conference, “New Pro Se Attorney Allotment Formula,” San Diego, California (Sept. 10, 2009) PowerPoint attached.

Ninth Circuit Judicial Conference, Magistrate Judge Conference, Annual Meeting, "New Time Computation Rules," Monterey, California (July 20, 2009) PowerPoint Attached.

Ninth Circuit Magistrate Judges Pretrial & Misdemeanor Sentencing Institute, Program Chair, Moderator and Speaker, “The Psychology and Supervision of the Sex Offender,” San Diego, California (Nov. 5-7, 2008). PowerPoint attached.

Ninth Circuit Judicial Conference, Magistrate Judges Education Committee, Moderator of Panel Discussion, “Lei’ing Down the Law on eDiscovery,” Honolulu, Hawaii (July 16, 2007). PowerPoint attached.

Ninth Circuit Judicial Conference, New Judge Orientation, Moderator of Panel Discussion on Substantive Issues Effecting Settlement, San Francisco, California (May 4, 2007)

Ninth Circuit Magistrate Judge Executive Board, “Sex, Lies and Magistrate Judges,” Huntington Beach, California (July 13, 2006). PowerPoint attached.

San Diego County Bar Association, 2333 Seventh Avenue, San Diego, California 92101

Labor and Employment Law Section Program on Electronically Stored Information (ESI), “Preservation and Production Under the New Rules,” San Diego, California (Nov. 15, 2006)

PowerPoint attached.

San Diego County Bar Association and West Publishing, "Advice From the Experts: Successful Strategies for Winning Commercial Cases in Federal Courts," San Diego, California (April 20, 2002)

"Impact of Amendments to Discovery and Disclosure Rules on the Southern District of California" (Sept. 20, 2000) (This program was videotaped but I have been unable to obtain a copy.)

Bridging the Gap, "Practice in Federal Court," San Diego, California (Dec. 18, 2003)

Bridging the Gap, "Practice in Federal Court," San Diego, California (June 23, 1999)

San Diego County Bar Association Task Force on Diversity, "Eliminating Bias in the Legal Profession" San Diego, California (Jan. 25, 1996)

Bridging The Gap, "Personal Injury Practice," San Diego, California (Dec. 14 1989)

Bridging The Gap, "Personal Injury Practice" San Diego, California (June 9, 1989)

Bridging The Gap, "Personal Injury Practice," San Diego, California (Dec. 14, 1988)

Bridging The Gap, "Personal Injury Practice" San Diego, California (Dec. 16, 1987)

Bridging The Gap, "Personal Injury Practice," San Diego, California (June 19, 1987)

San Diego County Bar Association, Worker's Compensation Section, "Maritime - Seaman's Status and Claim," San Diego, California (Oct. 8, 1985)

San Diego Trial Lawyers Association, now the Consumer Attorneys of San Diego
3633 Camino Del Rio South, Suite 100, San Diego, California 92108

Class Action Symposium, "Early Management of Class Action Cases in Federal Court," and Panelist, "Class Certification, What Works, What Doesn't," San Diego, California (Oct. 24, 2009). Power Point attached.

Co-Chairman and Speaker, Presenting and Proving the Chiropractic Case, "The Plaintiff's Case," San Diego, California (Feb. 7, 1991)

Peoples Law School, Lecturer, "Personal Injury Law" (May 1, 1989)

Peoples Law School, Lecturer, "Personal Injury Law" (Nov. 1, 1988)

Proof of Economic Loss After Prop. 51, "Retroactivity of Prop. 51; Case Law Precedents for Economic and Non Economic Losses" San Diego, California (Sept. 20, 1986)

Medical Proof and Evidence, "Demonstrative Evidence," San Diego, California (Feb. 22, 1986) (the tape is produced)

Moderator, "Soft Tissue Injuries, Initial Work Up To Advanced Studies," San Diego, California (May 11, 1985)

Lawyers Roundtable, "Demonstrative Evidence," San Diego, California (Jan. 18, 1984)

Lawyers Roundtable, "Motions in Limine," San Diego, California (Oct. 19, 1983)
Potpourri of Current Trial Law, "Railroad Liability," San Diego, California (Sept. 24, 1983)

State Bar of California, 180 Howard Street, San Francisco, California 94105
State Bar of California, Association of Business Trial Lawyers of San Diego and Federal Bar Association, "The Federalization of Class Actions: The Class Action Fairness Act," San Diego, California (June 16, 2005). PowerPoint attached.
Employment Law Litigation Section, "Mediating Class Action Claims in Federal Court," San Diego, California (Oct. 11, 2003)
Litigation Section of the State Bar of California and the Association of Business Trial Lawyers of San Diego Bench/Bar Brown Bag Luncheon, "Surviving E-Discovery: A Discussion of the Rules and Realities of Federal Discovery," San Diego, California (Jan. 24, 2008). PowerPoint attached.

Thomas Jefferson School of Law, 2121 San Diego Avenue, San Diego, California 92110-2986
Guest Lecturer, Civil Procedure Class on "Case Management and Discovery" San Diego, California (2006)
Guest Lecturer, Civil Procedure Class on "Case Management and Discovery" San Diego, California (2007)
Guest Lecturer, Civil Procedure Class on "Case Management and Discovery" San Diego, California (2010)

University of California San Diego, 9500 Gilman Dr., La Jolla, CA 92093
Guest Lecturer, Legal Nurse Consulting Class, Testifying As An Expert Witness," San Diego, California (June 9, 1995)

University of San Diego School of Law, 5998 Alcalá Park, San Diego, California, 92110
Guest Lecturer, International Criminal Law Class, "International Extradition", San Diego, California (March 1998)
Guest Lecturer, Trial Practice Class, "Closing Argument," San Diego, California (1999)

U.S. District Court and Federal Defenders, 940 Front Street, San Diego, California 92101 and 225 Broadway San Diego, CA 92101-5030
1999 Criminal Justice Act Seminar, "Criminal Defense Before Magistrate Judges; Bail issues, felony pleas and juvenile proceedings," San Diego, California (June 15, 1999)
1996 Criminal Justice Act Seminar, "Magistrates' Perspective, Setting Bail, Detention Hearing Procedures and Sentencing Policies,"

San Diego, California (June 11, 1996)

1995 Criminal Justice Act Seminar, "Setting Bail in the Southern District of California," San Diego, California (June 13, 1995)

1994 Criminal Justice Act Seminar, "Federal Magistrates Perspective, Detention Hearings, and Sentencing Options," San Diego, California (June 7, 1994)

United States District Court, 940 Front Street, San Diego, California 92101

United States District Court, Southern District Conference, "Y2K Amendments To The Federal Rules," San Diego, California (March 9, 2000)

United States District Court, Southern District Conference, "Protective Orders and Settlement Secrecy Issues," San Diego, California (March 21, 2003)

United States District Court, Southern District Conference, "New Class Action Rules," San Diego, California (May 6, 2005). PowerPoint attached.

United States District Court, Southern District of California, Naturalization Proceeding Welcoming Remarks July 2, 2009; March 19, 2008; April 13, 2006; September 17, 2004; September 27, 2003; September 17, 2002; June 6, 2001; June 29, 2000; May 11, 2000; August 25, 1999; June 26, 1997; March 14, 1997; November 22, 1996; September 6, 1996; May 17, 1996; January 12, 1996; September 7, 1995; June 2, 1995; March 3, 1995; October 7, 1994; September 23, 1994 and July 22, 1994. Attached are copies of three versions of my speech.

Other Educational Lectures/Seminars

ALI-ABA Telephonic Seminar, 4025 Chestnut Street Philadelphia, PA 19104

"New Federal Time Computation Rules," San Diego, California (Nov. 19, 2009) (Rebroadcast Jan. 27, 2010)

Legal-Tech West120 Broadway, 5th Floor, New York, NY 10271

Panelist, "May it Please the Court...Defending a Search and Production Protocol-A Trial Technology Experience," Los Angeles, California (June 25, 2009)

San Diego Intellectual Property Law Association, Magistrate Judge Panel

c/o Jessica S. Mitchell, 858-792-3446,
jessicamitchell@sandiegoiplaw.com

Discussion on Intellectual Property Issues, "Dealing with Local Rules, Settlement & ESI," San Diego, California (Feb. 26, 2009)

Legal Reprographics, Inc., 110 West C Street San Diego, California 92101-3909

Panel, "A Day in the Life of an e-Discovery Case," San Diego, California (May 15, 2007)

The Sedona Conference, 5150 N. 16th St., Suite A-215 Phoenix, AZ 85016

WG1 Fifth Annual Meeting, "Judges Roundtable:

The New Rules, State and Federal Coordination and The Sedona Principles," San Diego, California (Nov. 3, 2006)

American Bar Association, Committee on Corporate Counsel, Litigation CLE
321 N. Clark Street, Chicago, Il 60610
Seminar Panelist, "Preservation Practices - The Real Challenge for In-House Counsel;" "Proposed Federal Rules for E:Discovery: What Should We Expect?" San Diego, California (Feb. 16, 2006)

American Inns of Court - Louis M. Welsh Chapter, c/o President, Hon. Janis L. Sammartino, United States District Court, Southern District of California, 940 Front Street, San Diego, California 92101
"The New Class Action Fairness Act," San Diego, California (Sept. 15 2005)

San Diego Legal Secretaries Association, c/o Michelle D. Tice (858) 523-6260, SDLSAprez@gmail.com
Membership Meeting, "Federal Rules and Procedures," San Diego, California (Feb. 24, 2003)

Office of Legal Education, Executive Office for United States Attorneys, c/o United States Attorneys Office, Southern District of California, 92101.
Dispute Resolution/Enhanced Negotiation Seminar, "Early Neutral Evaluation Conferences and Settlement Conferences" (March 10, 1998)

Western State University, College of Law, Now Thomas Jefferson School of Law, 2121 San Diego Avenue, San Diego, CA 92110-2986
Practice in Federal Court, "Initial Proceedings in Civil and Criminal Cases" (Oct. 21, 1994)

County Industrial Medical Group, "Handling Worker's Claims" (Nov. 2, 1987)
This organization has been out of business since approximately 1990. When it was in operation it was located at 2918 Fifth Avenue, San Diego, California 92103

In addition, I have given non-educational speeches or presentations which were recorded and I am providing digital files with this questionnaire, as follow:

"Installation Speech" as new President of the San Diego Trial Lawyers Association, San Diego California (Jan. 22, 1987)

Acceptance speech in receiving an Outstanding Trial Lawyer Award from the San Diego Trial Lawyers Association, San Diego, California (June 25, 1992)

"Outgoing Speech" as President of the San Diego Trial Lawyers Association, San Diego, California (Jan. 14, 1988)

I also presided over dinner meetings of the San Diego Trial Lawyers Association on 2/26, 3/19, 6/25, 11/2 and 12/2/1987. I acted as the equivalent of a Master of Ceremonies.

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.

I have been interviewed or quoted on a variety of occasions by the newsprint media in connection with articles they have published. I have searched my files, the Internet, and online databases to assemble as complete a list of these interviews as possible. I have listed by publication and supplied clips for all such interviews I could identify, though there may be others I was unable to find.

CALIFORNIA WESTERN NEWS,
"Battaglia Elected Bar President", Fall-Winter 1991-1992,
CORONADO JOURNAL,
"Demonstration at NASNI shows drinking, driving don't mix," May 7, 1992,
LOS ANGELES DAILY JOURNAL,
"San Diego First On Fast Track For Civil Cases," September 7, 1987;
"With Start of 1988, Attorneys Resolve To Speed Up Trials," December 30, 1987;
"Can Do Attitude Served Magistrate Judge Well Throughout His Career" April 2, 1997;
"Judges, Lawyers Aid Veterans' Program," July 16, 1992;
"Among His Peers" April 10, 1997;
"Grounded in the Law," July 8, 1997;
"Early Calling," July 14, 2009.
LOS ANGELES TIMES,
"Mediation Proves Its Case at Superior Court," March 12, 1991;
SAN DIEGO BACK COUNTRY TRADER,
"Making a case for the *real* people's court," December 10, 1991
SAN DIEGO COMMERCE,
"SDVLP making a comeback," November 24, 1992
SAN DIEGO DAILY TRANSCRIPT
"Fisherman Settles: Got $1 Million," July 11, 1983;
"Arguelles Seen As Hard Working, Low Key, Moderate," February 25, 1987;
"The Whole Court: Convictions Will Stand More Often," March 2, 1987;
"Lewis To Leave Bench And Join Latham Watkins," March 13, 1987;
"Bailey Sets Sights On Legal 'Top Gun' School," March 23, 1987;
"County Bar Directors OK $886,000 Budget For 1991," 1990;
"County Bar Votes To Favor Prop. 115 On June's Ballot," May 3, 1990;
"Law Briefs," Unknown date in 1991-92;
"Bar Fence-Sits On Phone Toll Plan For Court," Summer 1991;
"The Local Scene," July 15, 1991;
"Battaglia Still Enjoys His Baseball Days," July 17, 1991;
"What is Research On Attorney's Worth?" March 11, 1992;
"County Bar, Rutter Group To Part Ways," March 18, 1992;
"County Bar Focuses On Women Lawyers," March 25, 1992;

"Law Briefs," May 1992;
"Law Briefs," May 13, 1992;
"Law Briefs," May 22, 1992;
"Law Briefs," September 23, 1992;
"Local Scene," September 24, 1992;
"Law Briefs," October 7, 1992;
"Attorney Learns He's Not Dealing With An Attorney,"
November 6, 1992;
"Anthony Battaglia Takes To The Bench For Retiring McCue,"
November 16, 1993;
"Local Scene-Dicta Magazine," June 3, 1996;

SAN DIEGO LOG,
"Million-dollar Award Given To Fisherman," July 15, 1983;

SAN DIEGO UNION TRIBUNE,
"Fisherman Settles For $1 Million," Morning Edition, July 2, 1983;
"Fisherman settles suit for million," Evening Edition, July 2, 1983
"Law school here seeks program on court skills," May 15, 1987;
"They soared to profession's heights, overcame sexism," May 26, 1992;
"New citizens beam with pride," September 18, 2004.

THE DAILY CALIFORNIAN,
"True-blue American," September 8, 1995.

I have been interviewed or have spoke on television four times that I recall. I have video of two of programs:

Administrative Office of the United States Courts Program "In Camera", a panel discussion the 40th anniversary of the Magistrate Judges System. October 2008. I spoke as President of the Federal Magistrate Judges Association. A video copy is supplied.

KPBS San Diego Public Television Program, "Crisis in the Courts" 1992 panel discussion on the state of the legal profession. I spoke as President of the San Diego County Bar Association. A video copy is supplied.

I do not have a tape of my 1992 appearance on the "Roger Hedgecock Television Show," on Station KNSD in San Diego. This was a panel discussion on the legal profession. KNSD was owned by Gillet Communications at the time. It went into bankruptcy in 1992, has sold several times and is now the NBC affiliate in San Diego operating as Channel 7/39 located at 225 Broadway, San Diego, CA, 92101.

I also spoke at a program titled "The Justice System: What's in it for Me?" on April 28, 1992. It was televised by Cox Cable Channel 4, San Diego. I do not have a copy of the video. I do have a copy of the program brochure and a copy of that is provided. Cox Cable Channel 4 San Diego is owned and operated by Cox Communications, located at 5159 Federal Blvd, San Diego, CA 92105.

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.

On November 15, 1993, I was appointed a United States Magistrate Judge of the United States District Court for the Southern District of California for an eight-year term. I was reappointed to that office for a second eight-year term on November 15, 2001, and reappointed for a third eight-year term November 15, 2009. The Court has jurisdiction over federal criminal offenses and federal civil claims.

Approximately how many cases have you presided over that have gone to verdict or judgment?

I have tried 23 cases to verdict or judgment.

i. Of these, approximately what percent were:

jury trials:	30%
bench trials:	70%
civil proceedings:	95%
criminal proceedings:	5%

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

See attached list of opinions and orders.

b. 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).

(1) Sesi v. Signal Landmark aka Coronado Landmark, et al., U.S. District Ct., So. Dist. of Cal., Case No. 91cv1057 B. This was an action for injunctive relief and damages related to the dumping of hazardous waste on a significant number of acres in Otay Mesa. Federal and state claims were alleged. Prior to assignment of the case to me, plaintiff had settled with Signal Landmark and the City of Coronado and the funds were placed in a Court supervised account. I assumed supervision of the court fund and continue to monitor the parties' efforts to clean up the property. I actively managed the case with regard to the remaining claims of plaintiffs against Signal Landmark, the City of Coronado, and 17 independent truckers who were involved with the placement of various substances on the premises allegedly leading to the hazardous contamination. Through years of negotiation, including coverage issues with defendants' insurers, these cases were ultimately settled. This case also generated two other lawsuits, Sesi v. Prudential

and Maryland Casualty v. Sesi related to coverage disputes, and mortgage interests in the properties and in the settlement funds deposited with the Court. These matters were also resolved by court-supervised settlements. There are no particular orders or judgments that reflect the significance of this case. The case is significant because of the volume of issues, parties and related litigation that was settled without expensive litigation or extended trial and motion proceedings. In fact, I still oversee the cleanup of the toxic waste efforts and periodically approve payment requests for ground water monitoring and site up keep under continuing jurisdiction agreed to by the parties. These requests are paid through funds held in trust by the district court.

Plaintiffs' counsel: Richard Opper, 225 Broadway, Suite 1900, San Diego, California 92101, (619) 231-5858; Charles Hoge, 350 10th Avenue, San Diego, CA 92101, (619) 231-8666; Donald McGrath, 3368 Governor Drive, Suite 223 F, San Diego, CA 92122, (619) 990-7788.

Defense counsel: Barry Sandals, deceased; Steven T. Erb, 11440 West Bernardo Court, Suite 204, San Diego, CA 92127-1643, (858) 487-2728; R. Michael Jordan, 1320 Columbia Street, Suite 200, San Diego, CA 92101,(858) 626-2770; William L. Fischbeck, 5464 Grossmont Center Drive, Third Floor, La Mesa, CA 91942-3035, (619) 464-1200; W. Patrick Grimm, 550 West C Street, Suite 1100, San Diego, CA 92101-3532, (619) 231-8802.

(2) Sena v. General Dynamics Corporation, U.S. District Ct., So. Dist. of Cal., Case No. 91cv0965 B. This was a class action claim filed under the Federal Fair Labor Standards Act and the California and Arizona Labor Codes by and on behalf of salaried employees of General Dynamics who alleged that they were not paid overtime but were docked for absences of less than one day in violation of the law. The class involved a potential 18,000 members. Eleven hundred were eventually joined and the claims administered and settled. In addition to management and oversight of the process of the case and settlement, I was referred the issue of plaintiffs' counsel's attorney's fees by District Judge Rudi Brewster and issued a Report and Recommendation with regard to the appropriate fees for plaintiff's counsel in the case. The Report and Recommendation was accepted by the district judge on the case and became the order of the court. A copy is provided.

Plaintiffs' counsel: Robert D. Rose, 501 West Broadway, Suite 1900, San Diego, California 92101, (619) 338-6500.

Defense counsel: Jack Halgren, 333 South Grand Avenue, Los Angeles, California 90071-3197, (310) 276-5988.

(3) Stothers v. Ace Parking Management, Inc. U.S. District Ct., So. Dist. of Cal., Case No. 95cv1552 J. This was a class action under the Americans with Disabilities Act filed on behalf of disabled members of the San Diego community

against Ace Parking. The action related to numerous violations on the over 100 parking lots managed by Ace Parking and preventing access to the premises to disabled members of the community. Setting early and intensive settlement conferences, a settlement was reached on behalf of the class to remediate the alleged violations and compensate the community for the alleged denial of access. I monitored compliance of the remediation over a three year schedule. There are no particular orders or judgments that reflect the significance of this case.

Plaintiffs' counsel: Richard M. Valdez, 402 West Broadway, Suite 1700, San Diego, California 92101, (619) 235-5655.

Defense counsel: John R. Wertz, 945 Fourth Avenue, San Diego, California 92101, (619) 233-1888.

(4) Covert v. Uniroyal Goodrich Tire Company, U.S. District Ct., So. Dist. Of Cal., Case No. 90cv0551 S. This was a products liability action based upon the claimed defect of a Uniroyal tire alleged to have injured plaintiff. The case was settled after extensive settlement discussions and significant discovery. The discovery issues with regard to confidential and proprietary information related to product manufacture, product testing, and lawsuit history were all handled through a series of discovery conferences minimizing motion time and delay. There are no particular orders or judgments that reflect the significance of this case.

Plaintiff's counsel: Michael Goldstein, 120 Birmingham Drive, Suite 200, Cardiff, California 92007, (760) 436-1801.

Defense counsel: Hon. William McCurine, U.S. Magistrate Judge, 940 Front Street, Room 1185, San Diego, California 92101, (619) 557-6624.

(5) In the Matter of the Extradition of Emilio Valdez Mainero, 950 F. Supp. 290 (S.D. Cal. 1996); and, In the Matter of the Extradition of Emilio Valdez Mainero 990 F. Supp. 1202 (S.D. Cal. 1997). This was an extradition proceeding against two alleged members of the Arrellano-Felix Drug Cartel. The Republic of Mexico sought extradition of Mr. Valdez, as well as Mr. Hodoyan, for a variety of crimes under the laws of Mexico. The case raised significant issues with regard to bail, extradition proceedings, the procedure with regard to extradition proceedings, and the issue of a humanitarian exception to extradition. The first reported decision (cited above) dealt with the applicability of bail in these proceedings; and, the second decision (cited above) dealt with general extradition issues. I denied the extraditees bail in these cases and certified them for extradition to Mexico.

Plaintiff's counsel: Hon. Gonzalo Curiel, San Diego Superior Court, (619) 450-7706, San Diego County Superior Court, Family Law Court, 1555 Sixth Avenue, San Diego, California 92101.

Defense counsel: Michael Pancer, (619) 885-3734, 105 W. F Street, Fourth Floor, San Diego, California 92101.

(6) United States v. Savchenko, 201 F.R.D. 503 (S.D. Cal. 2001). This case concerned the seizure of a Belizean fishing vessel, the "Svesda Maru" on international waters. A search of the vessel led to the discovery of approximately 12 metric tons of cocaine. Ten crewmen on the vessel were detained and transported to San Diego, California, and prosecuted for violation of laws of the United States. I handled the initial arraignment and detention hearings, including motions with regard to the jurisdiction of the United States to prosecute this case and challenges based on the delay in transporting the defendants from the high seas to the court in Southern California. I ruled that the time associated with travel from the high seas to court was not unreasonable and denied defendants' motion to dismiss. The decision was not appealed. After the initial proceedings, the United States District Judge referred issues of discovery to me for handling. The issues were related to maintaining the vessel cargo during the litigation and, in significant part, the discovery of expert materials and government sensitive documents. I issued these discovery rulings orally from the bench.

Plaintiff's counsel: Hon. William Gallo, (619) 557-6384, 940 Front Street, Room 1101, San Diego, California 92101; Karen Moore (619) 557-5104, 880 Front Street, Room 6294, San Diego, California 92101.

Defense counsel: Jeremy D. Warren, (619) 234-4433, 550 West C Street, Suite 1900, San Diego, California 92101; Ben Coleman, (619) 794-0420, 1350 Columbia Street, Suite 600, San Diego, CA 92101; Mark S. Windsor, (619) 699-5915, 964 Fifth Avenue, Suite 214, San Diego, California 92101; Mary Frances Prevost, (619) 260-8132, 3115 Fourth Avenue, San Diego, California 92103; Russell S. Babcock, (619) 531-0887, 1400 Sixth Avenue, Suite 210B, San Diego, California 92101; Michael Crowley, (619) 238-5700, 110 West C Street, Suite 2100, San Diego, California 92101; Charles Guthrie, (619) 233-8044, 444 West C Street, Suite 140, San Diego, California 92101-3596; Robert Carriedo, (619) 232-0900, 105 West F Street, Suite 203, San Diego, California 92101-6036; David H Bartick, (619) 231-8075, 105 West F Street, Suite 306, San Diego, California 92101-6036; and Elmer Joseph Cox, (619) 233-0290, 1140 Union Street, Suite 213, San Diego, California 92101.

(7) Johnson v. Nelson, 142 F. Supp. 2d 1215 (S.D. Cal. 2001). This was a Habeas Petition referred for my handling by the district judge. My Report and Recommendation was adopted by District Judge Whelan. The case was significant as it raised issues of first impression under the California Sexually Violent Predator (SVP) Act, California Welfare and Institutions Code §6600, *et seq*. I ruled that the state court determination that petitioner committed "substantial sexual conduct" was not unreasonable, that the commencement of

civil commitment proceedings while petitioner was in custody was not unreasonable, and that petitioners procedural due process rights were not violated.

Plaintiff was pro se.

Defense counsel: Janelle Boustany, 10235 Gumbark Place, San Diego, California 92131. Listed by the California State Bar as an inactive member since Jan. 17, 2009 with no phone number available.

(8) Perez v. City of Escondido, 165 F. Supp. 2d 1111 (S.D. Cal. 2001). This was an action by a minor who was shot by the police, his minor sister, and his mother against the City of Escondido. In the handling of this case, an issue arose with regard to the federal court's jurisdiction to grant relief from the California Tort Claims Act requirement for the timely submission of a claim. I ruled that federal court had jurisdiction to grant relief within the State statutory framework as "a court of competent jurisdiction."

Plaintiff's counsel: Carl M Lewis, (619) 232-0160, 1551 Fourth Avenue, Suite 303, San Diego, California 92101; Leon J Saad, (619) 230-8529, 1551 Fourth Avenue, Suite 303, San Diego, California 92101.

Defense counsel: Mark A. Waggoner, Office of the City Attorney, (760) 741-4608, Civic Center Plaza, 201 North Broadway, Escondido, California 92025-2798.

(9) Salmo v. U.S. Dep't of Agriculture, 226 F.Supp.2d 1234, 2002 WL 31322545, (S.D. Cal. 2002). This was a case of first impression with regard to jurisdiction of the court to review the decision of the Food Nutrition Service of the United States Department of Agriculture, disqualifying the plaintiff from participating in the Federal Food Stamp Program. I ruled the court lacked jurisdiction to review a decision of the United States Department of Agriculture.

Plaintiff's counsel: Alexander W Tucker, (619) 231-2177, 402 W Broadway 27th Fl San Diego, California 92101.

Defense counsel: Cindy M. Cipriani, Assistant U.S. Attorney, (619) 557-7390, 880 Front Street, Room 6293, San Diego, California 92101.

(10) Thompson v United States of America, U.S. Dist. Ct., So. District of Cal., Case No. 03cv2541 J (AJB). This was the first of approximately fifty cases filed against the United States for damages associated with the "Pines Fire" near Julian, California. On July 2002, a military helicopter struck a power line in Banner Canyon causing a fire to erupt. The fire burned thousands of acres of land, numerous houses and personal effects of the neighboring land owners. Through numerous settlement-conferences, the case was settled. Significantly, the court issued a mediator's recommendation on the legal basis for damages of the various

items lost, including real property, forest land, and personal items of all types. This guided the parties to settlement. The legal analysis in the mediator's recommendation served as a base line in the remaining cases. The remaining cases were divided among me and two colleagues. All of the Pines Fire cases settled before trial, the last one before me in early 2009.

Plaintiff's counsel: Robert G. Steiner, (619) 236-1414, 600 West Broadway, Ste 2600, San Diego, California 92101.

Defense counsel: Thomas Reeve, Jr., Assistant U.S. Attorney, (619) 557-5662, 880 Front St, Room 6253, San Diego, California 92101.

c. 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) In the Matter of the Extradition of Emilio Valdez Mainero, 990 F. Supp. 1202 (S.D. Cal. 1997).

Plaintiff's counsel: Hon. Gonzalo Curiel, San Diego Superior Court, (619) 450-7706, San Diego County Superior Court, Family Law Court, 1555 Sixth Avenue, San Diego, California 92101.

Defense counsel: Michael Pancer, (619) 885-3734, 105 W. F Street, Fourth Floor, San Diego, California 92101.

(2) United States v. Savchenko, 201 F.R.D. 503 (S.D. Cal. 2001).

Plaintiff's counsel: Hon. William Gallo, (619) 557-6384, 940 Front Street, Room 1101, San Diego, California 92101; Karen Moore (619) 557-5104, 880 Front Street, Room 6294, San Diego, California 92101.

Defense counsel: Jeremy D. Warren, (619) 234-4433, 550 West C Street, Suite 1900, San Diego, California 92101; Ben Coleman, (619) 234-8467, Federal Defenders, 225 Broadway, Suite 900, San Diego, California 92101; Mark S. Windsor, (619) 699- 5915, 964 Fifth Avenue, Suite 214, San Diego, California 92101; Mary Frances Prevost, (619) 260-8132, 3115 Fourth Avenue, San Diego, California 92103; Russell S. Babcock, (619) 531-0887, 1400 Sixth Avenue, Suite 210B, San Diego, California 92101; Michael Crowley, (619) 238-5700, 110 West C Street, Suite 2100, San Diego, California 92101; Charles Guthrie, (619) 233-8044, 444 West C Street, Suite 140, San Diego, California 92101-3596; Robert Carriedo (619) 232-0900, 105 West F Street, Suite 203, San Diego, California 92101-6036; David H. Bartick, (619) 231-8075, 105 West F Street, Suite 306, San Diego, California 92101-6036; and Elmer Joseph Cox, (619) 233-0290, 1140 Union Street, Suite 213, San Diego, California 92101.

(3) Johnson v. Nelson, 142 F. Supp. 2d 1215 (S.D. Cal 2001).

Plaintiff was pro se.

Defense counsel: Janelle Boustany, 10235 Gumbark Place, San Diego, 92131. She is listed by the California State Bar as an inactive member since 01/17/2009. No phone number available.

(4) Perez v. City of Escondido, 165 F. Supp. 2d 1111 (S.D. Cal. 2001).

Plaintiff's counsel: Carl M Lewis, (619) 232-0160, 1551 Fourth Avenue, Suite 303, San Diego, California 92101; Leon J. Saad, (619) 230-8529, 1551 Fourth Avenue, Suite 303. San Diego, California, 92101.

Defense counsel: Mark A. Waggoner, Office of the City Attorney, (760) 741-4608, Civic Center Plaza, 201 North Broadway, Escondido, California 92025-2798.

(5) Salmo v. U.S. Department of Agriculture, 226 F.Supp.2d 1234 (S.D. Cal. 2002).

Plaintiff's counsel: Alexander W Tucker, (619) 231-2177, 501 Broadway, Suite 1660, San Diego, California 92101.

Defense counsel: Cindy M. Cipriani, 619) 557-7390, 880 Front Street, Room 6293, San Diego, California 92101.

(6) Lovell v. Poway 847 F. Supp. 780 (S.D. Cal. 1994) *aff'd*: 79 F.3d 1510, *superseded rev'd*: 90 F.3d 367 (9th Cir. 1996).

Plaintiff's counsel: Elizabeth Schulman, 1551 Fourth Avenue, Suite 50 San Diego, CA 92101-3153, (619)238-0303.

Defense counsel: Christopher Welsh, 401 West "A" Street, 15th Floor, San Diego, CA 92101, (619) 232-3122.

(7) National Union Ins. v. Liberty Mutual Ins, 885 F. Supp. 202 (S.D. Cal. 1994).

Plaintiff's counsel: James R. Rogers, 125 South Highway 101 Suite 101, Solana Beach, CA 92075, (858)792-9900.

Defense counsel: Mary Beth Sipos, Musick, Peeler and Garrett, 652 Kenneth Hahn Hall of Administration, 500 West Temple Street, Suite 3400, Los Angeles, CA 90012-3193, (213)621-9800.

(8) Medical Imaging Ctr. v. Lichtenstein, 1996 WL 156926 (1996), Fed. Sec. L. Rep., p. 99, 025.

Plaintiff's counsel: James William Baker, Latham and Watkins, 701 B Street, Suite 2100, San Diego, CA 92101-8197 (619) 236-1234.

Defense counsel: Donald G. Rez, Sullivan Hill Lewin, Rez and Engel, 550 West C Street, Suite 1500, San Diego, CA 92101-3540, (619) 233-4100.

(9) Robert Powers, et al v. Eichen, 961 F. Supp. 233 (S.D. Cal. 1997).

Plaintiff's counsel: Hon. Jan M. Adler, U.S. District Court, 940 Front Street, San Diego, CA 92101 (619) 557-5585.

Defense Counsel: William E Grauer, Cooley Godward Kronish, 4401 Eastgate Mall, San Diego, CA 92121-9109, (858) 550-6000.

(10) Galarza v. United States, 179 F.R.D. 291 (S.D. Cal. 1998).

Plaintiff's counsel: Michael A. Feldman, 2398 San Diego, Suite B, San Diego, CA 92110-2834 (619)297-5811.

Defense counsel: Stephan Poliakoff, U.S. Attorney's Office Southern District of California, Civil Division, 880 Front Street, Suite 6253, San Diego, CA 92101, (619) 557-5662.

d. 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.

e. 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.

(1) Lovell v. Poway Unified School Dist., 847 F. Supp. 780 (S.D. Cal. 1994) *aff'd*: 79 F.3d 1510, *superseded rev'd*: 90 F.3d 367 (9th Cir. 1996). Lovell, a high school student, allegedly threatened a school guidance counselor that she was going to shoot her if she didn't get changes made to her schedule. The school suspended Lovell for her statement, and she brought suit against the school district. Lovell alleged free speech and due process violations under the U.S. Constitution and a state statute preserving a student's right of free speech on campus. There were contested versions of the exact statement. About three hours later, the counselor mentioned the incident to the Assistant Principal, who initiated disciplinary action.

The case was tried on stipulated issues, and while the evidence was unclear as to the exact nature of the words used, I found that neither version met the "threat" which is excluded under Ninth Circuit authority from First Amendment protection. I also found the school had provided Lovell her due process rights. Initially, the Ninth Circuit affirmed on March 29, 1996. On July 18, 1996, the Court of Appeal withdrew its initial opinion and, following a "de novo review of the facts," found the speech unprotected.

(2) Springfield v. United States, 873 F. Supp. 1403 (S.D. Cal. 1994) *rev'd*: 88 F.3d 750 (9th Cir. 1996). This case involved the starting date for the statute of limitations on the government's right to assess taxes. Resolving the disputed evidence at trial in favour of the government, I found the assessment timely and denied petitioners motion for judgment. I also denied petitioners claim that he was entitled to a "safe harbor" under the assessments based on a good faith. On appeal, the government counsel "conceded" for the first time that petitioner's evidence was more persuasive on the good faith issue. The Court of Appeal implicitly affirmed my finding on the statute of limitation but reversed on the safe haven treatment in light of the changed position on the evidence.

The following are Reports and Recommendations rejected in part by a U.S. District Judge or accepted in part in Habeas Corpus Petitions filed by state prisoners contending U.S. Constitutional violations in their state court convictions or Section 1983 civil rights claims challenging conditions of confinement on constitutional grounds.

(3) Mungia v. Frias, 2009 U.S. Dist. LEXIS 88528 (S.D. Cal., Sept. 24, 2009). I recommended that defendants Motion to Dismiss be granted in this Section 1983 action against a large number of defendants. On review, the recommendation to dismiss was granted on all but the two defendants who failed to join the motion. The district judge's order clarified the scope of the dismissal.

(4) Williams v. Walker (1), 2008 WL 691722, S.D. Cal., January 25, 2008. Petitioner, a state prisoner filed a Petition for a writ of habeas corpus regarding his conviction for twelve counts of robbery with a personal firearm allegation on each count being found true. The Petition presented five claims, four of which were previously presented to the California Supreme Courts and exhausted and one unexhausted. The Respondent filed a motion to dismiss claiming the petition was time barred and was a mixed petition of exhausted (Claims 1,2,3,5) and unexhausted (Claim 4) warranting dismissal.

Petitioner responded with an opposition, a motion to amend the Petition and a motion to stay and hold the federal petition in abeyance while he exhausted the unexhausted claim, and three new claims pending in state court.

I recommended that the Motion to Stay be denied for a lack of a showing of good cause for not exhausting Claim 4 and three other sentencing claims earlier. I recommended that the Motion to Amend be denied, the Respondents Motion to Dismiss the claims as time barred be denied, and the Motion to Dismiss the Mixed Petition be granted. Both parties objected.

(5) Williams v Walker (2), 2008 WL 691721, S.D. Cal., March 12, 2008. In addressing the parties objection and the Report and Recommendation, the District Judge Adopted in part and declined to adopt in part the findings and recommendation in 2008 WL 691722, S.D. Cal., January 25, 2008.

The district judge adopted my findings that the Petition was not barred by the Statute of Limitations. The district judge declined to follow my recommendation to stay the federal petition based on a reply mailed before my recommendation but received and docketed after. The reply supplied the requisite good cause to warrant the stay. In light of the stay, the district judge denied the Motion to Amend as moot and the Motion to Dismiss the mixed petition.

(6) Williams v. Walker (3), 2009 WL 4040068, S.D. Cal., February 05, 2009. The stay was lifted and Petitioner filed an amended petition asserting eight claims. Respondent answered, Petitioner replied (called a "traverse") and the matter was considered on the complete record. Williams claimed that (1) his trial was unfair because evidence of the separate offenses was cross-admissible; (2) he was not provided adequate notice of the factual basis for the state's allegation that his 1978 conviction was a prior strike under California's three strikes law; (3) the sentencing court improperly used dismissed gun allegations from his 1974 and 1978 convictions to treat the convictions as prior strikes; (4) the sentencing court erroneously imposed sentences for three prior strikes, twice; (5) he received ineffective assistance of appellate counsel; (6) there was insufficient evidence to find a 1996 for felony qualified as a prior strike; (7) there was insufficient evidence to find a prior conviction involved great bodily injury or use of a deadly weapon constituting a prior strike; and (8) his right to be free from double jeopardy was violated when his prior convictions were used to sentence him under California's Three Strikes Law.

I recommended the Petition be denied finding that the Petition was timely, that Claims 1 through 3 failed on their merits and Claims 4 through 8 were procedurally defaulted. Petitioner filed objections.

(7) Williams v. Walker (4), 2009 WL 4040091, S.D. Cal., November 18, 2009. In reviewing the recommendations and Petitioner's objections, the district judge accepted the timeliness recommendation, rejected as to procedural default on Claims 4 through 8 and accepted as to lack of merit on Claims 1 through 3. The district judge disagreed with the adequate and independent finding on the state procedural rules, concluding that the petitioner was able to show that the procedural rules were not consistently applied. The district judge then reviewed

petitioners claims 4 through 8 for merit, found them meritless and ordered the Petition dismissed. The findings of the district judge are now on appeal.

(8) Almaraz v. Tilton, 2007 WL 4754817, S.D. Cal., December 13, 2007. I recommended denial of the habeas petition in total. The district judge agreed, but made minor corrections on the date calculations in denying the petition.

(9) Rayford v. Giurbino, 2008 WL 5758795, S.D. Cal., October 17, 2008. I recommended granting respondents motion to dismiss a Section 1983 complaint for failure to exhaust administrative remedies. With his objections, Petitioner filed a motion for leave to amend. A late-served defendant filed an additional motion to dismiss. The district judge found that there were new facts revealed after the recommendation through the motion to amend and the additional motion to dismiss that changed the outcome. So, he granted the motion to dismiss and the motion for leave to amend.

(10) Moore v. Ollison, 2008 WL 1766926, S.D. Cal., April 15, 2008. I recommended that the petition be denied. Judgment was entered by the district judge. Petitioner sought relief from judgment stating he never received the recommendation. The district judge granted and agreed to review objections. The district judge accepted the recommendations in full and overruled all objections and the judgment was again entered.

(11) Romero v. Ryan, 2007 WL 2993030, S.D. Cal., August 27, 2007. I recommended the denial of this habeas petitions. The district judge agreed in all respects and accepted the recommendation, however noted that the reference to petitioners "failure to instruct" claims should have been characterized as "whether Petitioner had submitted sufficient evidence to support his theory of the defense."

(12) Delander v. Hubbard, 2008 WL 2622857, S.D. Cal., February 14, 2008. I recommended that a motion to dismiss plaintiff's habeas petition be granted upon a finding that the Petition was time barred. The district judge disagreed with my finding that petitioner was not entitled to equitable tolling and denied the motion to dismiss. On full review, the petition was denied on the merits.

(13) Marella v. Terhune, 562 F. 3d 983 (9th Cir. 2009). Marella appealed a district judge's dismissal of his civil rights action for failure to exhaust administrative remedies under the Prison Litigation Reform Act, 42 U.S.C. §1997e(a). Marella was stabbed in prison and spent two days in the hospital and was then placed in administrative segregation, for his protection, during the 15 days available to file an administrative claim. Marella admitted his claim was filed untimely, but asserted he did not have the forms or the ability to file within the required time. The district judge adopted my report and recommendation in this regard. These rulings were based on the U.S. Supreme Court Case of Woodford v. Ngo, 126 S. Ct. 2378 (2006) wherein the Ninth Circuit was reversed where it construed the State's exhaustion of remedies regulations to provide an

exception where the prisoner was unable to file. The Court of Appeal reversed and remanded the case for further development of the record on whether Marella had access to the necessary forms and an ability to file within the 15 day period. This matter is proceeding at this time. A copy of the Report and Recommendation and the District Judge's order adopting it are provided.

(14) Villalobos v Hernandez, U.S. District Ct., So. Dist. of Cal., Case No. 09cv363 L (AJB), February 11, 2010. I recommended that defendant's motion to dismiss the Habeas Petition be granted finding the petition time barred under 28 U.S.C. § 2244(d). Petitioner sought "equitable tolling" of various time periods due to prison lockdowns and his alleged inability to read or write English and secure the assistance of legal materials in Spanish or a translator's assistance. I found petitioner competent in reading and writing English based on the record as a whole, and that did not find that the petitioner had shown he had made diligent efforts to secure legal materials in Spanish or a translator's assistance. The district judge disagreed stating that these conclusions were not "unequivocally supported by the record." The district judge remanded the matter back to me for an evidentiary hearing. That hearing is set for July 23, 2010. Copies of the Report and Recommendation and the Remand order are provided as attachments.

f. 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.

I estimate that 85-90% of my decisions are not formally published. I have not submitted a decision for publication since approximately 2005. Many decisions granting or denying continuances or dealing with discovery matters are issued weekly, along with other more substantive rulings. Every decision or order I write is filed. Historically this was manually and recently it is electronically. The case files are and will be available to the public electronically for those in the database. Older paper files which have closed are stored at a federal records retention center. Westlaw, Lexis and others make a variety of orders and decisions available electronically and publish some in official reports.

g. 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.

All of the opinions addressing habeas corpus or Section 1983 civil rights claims address significant constitutional issues. All are available on Westlaw.

Chadwick v. San Diego Police Dept, 2010 WL 883839, S.D. Cal., March 8, 2010
Threats v. Cate, 2010 WL 816146, S.D. Cal., March 3, 2010
Scalf v. Salazar, 2010 WL 744363, S.D. Cal., February 10, 2010
Harris v. Martel, 2009 WL 5909117, S.D. Cal., November 6, 2009
Mathis v. Uribe, 2009 WL 3398791, S.D. Cal., October 20, 2009
Munguia v. Frias, 2009 U.S. Dist. LEXIS 72420, S.D. Cal., August 12, 2009

Marella v. Terhune, 562 F. 3d 983 (9th Cir. 2009)
Bjorstrom v. Gonzalez, 2009 WL 1228484, S.D. Cal., May 05, 2009
Pineda v. Garcia, 2009 WL 1228491, S.D. Cal., May 04, 2009
Barno v. Hernandez, 2009 WL 734145, S.D. Cal., March 17, 2009
Sullivan v. Cate, 2009 WL 536602, S.D. Cal., March 02, 2009
Williams v. Walker, 2009 WL 4040091, S.D. Cal., November 18, 2009
Williams v. Walker, 2009 WL 4040068, S.D. Cal., February 05, 2009
Almaraz v. Tilton, 2009 WL 249780, S.D. Cal., January 30, 2009
Munguia v. Frias, 2009 U.S. Dist. LEXIS 88538, S.D. Cal., January 27, 2009
Castillo v. Small, 2009 WL 188888, S.D. Cal., January 23, 2009
Thorns v. Ryan, 2009 WL 230035, S.D. Cal., January 23, 2009
Romero v. Ryan, 2009 WL 113773, S.D. Cal., January 05, 2009
Turner v. Tilton, 2008 WL 5273526, S.D. Cal., December 18, 2008
Rayford v. Giurbino, 2008 WL 4997607, S.D. Cal., November 24, 2008
Rayford v. Giurbino, 2008 WL 5758795, S.D. Cal., October 17, 2008
Navarro v. Bach, 2008 WL 4492606, S.D. Cal., September 29, 2008
Munguia v. Frias, 2008 WL 4370272, S.D. Cal., September 25, 2008
Xayasomoloth v. Dexter, 2008 WL 5875534, S.D. Cal., August 22, 2008
Moore v. Ollison, 2008 WL 1766926, S.D. Cal., April 15, 2008
McElroy v. Castro, 2008 WL 2025286, S.D. Cal., April 04, 2008
Navarro v. Bach, 2008 WL 753959, S.D. Cal., March 19, 2008
Mabry v. Scribner, 2008 WL 782572, S.D. Cal., March 19, 2008
Orange v. Tilton, 2008 WL 734255, S.D. Cal., March 18, 2008
Hayes v. Wong, 2008 WL 564637, S.D. Cal., February 29, 2008
Delander v. Hubbard, 2008 WL 2622857, S.D. Cal., February 14, 2008
Campbell v. Hernandez, 2008 WL 398859, S.D. Cal., February 11, 2008
Degadillo v. Adams, 2008 WL 331396, S.D. Cal., February 05, 2008
Williams v Walker (2), 2008 WL 691721, S.D. Cal., March 12, 2008
Williams v. Walker, 2008 WL 691722, S.D. Cal., January 25, 2008
McElroy v. Castro, 2008 WL 110983, S.D. Cal., January 10, 2008
Munguia v. Frias, 2008 WL 80993, S.D. Cal., January 08, 2008
Romero v. Ryan, 2007 WL 4984060, S.D. Cal., December 21, 2007
Bratton v. Hernandez, 2007 WL 4885858, S.D. Cal., December 21, 2007
Almaraz v. Tilton, 2007 WL 4754817, S.D. Cal., December 13, 2007
Snipes v. Tilton, 2007 WL 3023471, S.D. Cal., October 15, 2007
Tanner v. Kramer, 2007 WL 2853930, S.D. Cal., September 26, 2007
Romero v. Ryan, 2007 WL 2993030, S.D. Cal., August 27, 2007
Thorns v. Ryan, 2007 WL 2262862, S.D. Cal., August 06, 2007
Rosales v. Horel, 2007 WL 1852186, S.D. Cal., June 26, 2007
Behrazfar v. U.S. Dept. of Homeland Sec., 2007 WL 1381609, S.D. Cal., May 07, 2007
Miani v. Ollison, 2007 WL 1975606, S.D. Cal., March 12, 2007
Jackson v. Ollison, 2007 WL 433188, S.D. Cal., January 23, 2007
Townes v. Paule, 407 F.Supp.2d 1210, 2005 WL 3591981, S.D. Cal., December 13, 2005

Johnson v. Nelson, 142 F. Supp.2d 1215, 2001 WL 418719, S.D. Cal., April 10, 2001
Nelson v. Silverman, 888 F. Supp. 1041, 1995 WL 349046, 76 A.F.T.R.2d 95-5567, S.D. Cal., June 06, 1995
Lovell v. Poway Unified School Dist., 847 F. Supp. 780 (S.D. Cal. 1994) *aff'd*: 79 F.3d 1510, *superseded rev'd*: 90 F.3d 367 (9th Cir. 1996).

h. 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;

In compliance with the Code of Conduct for United States Judges, my Court has installed an automated conflicts system, which I check daily through automatic alerts that are sent to me by email. I enter all attorneys with whom any conflicts exist as well as companies in which I hold stock or mutual fund companies for which I have mutual funds. The attorneys entered are those with whom I have personal friendships or with whom I have past practice affiliations. I also enter the names of attorneys who sit on any reappointment merit panels when I am under consideration and any judicial selection committees when I apply for potential appointment. I have recused in a number of cases where one of the attorneys, companies or listed individuals is involved in a case I am assigned. I do not keep records of those instances.

My computerized list is reviewed periodically for updates and changes. I also follow the Code of Conduct for United States Judges when I otherwise discover any situation where recusal is required or where any apparent appearance of impropriety could be suggested.

I have no record or memory of any person requesting that I recuse in any case I have been assigned.

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 was appointed by the San Diego County Board of Supervisors to the San Diego County Law Library Board of Trustees 1992 to 1993 and the Law Library Justice Foundation Trustees 1992 to 1993. The two positions were intimately connected. I was Vice President of the Law Library Board in 1993.

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

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

   Except by voter registration, I have not been a member or held any office of a political party, election committee or 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;

      I have not served as a clerk to a judge.

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

      1980-1981
      Anthony J. Battaglia Attorney at Law
      1200 Third Avenue, Suite 1200
      San Diego, California 92101
      Attorney and Sole Proprietor

1981-1991
Anthony J. Battaglia, A Professional Corporation
2550 Fifth Avenue, Suite 629
San Diego, California 92103
Attorney

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.

1972-1974
Law Offices of Marinos & Styn
111 Elm Street, Suite 400
San Diego, California 92101
Law Clerk

1974- 1980
Law Offices of John Marin
304 Kalmia Street
San Diego, California 92101
Attorney

1991-1993
Battaglia, Fitzpatrick & Battaglia, A partnership of Professional Corporations
2550 Fifth Avenue
San Diego, California 92103
Attorney and Partner

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.

During my practice I served as a mediator/arbitrator in various capacities. These are summarized below.

San Diego Superior Court Arbitration Panel, 1980 to 1993. I handled over 125 arbitrations referred by the Superior Court and based upon my selection by the counsel for the parties in those actions. Cases were typically automobile accident, premises liability and products liability matters. Hearings were typically one half to one full day in duration.

San Diego Superior Court Pro Tem Panel 1987 to 1993. Assigned two trials that were settled before trial commenced. I was assigned numerous settlement conferences on this panel.

Panelist San Diego Superior Court 3 Judge Settlement Panel Programs, 1979 to 1993. Heard numerous settlement conferences, (four or five per day) serving one to two days per year as requested by the San Diego Superior Court.

San Diego Superior Court, North County Branch Trial Calendar Settlement Panel Program, Plaintiffs Attorney Coordinator, Panelist, 1987.

San Diego County Bar Association, Attorney Client Fee Arbitration Panelist, 1982 to 1984. As a member of the arbitration panel, I was assigned two to three arbitrations per year. The arbitrations involved disputes between attorney's and their clients over fees. Proceedings involved a single arbitrator for small cases, and a three arbitrator panel for large cases. I served both in the role of the single arbitrator, and a panelist, including presiding arbitrator in these proceedings.

I also served as a private arbitrator in uninsured motorist and malpractice cases. Only six could be called significant legal/factual disputes, which were as follows:

(1) <u>Baker v. Sadick,</u> 162 C.A. 3d 618, 208 Cal. Rptr. 676 (1985). I served as the neutral and presiding arbitrator in this action by a patient against a doctor for negligence in the performance of a breast reduction mammoplasty. The decision of the arbitrators was for damages of approximately $800,000.00 of which $300,000.00 were punitive damages. The case is noteworthy and was taken up on appeal on the issue as to whether or not arbitrators can award punitive damages in this type of proceeding.

(2) <u>Winsett v. Kaiser</u> (1986). I served as an arbitrator appointed by the plaintiff with regard to this malpractice case against Kaiser Foundation Hospitals for negligence in the delivery and care and treatment of a newborn. As a result of the alleged malpractice the child sustained severe mental retardation and disability. The case involved rulings on the applicability of various sections of the Medical Insurance Recovery Compensation Act to the contract proceeding and issues concerning claims for the emotional distress by the parents under various theories. Damages were awarded in the approximate amount of one million dollars either in current cash contributions or the provision of future medical care and/or cash trust funds for those purposes.

(3) <u>Smith v. Tan</u> (1988). This arbitration was between doctors to set apportionment and contribution to the settlement of a malpractice claim for failure to diagnose prostate cancer. I served in the role of neutral and presiding arbitrator.

(4) Ochoa v. Kaiser (1989). This was an arbitration concerning the failure to properly treat a wound to the plaintiff's right lower extremity. I was appointed as an arbitrator by the plaintiff. Damages were awarded for the lost wages and the general damages associated with the subject injury.

(5) Armstrong v. State Farm (1989). This was a binding arbitration of an uninsured motorist case arising out of an automobile accident. The issues involved causation and liability as the underlying liability for the subject collision was not in dispute.

(6) Taormina v. State Farm (1991). This was a binding arbitration of an uninsured motorist claim concerning issues of causation, injury and damage. Liability for the underlying automobile accident was not in dispute.

b. Describe:

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

My practice was fairly constant over the years. From 1974 to 1980 I handled a high concentration of maritime personal injury cases under the Jones Act, The Death on the High Seas Act and general maritime law. I also handled some products liability and general tort cases.

From 1980 to 1993, my practice had less emphasis on maritime injury cases and more on products liability and third party negligence cases. I was recognized as a specialist in admiralty matters, and granted Proctor in Admiralty status in 1993 by the Maritime Law Association of the United States.

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

My clients were very diverse ranging from injured "blue collar" worker's, many of whom were Mexican, Portuguese, Asian and South American immigrants involved in the maritime industry or construction trades. Some were local union members. Other clients were doctors, dentists and judges.

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.

Throughout my private practice, I appeared in court frequently.

i. Indicate the percentage of your practice in:

1. federal courts: 35%
2. state courts of record: 60%
3. other courts:
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:
1. civil proceedings: 99%
2. criminal proceedings: 1%

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.

As an attorney, I tried 23 trials to verdict overall. These included 16 civil jury trials, 10 as lead counsel and 6 as co-counsel. There were 3 civil bench trials as lead counsel, 3 criminal jury trials as lead counsel and 1 criminal bench trial as lead counsel.

I also handled more than 24 Administrative trials with the Department of Labor, the United States Coast Guard and the Social Security Administration representing disabled workers or licensed seamen.

i. What percentage of these trials were:
1. jury: 86%
2. non-jury: 14%

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.

While I am a member of the bar of the Supreme Court of the United States, I did not practice before the court as an attorney.

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

a. the date of representation;

b. the name of the court and the name of the judge or judges before whom the case was litigated; and

c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

(1) Santos v. Anchor Fishing Co., Ltd., (1983) U.S. District Ct., So. Dist. of Cal., Case No. 82cv1302. Hon. Earl B. Gilliam (*deceased*). I represented the plaintiff. This was an action for compensation for personal injuries by the crewman of a fishing vessel against his employer. In addition to compensatory claims, plaintiff claimed punitive damages from defendants for the failure to provide medical care and temporary disability as required by maritime law. The trial resulted in the first punitive damage award by a jury in a maritime case in the Southern District of California for the failure to pay medical benefits.

Opposing Counsel: Walter Klein, 9601 Wilshire Blvd., Suite 700, Beverly Hills, California 90210-5211.

(2) Ferreira v. Jorge Fishing Co. (1984) U.S. District Ct., So. Dist. of Cal., Case No. 82cv0069. Settled at Settlement Conference before Hon. J. Edward Harris (Ret). This was a case by a crewman of a fishing vessel against his employer and surrounded three unrelated accidents causing various injuries. I represented the plaintiff. Following multiple settlement conferences this case resulted in the first structured settlement in excess of one million dollars for a maritime case in San Diego County.

Opposing Counsel: Joseph Bryans, 350 South Magnolia Avenue, El Cajon, California 92020, (619) 441-1122; Ron House, 4355 Ruffin Road, Suite 205, San Diego, California 92123, (858) 576-2947.

(3) Heater v. SDG&E (1984), San Diego Superior Court Case No. 462131. Settled at a Settlement Conference before Hon. Ben Hamrick (*deceased*). This was a case for personal injuries centered around responsibility for a sawed off parking lot station which extended above ground level by ¼" to 3/8"and caused plaintiff to trip and fall. The case involved a significant issue as to ownership and/or responsibility as it related to utility and street easements. The case was settled at a three-judge settlement panel presided over by Judge Ben Hamrick for a structured settlement to pay guaranteed benefits of $500,000 to the plaintiff, a 55-year old woman, with a broken hip. I represented the plaintiff.

Opposing Counsel: Paul Jurkoic, 7079 Rickrose Terrace, Carlsbad, California 92009, (760) 930-0562; Alejandro Matuk, 401 West A Street, Suite 2350, San Diego, California 92101, (619) 238-1800; Sidney A. Stutz, 401 West A Street, 15th Floor, San Diego, California 92101, (619) 232-3122.

(4) Leal v. Liberty King, Inc., (1986) U.S. District Ct., So. Dist. of Cal., Case No. 83cv2630. Hon. Edward I. Infante. This was an action by crewman of a fishing vessel against his employer for injuries sustained in two separate occurrences. Prior to trial, the defendant's insurance carrier had gone bankrupt. Plaintiff proceeded to a stipulated judgment of $300,000 and sought collection of the judgment against Starkist Corporation through whom the failed insurance coverage had been placed. Starkist satisfied the judgment prior to the filing of a separate action. I represented the plaintiff.

Opposing Counsel: Walter Klein, 9601 Wilshire Blvd., Suite 700, Beverly Hills, California 90210-5211, (310) 550-4595.

(5) Avila v. Elizabeth C.J. Inc., (1985), U.S. District Ct., So. Dist. of Cal., Case No. 83cv1446 Judge, Hon. Leland C. Nielsen, (*deceased*). This was an action for wrongful death under the Death on the High Seas Act by heirs of crewman aboard a commercial fishing vessel. At commencement of trial, defendant filed for bankruptcy relief in that they had no primary liability coverage with regard to the claim. After obtaining a relief of stay from the bankruptcy court, and bringing the matter to a second trial, defendant defaulted and plaintiff proved a $750,000 judgment for the plaintiff's pecuniary losses for the death of their decedent. The case was then pursued against Excess Insurance Underwriters at Lloyds of London as Avila v. Jennings, et al., San Diego Superior Court Case No. 570647, resulting in a recovery for plaintiff. I represented the plaintiff.

Defense counsel in the insurance case was Lawrence W. Bradley, Jr., Pillsbury Winthrop LLC, 725 S. Figueroa St., #2800, Los Angeles, CA 90017-5443, (213) 488-7256.

Opposing Counsel: William Kammer, 401 B Street, Suite 1200, San Diego, California 92101, (619) 231-4755; Robert Ayling, 4365 Executive Drive, Suite 1600, San Diego, California 92121, (858) 677-1425.

(6) Wood v. Kearny Mesa Toyota, et al., (1987), San Diego Superior Court, Case No. 501264. Settled at Settlement Conference before Judge, Hon. G. Dennis Adams (Ret). This was a products liability case against the manufacturers of a Toyota Pick-Up Truck modified with the use of a "Lift Kit" at the time of original sale. Plaintiff's vehicle rolled on the freeway after a multiple vehicle collision. I took the case over after it was under way for several years. Through multiple settlement conferences with Judge Adams, the entire matter was brought to a settlement. The case was unique in that its conclusion resulted in multiple hearings before the court with regard to the application of Proposition 51 retroactively as ultimate settlement was the result of partial settlements with each defendant. Proposition 51 had just gained passage at the time that this case was in a settlement posture. I represented the plaintiff.

Opposing Counsel: Dennis Atchley, 2550 Roosevelt Street, Suite 205, Carlsbad, California 92008, (760) 720-9612; Daniel White, 550 West C Street, Suite 950, San Diego, California 92101, (619) 239-0300; James Chodzko, 933 Summer Holly Lane, Encinitas, California 92024, (760) 436-8241.

(7) Medeiros v. SCA Sanitation Services (1980), San Diego Superior Court, Case No. 539340. Settled first day of trial before Judge, Hon. Alpha Montgomery (*deceased*). This was a products liability case for personal injuries against the manufacturer and operator of an industrial trash truck. A portion of the truck lift system failed which in operation causing a piece of steel to detach from the vehicle and strike plaintiff. Injuries included a herniated lumbar disc. Settlement was $205,000 in addition to workers compensation benefits. I represented the plaintiff.

Opposing Counsel: Janet Sobel, P.O. Box 261114, San Diego, California 92196, (858) 578-5577; Hon. Kevin Enright, San Diego Superior Court, 220 West Broadway, San Diego, California 92101.

(8) Jaehn v. Sierra Pacific, et al. (1990), San Diego Superior Court, Case No. 602826. Settled at Settlement Conference before Judge, Hon. Alice Sullivan (Retired), 11512 El Camino Real, Suite 370, San Diego, California 92130, (858) 792-1330. This was an action for personal injuries sustained by an office worker when she slipped on the lobby floor (terrazzo tile) of her place of work. The case was brought against the building owner, the janitor, and the cleaning supply company on negligence and products liability theories. Injuries included a herniated lumbar disc. The case settled for $302,500.00. I represented the plaintiff.

Opposing Counsel: Lori Kanda, West Coast Mortgage 7847 Dunbrook Rd #H, San Diego, California 92126-6305 (858) 693-8980; Dan Grozkrueger, (619) 237-9956, 501 West Broadway, 15th Floor, San Diego, California 92101; Randy Pearlman, address unknown, no longer listed with the State Bar of California.

(9) Kulick v. Hawthorne Rent it Service and Calavar Corp. (1991), San Diego Superior Court, Case No. 61405 before Judge, Hon. Harrison R. Hollywood (*deceased*). This was a products liability action brought by a thirty-three year old electrician who was injured when the self propelled aerial man lift that he was driving failed in normal operation. With the failure, the vehicle rolled down a slope and threw the plaintiff from the operator's platform. The plaintiff suffered a lumbar sprain and a bulging lumbo-sacral disc injury. The jury verdict was for $300,000. I represented the plaintiff.

Opposing Counsel: Luther Horton 225 Broadway, Suite 1400, San Diego, California 92101, (619) 232-1183; Gary Davis, 1320 Columbia Street, Suite 200, San Diego, California 92101, (619) 544-8300.

(10) Ober v. Get Smart Scaffold, et al. (1991) San Diego Superior Court, Case No. N46403 before Judge, Hon. Irma Gonzales, 940 Front Street, Room 4194, San Diego, California 92101, (619) 557-7107. This was a products liability action brought by a sprinkler fitter who suffered a severe right lower leg injury, including multiple fractures, as a result of being pinned between a self propelled scissor lift and a wall. The vehicle had an unexpected and unintended forward acceleration. The allegation was that the vehicle was defectively designed and the acceleration controls were not properly guarded. The jury returned a defense verdict in this case. I represented the plaintiff.

Opposing Counsel: Warren Dean, 2301 Dupont Drive, Suite 350, Irvine, California 92612, (949) 655-0360.

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.)

As a litigator, my most significant cases as an attorney are listed in response to Question 17, above.

In 1992 as the President of the San Diego County Bar Association I was a member of a delegation of California Local Bar Presidents who traveled to the State Capitol to meet with the Governor's Chief of Staff regarding support for the veto of legislation limiting State Trial Court Judge's retirement benefits. The meeting lasted thirty minutes and no follow up meeting occurred. The legislation was vetoed.

In 1987, I made courtesy calls on legislators in Sacramento, California, on one day as a member of the Board of Directors of the California Trial Lawyers.

Other than these two instances, I have not performed 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.

None.

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.

I am a beneficiary of the Battaglia & Battaglia A.P.C. Profit Sharing Plan. Contributions made by the firm to the plan through November 14, 1993, are invested in the plan and will be payable to me at retirement. The assets of the plan are invested in mutual funds (listed on the Net Worth Statement and in the Financial Disclosure Report attached to this questionnaire).

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.

    No plans, but as appropriate under the Code of Conduct for United States Judges, I hope to continue to speak on occasion at legal education programs including the Annual Judith N. Keep Civil Practice program.

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.

       With 16 years already spent on the same court I have very few conflicts with counsel. My wife is a practicing lawyer with occasional matters in the federal court. She is on my automated recusal list. I would recuse on any case she was involved in without exception. I also recuse myself on cases involving lawyers who I practiced with and those who took over cases from my practice when I was appointed in 1993.

       I strictly follow the recusal statutes and the guidance of the Code of Conduct for United States Judges, a practice I would continue if confirmed.

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

   I have consistently followed the federal recusal statutes and the Code of Conduct for United States Judges. I will continue to do so if confirmed. My Court has installed an automated conflicts checking system, which I check daily through automatic alerts that are sent to me by email. I enter all attorneys with whom any conflicts exist as well as companies in which I hold stock or mutual fund companies for which I have mutual funds. The attorneys entered are those with whom I have personal friendships or past practice affiliations with. II also enter the names of attorney's who sit on any reappointment merit panels when I am under consideration and any judicial selection committees when I apply for potential appointment. The list is reviewed periodically for updates and changes.

   Where there is any potential for conflict with a party or counsel, I recuse myself.

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.

    I have served on organizations that sponsor free legal service for those in need. These include the San Diego County Bar Association, The San Diego Volunteer Lawyer Program, The Lawyer Referral and Information Service of the San Diego County Bar and the Attorney Referral Service of the San Diego Trial Lawyers. In serving on the oversight boards, I spent hundreds of hours considering and managing programs that provided free or low cost representation, including the Volunteer Lawyers Veteran's Stand Down and Domestic Violence Clinics, the Modest Means Panel, and two referral services which offered free initial consultations to the public on an ongoing basis. These organizations also participated annually in the Law Day programs of free legal services, and provided pro bono services of lawyers as settlement judges and a "People's Law School" to educate the public on their rights.

    My specific service is as follows:

    San Diego County Bar Association since 1974, Board of Directors 1989 to 1992, President 1992, Vice President 1991, Treasurer 1990.

    San Diego Volunteer Lawyers Program, Board of Directors 1989-1992; Executive Committee 1989 to 1991.

    Lawyer Referral and Information Service Committee 1990 to 1992

    Attorney Referral Service of the San Diego Trial Lawyers, Chairman 1982 to 1985

I also served on the Board of Trustees of Say No To Drugs, Inc., a nonprofit education and information organization aimed at children and young adults. As a volunteer to the Board, I handled the incorporation process and secured the tax exempt status as well as annually providing corporate minutes and documents from the early 1980's until 1993, all pro bono.

I served on the Executive Committee, Red Boudreau Memorial Benefit Dinner for the St. Vincent De Paul Center for the Homeless 1987. Organization sponsors annual fund raiser for center for the homeless. Original focus was to raise funds for construction of the center. The focus is now the ongoing maintenance and operation of the center.

I served as a member of the Access to Health Care Commission, a non-profit organization sponsored by the San Diego County Medical Society, in the years 1991 and 1992. The mission of the organization was to provide resources for health care for indigent individuals. My role on the committee was as a representative of the legal profession as President of the San Diego County Bar Association.

I served as an officer and chair of the Trial Lawyers Foundation, a non-profit organization that provided benefits for victims of crime not otherwise compensated through private or public means. I was chairman of the foundation in 1987 and 1988 and served as a continuing member of the board and secretary in 1989 and 1990.

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.

I applied through the Office of United States Senator Boxer by submitting a completed questionnaire, provided on her official website, in March 2009. The application was forwarded to the Senator's selection commission in my jurisdiction. The Chair of the Commission contacted me in August 2009 to set up an interview. I provided the Chair an update to my submission. The interview with the Commission took place on September 10, 2009.

The Department of Justice contacted me on February 14, 2010 advising me that it had received my candidacy. Thereafter, I have had a number of conversations with Department of Justice officials regarding the required pre-nomination forms. On March 15, 2010, I interviewed in Washington, D.C., with Department of

Justice and White House personnel. On May 20, 2010, 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.

There have not been any discussions in these regards.

AO 10
Rev. 1/2010

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) BATTAGLIA, ANTHONY J.	**2. Court or Organization** SOUTHERN DISTRICT OF CALIFORNIA	**3. Date of Report** 05/20/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) DISTRICT JUDGE - NOMINEE	**5a. Report Type** (check appropriate type) ☑ Nomination, Date 5/20/2010 ☐ Initial ☐ Annual ☐ Final **5b.** ☐ Amended Report	**6. Reporting Period** 01/01/2009 to 04/30/2010
7. Chambers or Office Address United States District Court 940 Front Street, Room 1145 San Diego, CA 92101-8927	**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.)*

	POSITION	NAME OF ORGANIZATION/ENTITY
1.	Trustee	Trust 1 (Pension & Profit Sharing Plan Trust)
2.	Trustee	Trust 2 (has no reportable assets)
3.	Trustee	Trust 3
4.	Director, Immediate Past President	Federal Magistrate Judges Association
5.		

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

☑ NONE *(No reportable agreements.)*

	DATE	PARTIES AND TERMS
1.		
2.		
3.		

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

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.)*

DATE	SOURCE AND TYPE	INCOME (yours, not spouse's)
1.		
2.		
3.		
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.)*

DATE	SOURCE AND TYPE
1. 2009-2010	self employed, Attorney
2.	
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.*

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE *(No reportable reimbursements.)*

SOURCE	DATES	LOCATION	PURPOSE	ITEMS PAID OR PROVIDED
1. Exempt				
2.				
3.				
4.				
5.				

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*

☐ NONE *(No reportable gifts.)*

SOURCE	DESCRIPTION	VALUE
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.)*

CREDITOR	DESCRIPTION	VALUE CODE
1. Sallie Mae	Student Loan	J
2. Citibank	Student Loan	K
3.		
4.		
5.		

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

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)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(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. American Century Balanced Fund	B	Dividend	K	T	Exempt				
2. Trust I (Pension and Profit Sharing Plan Trust)	E	Dividend	O	T					
3. - T. Rowe Price Equity Inc Fund (Pension Plan)									
4. - T.Rowe Price Prime Fund (Pension Fund)									
5. - Vanguard GNMA Fund (Pension Fund)									
6. - Vanguard High Yield Fund (Pension Fund)									
7. - Vanguard Star Fund (Profit Sharing Plan)									
8. - Vanguard Prime Fund (Profit Sharing)									
9. - T. Rowe Price High Yield Fund (Profit Sharing)									
10. - Vanguard GNMA Fund (Profit Sharing)									
11. - T. Rowe Price Spectrum Growth Fund (Profit Sharing)									
12. - Hennessy/Tamarack/ Babson Value Fund (Pension Fund)									
13. - Vanguard Index 500 Fund (Profit Sharing Plan)									
14. - Vanguard Health Care Fund (Profit Sharing)									
15. - Artisan Mid Cap Fund (Profit Sharing Plan)									
16. Law Office Close Corp. Stock		None	J	W					
17. Proctor & Gamble Common Stock	A	Dividend	J	T					

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

FINANCIAL DISCLOSURE REPORT

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

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)	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
Place "(X)" after each asset exempt from prior disclosure	(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)
18. T.Rowe Price Equity Inc. Fund	A	Dividend	J	T					
19. Fidelity Equity Inc. Fund	B	Dividend	J	T					
20. Vanguard Money Market	A	Dividend	J	T					
21. Trust 3	C	Dividend	L	T					
22. - T. Rowe Price Equity Income Fund (Trust #3)									
23. Sempra Energy Common Stock	A	Dividend	J	T					
24. IRA A	D	Dividend	M	T					
25. - Vanguard Inflation Protected Securities Fund									
26. - Vanguard GNMA Fund									
27. IRA B	C	Dividend	M	T					
28. - Vanguard 500 Index Fund									
29. - Vanguard Midcap Fund									
30. - Vanguard Total Bond Fund									
31. - Vanguard Small Cap Fund									
32. - Vanguard International Fund									

1. Income Gain Codes: (See Columns B1 and D4)	A =$1,000 or less	B =$1,001 - $2,500	C =$2,501 - $5,000	D =$5,001 - $15,000	E =$15,001 - $50,000
	F =$50,001 - $100,000	G =$100,001 - $1,000,000	H1 =$1,000,001 - $5,000,000	H2 =More than $5,000,000	
2. Value Codes (See Columns C1 and D3)	J =$15,000 or less	K =$15,001 - $50,000	L =$50,001 - $100,000	M =$100,001 - $250,000	
	N =$250,001 - $500,000	O =$500,001 - $1,000,000	P1 =$1,000,001 - $5,000,000	P2 =$5,000,001 - $25,000,000	
	P3 =$25,000,001 - $50,000,000		P4 =More than $50,000,000		
3. Value Method Codes (See Column C2)	Q =Appraisal	R =Cost (Real Estate Only)	S =Assessment	T =Cash Market	
	U =Book Value	V =Other	W =Estimated		

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

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

Part 1: Trust #2 is solely comprised of a non reportable asset, a personal residence.

Part 3 A: Non reportable, non investment income was earned during the reported period for service as United States Magistrate Judge.

Name of Person Reporting	Date of Report
BATTAGLIA, ANTHONY J.	05/20/2010

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)

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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 Anthony Battaglia

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		4	000	Notes payable to banks-secured			
U.S. Government securities-Series EE bonds		1	100	Notes payable to banks-unsecured			
Listed securities-see schedule	1	293	749	Notes payable to relatives			
Unlisted securities--Met Life Trust Shares			500	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-see schedule		620	000
Real estate owned-personal residence		980	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		20	000	Education Loans for Children		50	806
Cash value-life insurance		22	500				
Other assets itemize:							
Home Furniture/Furnishings		100	000				
Clothing/jewelry/personal items		50	000				
				Total liabilities		670	806
				Net Worth	1	801	043
Total Assets	2	471	849	Total liabilities and net worth	2	471	849
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor		9	000	Are any assets pledged? (Add schedule)			No
On leases or contracts				Are you a 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

Listed Securities	
Callon Petroleum Stock	$ 320
Proctor & Gamble Stock	5,428
Sempra Energy Stock	1,525
Southwest Gas Stock	983
Toys-R-Us Stock	40
Artisan Funds	9,912
Henessey Funds	46,936
T. Rowe Price Funds (A)	202,150
Vanguard Funds (A)	353,817
Vanguard Funds (B)	105,138
Vanguard Funds (C)	136,763
Thrift Savings Plan	369,667
T. Rowe Price Funds (B)	13,872
T. Rowe Price Funds (C)	47,198
Total Listed Securities	$ 1,293,749

Real Estate Mortgages Payable	
Personal residence (First Mortgage)	$ 135,000
Personal residence (Second Mortgage)	$ 485,000
Total Mortgages Payable	$ 620,000

<u>AFFIDAVIT</u>

I, **ANTHONY JOSEPH BATTAGLIA**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

5/18/10
(DATE)

(NAME)

Joseph T. Janzen, Notary Public
(NOTARY)

OFFICIAL SEAL
JOSEPH T. JANZEN
NOTARY PUBLIC-CALIFORNIA
COMM. NO. 1834990
SAN DIEGO COUNTY
MY COMM. EXP. FEB. 5, 2013

(Subscribed + sworn to before me this 18th of May 2010 by Anthony Joseph Battaglia.)