

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Audrey Goldstein Fleissig (formerly, Audrey Ellen Goldstein)

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

United States District Judge for the Eastern District of Missouri

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.

Thomas F. Eagleton United States Courthouse
111 South 10th Street
St. Louis, Missouri 63102

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

1955; St. Louis, Missouri

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.

1977 to 1980, Washington University School of Law; J.D., 1980
1972 to 1976, Carleton College; B.A. (*magna cum laude*), 1976
1975 (summer), University of Toronto; 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.

August 2001 to present
United States District Court for the Eastern District of Missouri
111 South 10th Street
St. Louis, Missouri 63102
United States Magistrate Judge

1978, 1981 to 1982 and 1991 to present
Washington University School of Law
One Brookings Drive
St. Louis, Missouri 63130
Adjunct Faculty (1991 to present)
Legal Writing Instructor (1981 to 1982)
Research Assistant to Professor Michael Greenfield (1978)

1991 to 2001
Office of the United States Attorney
Eastern District of Missouri
111 South 10th Street
St. Louis, Missouri 63102
Assistant United States Attorney (2001)
United States Attorney (2000 to 2001)
Assistant United States Attorney (1991 to 2000)

1980 to 1991
Peper, Martin, Jensen, Maichel and Hetlage (now Husch Blackwell Sanders LLP)
190 Carondelet Plaza, Suite 600 (current address)
St. Louis, Missouri 63105
Partner (1989 to 1991)
Associate (1980 to 1989)

1979
Thompson & Mitchell (now Thompson Coburn LLP)
One US Bank Plaza
St. Louis, Missouri 63101
Summer Associate

1976 to 1978 (intermittent)
Missouri Machinery & Engineering Co., Inc.
1228 South 8th Street (current address)
St. Louis, Missouri 63104
Clerk

1977
Georgia Department of Labor
148 International Boulevard
Atlanta, Georgia 30303
Research Assistant

1976 to 1977
Washington University School of Medicine
660 South Euclid Avenue
St. Louis, Missouri 63110
Administrative Assistant

1976
Delmar-Harvard Elementary School
711 Kingsland Avenue
St. Louis, Missouri 63130
Teacher Aide

Other Affiliations

2003 to 2009
Ready Readers (uncompensated)
10270 Bach Boulevard
St. Louis, Missouri 63132
Director

1998 to 1999
St. Louis Gymnastics Center and Foundation (uncompensated)
315 West Pacific
St. Louis, Missouri 63119
Director and Secretary

1994 to 1996
Bar Association of Metropolitan St. Louis (uncompensated)
720 Olive Street, Suite 2900
St. Louis, Missouri 63101
Member, Board of Governors

1989 to 1995
Women Lawyers' Association of Greater St. Louis (uncompensated)
P.O. Box 1428
St. Louis, Missouri 63188
Past-President (1994 to 1995)
President (1993 to 1994)
President Elect (1992 to 1993)
Director (1989 to 1995)

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

I have not served in the military. I have not registered for selective service, as I was not eligible to do so.

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.

Distinguished Young Alumni Award, 2001, Washington University School of Law
President's Outstanding Service Award, 2001, Bar Association of Metropolitan St. Louis
President's Award, 2000, Women Lawyers' Association of Greater St. Louis
International Women's Day Inaugural Award, 2000, Washington University Women's Law Caucus

Performance Award, 1995, 1997, 1998, 1999, Office of the United States Attorney for the Eastern District of Missouri

Special Services Award, 1997, 1999, Office of the United States Attorney for the Eastern District of Missouri

Order of the Coif, 1980, Washington University School of Law

Dean's Honor Scholar, 1978, 1979, Washington University School of Law

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

American Bar Association

Missouri Bar Association

Bar Association of Metropolitan St. Louis

Co-Chair of Planning Committee, Conference on Government and Public Sector Lawyers, 2000

Steering Committee, Federal Litigation & Practice Committee, 1998 to 1999

Board of Governors, 1994 to 1996

Task Force on Family Issues Affecting Lawyers, 1990

Chairperson, Women in the Profession Committee, 1985 to 1986

Women Lawyers' Association of Greater St. Louis

Past-President, 1994 to 1995

President, 1993 to 1994

President-Elect, 1992 to 1993

Director, 1989 to 1995

Gender and Justice Implementation Committee (created jointly by the Supreme Court of Missouri and the Missouri Bar Association), 1994 to 1996

American Judicature Society

Federal Magistrate Judges Association
National Association of Women Judges
Washington University School of Law Alumni Executive Committee

10. Bar and Court Admission:

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

Missouri, 1980

Illinois, 1981

No lapses in membership.

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

United States Court of Appeals for the Fourth Circuit, 1986

United States Court of Appeals for the Fifth Circuit, 1988

United States Court of Appeals for the Eighth Circuit, 1983

United States Court of Appeals for the Eleventh Circuit, 1986

United States District Court for the Eastern District of Missouri, 1980

I allowed my admissions to the Court of Appeals for the Fifth and Eleventh Circuits to lapse in approximately 1991 and in 1999, respectively. I did not renew these admissions because I no longer practice before these circuits. I have had no other lapse in admission.

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.

Ready Readers, 2000 to present

Director, 2003 to 2009

Bradley University Parent Advisory Board, 2007 to present

Ladue Horton Watkins High School Parent Teacher Organization, 2001 to 2007

Ladue Junior High Parent Teacher Organization, 1998 to 2003

McKnight Woods Subdivision, Trustee, 1999 to 2000

Reed School Parent Teacher Organization, 1992 to 2000
Jewish Community Center Association, 1998
Mid-County YMCA, approximately 1995 to 1998
Legal Advocates for Abused Women, 1994 to 1995
Advisory Board/Development Committee, 1994 to 1995
Payback, Inc., 1993 to 1995
National Council of Jewish Women, 1991 to 1992
The Media Club, approximately 1989 to 1991

I made charitable contributions to organizations that may or may not have considered me a member based solely on those contributions. Those organizations and the dates of contributions, to the best of my recollection, are:

Jewish Federation of Greater St. Louis
KETC Channel 9 Public Television
KWMU Public Radio
St. Louis Art Museum Foundation
St. Louis Science Center
St. Louis Zoo Friends
The City Museum
Missouri Public Interest Research Group (intermittently until 1996)
Sierra Club (1995 to 1996)
Common Cause (1990 to 1996)
American Civil Liberties Union (intermittently until 1995)

- 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.

None of the organizations listed in response to 11a above currently discriminates or, to the best of my knowledge, has ever discriminated, on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

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.

Many Hands Make Light Work - A Bankruptcy Fraud Concealment Case, 47 U.S. ATTY'S BULL. 33 (August 1999).

Not in Our Court - New Tools to Combat Bankruptcy Crime, 42 ST. LOUIS B.J. 10 (Fall 1996).

Note, *Unconscionability: A New Helping Hand to Residential Tenants*, 1979 WASH. U.L.Q. 993 (Fall 1979).

Case Note, *Missouri Allows Punitive Damages in Product Liability Action*, 1979 WASH. U.L.Q. 298 (Winter 1979).

- 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.

None.

- 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.

While I was United States Attorney for the Eastern District of Missouri from 2000 to 2001, the Office may have provided communications relating to legal interpretation to various law enforcement organizations. I do not have records of such communications. The only instance I recall specifically was in 2000, when the Sheriff's office in one Missouri county was advised that a recent Supreme Court opinion limiting the use of drug checkpoints did not necessarily prohibit its practice of operating a ruse drug checkpoint. If the communication was in writing, I do not have a copy.

- 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.

As United States Attorney from 2000 to 2001, I frequently gave speeches and presentations on a variety of issues. The subjects included problems posed by methamphetamine, the danger to children posed by the Internet, hate crimes, and

other issues. Since 2000, I also have spoken to students at the local law schools on subjects such as practice tips, new student orientation, how to balance family and practice, and engaging in public service. I do not have the text or notes from those speeches.

In addition, after a search of my records, I have identified the following speeches and presentations I gave:

- 8/85 The Attorney/Client Privilege, sponsored by the Bankruptcy Committee of the Bar Association of Metropolitan St. Louis (no notes)
- 2/88 Securities Fraud, sponsored by The Corporate Counsel Institute, St. Louis, Missouri (no notes)
- 3/90 "Bankruptcy," sponsored by The Missouri Bar Association of Tax Planners, St. Louis, Missouri (no notes)
- 10/90 The Part-Time Option, at the Annual Meeting of the Missouri Bar Association (no notes)
- 3/91 Organizer and Moderator: The Small and Sole Practitioner, sponsored by the Women Lawyers' Association of Greater St. Louis (no notes)
- 2/92 Panel Speaker, "Litigation vs. Arbitration: Which is Best for You?" at a business roundtable sponsored by the American Association of Industrial Managers
- 3/93 "Bankruptcy Crimes, The Fifth Amendment, Etc.," sponsored by the Bankruptcy Committee of the Bar Association of Metropolitan St. Louis (no notes)
- 2/94 Criminal Bankruptcy Fraud, at the Annual Bankruptcy Institute, sponsored by the Missouri Bar
- 4/94 Organizer and Moderator, "Fairness on the Home Court: Dealing with Diversity in the Legal System," sponsored by the Bar Association of Metropolitan St. Louis and the Women Lawyers' Association of Greater St. Louis (no notes)
- 2/96 Bankruptcy and Bank Crimes, sponsored by the Bar Association of Metropolitan St. Louis (no notes)
- 10/96 Criminal Bankruptcy Fraud and Criminal Referrals, presented to the Office of the United States Bankruptcy Trustees for the Eastern District of Missouri (no notes)
- 1/97 Speaker and Demonstrator on Appellate Oral Argument and the Appellate Process, at the program, "Objections at Trial and Winning on Appeal," sponsored by the Missouri Bar and the National Practice Institute (NPI). I believe a video tape was made of the program by NPI.
- 6/98 Use of Technology in the Courtroom, presented at the Federal Practice Potpourri, sponsored by the Bar Association of Metropolitan St. Louis

- 6/99 "The Mechanics of Voir Dire," presented at the program, "Anatomy of a Federal Civil Lawsuit," sponsored by the Bar Association of Metropolitan St. Louis
- 1/00 Panel Member: "Is 'Relevant Conduct' Relevant? Reconsidering the Guidelines' Approach to Real Offense Sentencing," presented at a program on the Sentencing Guidelines, sponsored by St. Louis University School of Law (no notes)
- 2/00 Panel Member, "Finding the Evidence" workshop; Speaker, "Effective Investigative, Charging and Trial Strategies," at the Bankruptcy Fraud Seminar, sponsored by the Office of Legal Education, Executive Office for United States Attorneys
- 2/00 Speaker on Ethics Issues, at Annual Bankruptcy Institute, sponsored by The Missouri Bar (no notes)
- 3/00 Address at International Women's Day Award Ceremony, sponsored by Washington University Women's Law Caucus
- 8/00 Address at my Swearing-In Ceremony as United States Attorney
- 10/00 Panelist, Program on Hate Crimes and Hate Speech, sponsored by FOCUS St. Louis (no notes)
- 11/00 Address at 31st Annual Medal of Valor Awards Dinner, St. Louis, Missouri (no notes)
- 12/00 Co-chair and speaker at the Conference on Government & Public Sector Lawyers & the Organized Bar, sponsored by the Bar Association of Metropolitan St. Louis; "Economics of the Practice of Public Sector Law" (no notes)
- 3/01 Speaker, "Tips on Making Federal Practice Easier," sponsored by the Bar Association of Metropolitan St. Louis (no notes)
- 2/02 "Meet the New Judge – Top 10 List – Things You May Want to Know," sponsored by the Bar Association of Metropolitan St. Louis
- 4/02 Introduction of the Honorable Jean C. Hamilton as recipient of award for International Women's Day
- 4/02 Address at Investiture Ceremony as United States Magistrate Judge
- 5/02 "Arthur Miller Unravels Ethical Dilemmas for Today's Lawyer," sponsored by the National Practice Institute (no notes)
- 5/02 Guest speaker, St. Louis Police Officer Graduation Ceremony
- 8/02 Speaker at Swearing-In Ceremony of United States Attorney
- 2/03 "Practice of Employment Law Before Federal Courts," sponsored by the Bar Association of Metropolitan St. Louis
- 4/03 Presentation of St. Louis Daily Record Justice Award to Karen Tokarz
- 5/03 Law Day Program for High School Students at Federal Courthouse
- 6/03 "Electronic Filing in the Eastern District," and "Ask the Judge" Panel Member, sponsored by the Bar Association of Metropolitan St. Louis, Annual Bench and Bar Conference (no notes)
- 8/03 Panel Member, speaking on Professionalism, at New Student Orientation, Washington University School of Law

- 9/03 "The Practice of Employment Law Before the District Courts," sponsored by The Missouri Bar
- 1/04 "The Politics of Creating Alternative Work Arrangements," sponsored by the Bar Association of Metropolitan St. Louis
- 4/04 "Evidence Jeopardy," sponsored by the National Employment Lawyers Association
- 5/04 Panel Member, Mental Competency Proceedings, Annual CJA Seminar, sponsored by the United States District Court and the Federal Public Defender for the Eastern District of Missouri
- 10/04 Judges' Roundtable Program, New Challenges for Federal Practitioners, sponsored by the Bar Association of Metropolitan St. Louis and the Federal Practice Committee
- 4/05 Criminal Case Management Program: Managing the Complex Criminal Case; Managing Death Penalty Cases, Workshop for U.S. Magistrate Judges I, sponsored by the Federal Judicial Center
- 7/05 Criminal Case Management Program: Managing the Complex Criminal Case; Managing Death Penalty Cases, Workshop for U.S. Magistrate Judges II, sponsored by the Federal Judicial Center
- 10/05 Organizer and speaker, "How We Do What We Do," Magistrate Judges' session at the Eighth Circuit Judicial Conference (no notes)
- 10/05 Speaker, "Requests for Electronic Information," Magistrate Judges' session at the Eighth Circuit Judicial Conference
- 3/07 Introduction of Honorees, International Women's Day, Washington University Women's Law Caucus
- 4/07 "Criminal Duty Practices and Logistics," sponsored by the Federal Judicial Center
- 4/07 Speaker, "Getting to the Top: Career Path of 3 Powerful Leaders in Missouri," sponsored by St. Louis University Women's Law Student Association (no notes)
- 7/07 "Criminal Duty Practices and Logistics," sponsored by the Federal Judicial Center
- 9/07 Panel Member, Courtroom Technology Roundtable, at Federal Practice Fundamentals program, sponsored by the United States District Court
- 4/08 Speaker at Program Installing Professor Karen Tokarz with the Public Interest Chair, Washington University School of Law
- 4/08 "Enhancing Chamber's Efficiency Through Technology," sponsored by the Federal Judicial Center
- 7/08 "Using Basic Technology in Three Work Areas," sponsored by the Federal Judicial Center
- 9/08 Panel Member, Federal Practice Fundamentals and Judges' Roundtable, sponsored by the United States District Court
- 11/08 Panel Member: "New Trends and Challenges in ADR; Here and Around the World," sponsored by United States Arbitration & Mediation Midwest, Inc. and Washington University School of Law

- 3/09 Organizer and Speaker at "In or Out? Evolving Evidence Issues in the Eighth Circuit," sponsored by the Bar Association of Metropolitan St. Louis and the Federal Practice Committee
- 4/09 Panel Member, "Emerging Uses of Technology to Aid the Administration of Justice," sponsored by the National Association of Women Judges
- 5/09 Speaker, Women Lawyers' Association of Greater St. Louis, Scholarship Reception

- 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 searched for available news accounts of interviews and speeches. There are many news accounts related to my position as United States Attorney in 2000 and 2001. Very few reference interviews or speeches I gave and, instead, most are based on press releases or otherwise merely reference me or actions taken by the Office. After careful review, I have identified the following news accounts that quote me or comment on a speech, interview, or remark that I made or that was attributed to me or to the Office:

- Donna Walter, *Women Lawyers Brainstorm on Attaining Leadership Roles*, DAILY (Kansas City), Oct. 6, 2004.
- Michael Shaw, *Miquelon's Induction is More of a Roast; Family, Friends, FBI Salute U.S. Attorney on Winning Nomination Battle*, ST. LOUIS POST-DISPATCH, Aug. 28, 2002, at B1.
- Bill Smith, *For Newest Citizens, Feelings of Grief Mar Joy of Special Day, "We Are All Patriots,"* ST. LOUIS POST-DISPATCH, Sept. 18, 2001, at D1.
- Jo Mannies, *U.S. Attorney Fleissig is Leaving Office; Some had Speculated that She Would Stay for Vote-Fraud Inquiry; Republican Gets Interim Job*, ST. LOUIS POST-DISPATCH, Apr. 19, 2001, at B1.
- Carolyn Tuft, *Grand Jury Looks at Voter Registration*, ST. LOUIS POST-DISPATCH, Feb. 14, 2001, at A1.
- I-44 Drug Checkpoints will Continue, Despite High Court Ruling, Sheriff Says*, ST. LOUIS POST-DISPATCH, Dec. 5, 2000, at D7.
- Man is Charged in Fatal Stabbing Outside Tavern*, ST. LOUIS POST-DISPATCH, Nov. 28, 2000, at B2.
- Jerry Berger, *Who Needs Frustration of Waiting? How about Letting Bush, Gore Share White House?*, ST. LOUIS POST-DISPATCH, Nov. 12, 2000, at A2.
- Bill Bryan, *Society is Lucky to Have People Brave Enough and Willing to be Police, U.S. Prosecutor Says*, ST. LOUIS POST-DISPATCH, Nov. 2, 2000, at A5.
- Man in Investment Scam Gets Term of 51 Months*, ST. LOUIS POST-DISPATCH, Oct. 18, 2000, at B2.

Display Notes Casualties of Gun Violence, ST. LOUIS POST-DISPATCH, Sept. 6, 2000, at B2.

Tim Bryant, *Abbott Ambulance Settles Medicare Fraud Case for \$5.4 Million*, ST. LOUIS POST-DISPATCH, Aug. 19, 2000, at 8.

William C. Lhotka, *U.S. Attorney is Taking Office with Sights Set on Cybercrime; She Wants a Partnership Between Law Enforcement and Private Industry*, ST. LOUIS POST-DISPATCH, Aug. 6, 2000, at C1.

Editorial, *Mess at Thompson Coburn*, ST. LOUIS POST-DISPATCH, June 25, 2000, at B2.

Tim Bryant, *Lawyer Will Repay His Firm \$678,417 for Irregularities: Lazaroff Pleads Guilty of Fraud, May Face 27-33 Months in Prison*, ST. LOUIS POST-DISPATCH, June 14, 2000, at A1.

Newsmakers, MODERN HEALTHCARE, May 29, 2000, at 16.

Tim Bryant, *Ashcroft Would Boost Efforts Here to Fight Illegal Guns*, ST. LOUIS POST-DISPATCH, Mar. 4, 2000, at 8.

Tim Bryant, *Lieberman Fought Extradition to the End; He Leaps to His Death from Balcony in Chile; Whereabouts of Cash is Mystery*, ST. LOUIS POST-DISPATCH, Feb. 24, 1998, at A1.

Mid-America, KANSAS CITY STAR, Feb. 10, 1998, at B3.

Dan Mihalopoulos, *Lieberman Appeals Order Kicking Him Out of Chile; Supreme Court Will Decide Fugitive's Case This Week*, ST. LOUIS POST-DISPATCH, Feb. 10, 1998, at A1.

Bill McClellan, *Aging Hipster's Not "Overly Upset" with Lieberman*, ST. LOUIS POST-DISPATCH, June 15, 1997, at 01C.

Tim Bryant, *Delay in Dealing Costs Lieberman Some Free Time; Ex-Builder Must Serve 10 Years; May Have to Make Restitution*, ST. LOUIS POST-DISPATCH, June 4, 1997, at 01A.

Tim Bryant, *Lieberman Admits to Defrauding Home Buyers*, ST. LOUIS POST-DISPATCH, Mar. 15, 1997, at 3.

Tim Bryant, *Alan Lieberman Returns to U.S.; Ex-Home Builder Back in St. Louis to Face Federal Fraud Charges*, ST. LOUIS POST-DISPATCH, Feb. 27, 1997, at 01A.

Tim Bryant, *Liebermans Stashed Cash at Local Bank*, ST. LOUIS POST-DISPATCH, Feb. 19, 1997, at 01B.

Tim Bryant, *Woman Who Lost Money Hails Scrutiny of Liebermans; Meanwhile, Wife of 1 of the Brothers Faces Hearing Today*, ST. LOUIS POST-DISPATCH, Feb. 5, 1997, at 02B.

Tim Bryant, *Visitor Describes Crime in Lithuania; Journalist Meets U.S. Prosecutor Here, Explores Differences in 2 Nations' Justice Systems*, ST. LOUIS POST-DISPATCH, Mar. 26, 1995, at 04D.

Tim Bryant, *Money Keeps Fugitives in Luxury in Chile*, ST. LOUIS POST-DISPATCH, June 5, 1993, at 01A.

Claudia MacLachlan, *Apex Might Object to Fee for Report*, ST. LOUIS POST-DISPATCH, Oct. 13, 1989, at 1C.

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

I was appointed United States Magistrate Judge for the Eastern District of Missouri in 2001 and reappointed in 2009. I preside over cases on reference from the district judges and, where all parties consent, preside in full over civil cases in this Federal trial court.

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

I have presided over approximately 20 cases to verdict or judgment, excluding cases in which I entered judgment based upon a stipulation, motion, or default.

- i. Of these, approximately what percent were:

jury trials:	55%
bench trials:	45%
civil proceedings:	100%
criminal proceedings:	0%

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

See attached list of cases.

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

- (1) United States v. Civey, No. S1-4:08CR0288 CAS (E.D. Mo.)

I presided over all pretrial proceedings in this 2008 criminal case in which the defendant was charged with the production of child pornography. I issued a key ruling that the attorney-client privilege did not protect the attorney who represented the defendant in a parallel state criminal proceeding from being required to give testimony regarding the chain of custody of pornographic photographs implicating the defendant that the attorney had received from a third party. I also determined that the state and federal search warrants and statements of the defendant were not subject to suppression under the Fourth or Fifth

Amendments; that the child pornography statute was constitutional; that the indictment was not subject to dismissal on constitutional and statutory grounds; and that memory problems caused by a previous stroke did not render the defendant incompetent to stand trial. The District Judge adopted my Report and Recommendation. Following a jury trial before the District Judge, the defendant was convicted, and the case is currently on appeal to the United States Court of Appeals for the Eighth Circuit.

Counsel for the United States were Assistant U.S. Attorneys Carrie Costantin and Robert Livergood, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant was William James O'Herin, 1050 Rue Ste. Francois, Suite A, Florissant, Missouri 63031, Tel (314) 814-5951.

Counsel for Sara Rittman, Legal Ethics Counsel, was Jane E. Fedder, Husch Blackwell Sanders LLP, 190 Carondelet Plaza, Suite 600, St. Louis, Missouri 63105, Tel (314) 480-1500.

Counsel for Tim Braun, the defendant's attorney in the state case, was John C. Maxwell, 1112-B First Capital Drive, St. Charles, Missouri 63301, Tel (636) 947-4888.

(2) United States v. Sehjpai, No. 4:05CR0074 RWS (E.D. Mo.)

I presided over all pretrial proceedings in this 2005 criminal case in which the defendant was charged with possession of child pornography and other crimes. Police had searched the defendant's computer after a repair service employee found and reported pornographic images on it. After evidentiary hearings, I determined that neither this search nor the consent search of the defendant's residence and computer violated the Fourth Amendment. I also established procedures for the defendant and his expert to view and use the seized computer images for preparation of a defense, consistent with the limitations imposed by the Adam Walsh Act. Separately, I rejected defendant's argument that the child pornography statute was unconstitutionally vague and overbroad based on the argument that one cannot know, from viewing an image, whether it is of an actual child or is a virtual image. The District Judge adopted my Reports and Recommendations. The defendant thereafter entered a guilty plea and was sentenced to 30 months in prison.

Counsel for the United States were Assistant U.S. Attorneys Carrie Costantin and Hal Goldsmith, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant were Bret M. Rich, 225 South Meramec, Suite 532T, Clayton, Missouri 63105, Tel (314) 721-4472; and Dean Maynard Boland, 18123 Sloan Avenue, Lakewood, Ohio 44107, Tel (216) 529-9371.

(3) United States v. Gillis, No. 4:04CR0199 RWS (E.D. Mo.)

In 2003, the defendant, who had a history of harassing the officials of a church, was charged by criminal complaint when police searched his residence and found a pipe bomb and other bomb-making materials. I had to determine whether the defendant should be forcibly medicated in order to be rendered competent to stand trial. Applying the then-recent decision by the Supreme Court in Sell v. United States, 539 U.S. 166 (2003), I granted the government's request to forcibly medicate the defendant. The parties and I also worked with the medical facility to design proper orders to address the new standards mandated by Sell. After forced medication, the defendant was restored to competency. He thereafter entered a plea of guilty and was placed in a community corrections center.

Counsel for the United States was Assistant U.S. Attorney Patrick T. Judge, Sr., 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant was Assistant Federal Public Defender Michael Dwyer, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255.

(4) Ekstam v. Ekstam, No. 4:04CV0187 AGF, 2006 WL 568352 (E.D. Mo. March 7, 2006); 2007 WL 2571968 (E.D. Mo. Aug. 31, 2007), aff'd, 284 F. App'x 808 (Fed. Cir. 2008)

I presided in full over this patent case by consent of the parties. The case involved claims of infringement and invalidity related to a patent for a fuel delivery system for removing air from fuel delivered to an engine. Following a Markman hearing that included the receipt of expert testimony, I construed numerous claims and terms in the patent. The parties filed cross-motions for summary judgment, and I granted summary judgment to the defendants based on non-infringement. The case was affirmed by the United States Court of Appeals for the Federal Circuit.

Counsel for the Plaintiffs was Anthony G. Simon, Simon Law Firm, P.C., 701 Market Street, Suite 1450, St. Louis, Missouri 63101, Tel (314) 241-2929.

Counsel for the Defendants were John T. Walsh, Lathrop and Gage, LLP, 10 South Broadway, Suite 1300, St. Louis, Missouri 63102-1708, Tel (314) 613-2500; and James J. Kernell, Chase Law Firm, L.C., 4400 College Boulevard, Suite 1300, Overland Park, Kansas 66211, Tel (913) 339-6061.

- (5) City of St. Louis v. AT&T Wireless Servs., Inc., 4:04CV0002 AGF (E.D. Mo.); Telecorp Commc'ns, Inc. v. City of St. Louis, 4:04CV1766 AGF (E.D. Mo.)

I presided in full over these related cases by consent of the parties, after the initial case was removed to federal court in 2004. The City of St. Louis had filed suit against numerous commercial wireless services companies seeking a declaration that they were subject to the City's Telephone Company Alternative Tax, and two of the companies filed counterclaims seeking a declaration that imposition of the tax would violate the Missouri constitution. After resolving complex issues of proper joinder and jurisdiction, the City dismissed its claims, and I then abstained from adjudicating the counterclaims in accordance with the Tax Injunction Act, 28 U.S.C. § 1341, and Jefferson County v. Acker, 527 U.S. 423 (1999). The parties pursued their claims in state court, and a settlement agreement was reached between the wireless services companies and the City of St. Louis and several other cities in Missouri.

Counsel for the Plaintiff was Mark Lawson, St. Louis City Counselor, 1200 Market Street, 314 City Hall, St. Louis, Missouri 63103, Tel (314) 622-3361.

Counsel for the Defendants were Juan D. Keller, 12512 Glencroft Drive, Sunset Hills, Missouri 63128, Tel (314) 849-7083; Mark B. Leadlove, Bryan Cave LLP, 211 North Broadway, Suite 3600, St. Louis, Missouri 63102, Tel (314) 259-2000; and Gilbert C. Sison, Rosenblum Schwartz Rogers & Glass, 120 South Central Avenue, Suite 130, Clayton, Missouri 63105, Tel (314) 862-4332.

- (6) Nationwide Life Ins. Co. v. St. Claire Mobile Park Homes, LLC, 4:04CV1746 AGF, 2005 WL 1668252 (E.D. Mo. July 13, 2005); 2006 WL 2228988 (E.D. Mo. Aug. 3, 2006); 2006 WL 2252754 (E.D. Mo. Aug. 4, 2006); 2006 WL 2546815 (E.D. Mo. Aug. 31, 2006); 2006 WL 3313786 (E.D. Mo. Nov. 14, 2006)

I presided in full over this case with consent of the parties, in which a commercial lender sued a borrower, in 2005, for breach of contract due to the borrower's failure to close on a \$13,000,000 commercial mortgage loan. The borrower filed a counterclaim for rescission and claims against the mortgage broker for damages and misrepresentation. In bifurcated proceedings, I granted summary judgment to the lender on liability, and determined at a bench trial that the lender, which packaged and sold its loans as commercial mortgage-backed securities, was not entitled to "hedge losses," which were in excess of \$950,000. The remaining parties settled their claims.

Counsel for the Plaintiff were Thomas Cummings, Brent M. Covington and Jacqueline Ulin Levey, Armstrong Teasdale, LLP, One Metropolitan Square, Suite 2600, St. Louis, Missouri 63102, Tel (314) 621-5070; and Michael H. Kauffman, 3M Company Office of General Counsel, Office 220-10-E, 3M Center, St. Paul, Minnesota 55144, Tel (651) 733-0874.

Counsel for the Defendants were Hon. Kurt S. Odenwald, Missouri Court of Appeals, One Post Office Square, St. Louis, Missouri 63101, Tel (314) 539-4300; Linda K. Behrmann, St. Louis Development Corporation, 1015 Locust Street, Suite 1200, St. Louis, Missouri 63101, Tel (314) 622-3400; and Kirk T. May, Gaddy and Geiger, P.C., 2345 Grand Boulevard, Suite 675, Kansas City, Missouri 64108, Tel (816) 221-8988.

- (7) Behrendt v. Mo. Dev. Fin. Bd., No. 4:03CV0699 AGF (E.D. Mo.); Behrendt v. Desco Group, Inc., 4:04CV0877 AGF (E.D. Mo.); Landmarks Ass'n of St. Louis, Inc., v. Mo. Dev. Fin. Bd., No. 4:04CV1442 AGF ("Landmarks") (E.D. Mo.)
I presided in full over these related cases with consent of the parties. The cases arose out of a joint federal, state, and local development project in downtown St. Louis, Missouri, to renovate the United States Custom House and Post Office building ("Old Post Office"), a National Landmark. The plan called for the demolition of the adjacent Century Building, also an historic building, for which demolition as a public nuisance had previously been ordered by a state court. A nearby property owner and the Landmarks Association filed suit in 2003 and 2004 to prevent the demolition of the Century Building.

I addressed standing and other issues under the National Historic Preservation Act and the National Environmental Protection Act and, among other rulings, determined that the plaintiff's request that I find that the state court had exceeded its authority in ordering the demolition of the building was barred by the Rooker-Feldman doctrine. After the property owner dismissed her remaining claims, I denied Landmarks Association's request for a temporary restraining order to prevent the demolition. Demolition of the Century Building was thereafter completed, as was renovation of the Old Post Office.

Counsel for the Plaintiff was Matthew J. Ghio, Law Offices of Matthew J. Ghio, P.O. Box 16201, St. Louis, Missouri 63105, Tel (314) 496-8420.

Counsel for the Defendants were Edward M. Goldenhersh and Dawn Morville Johnson, Greensfelder and Hemker, PC, 2000 Equitable Building, 10 South Broadway, St. Louis, Missouri 63102, Tel (314) 345-4734; Edward L. Dowd, Jr. and James F. Bennett, Dowd Bennett, LLP, 7733 Forsyth, Suite 1410, Clayton, Missouri 63105, Tel (314) 889-7306; Assistant U.S. Attorney Jane Rund, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200; Michael A. Garvin, Carnahan and Garvin, 211 North Broadway, Suite 2980, St. Louis, Missouri 63102, Tel (314) 436-1223; and Mark Lawson, St. Louis City Counselor, 1200 Market Street, 314 City Hall, St. Louis, Missouri 63103, Tel (314) 622-3361.

- (8) United States v. Bolden, 4:02CR0557 CEJ (AGF) (E.D. Mo. Sept. 2, 2004), adopted in large part, 2005 WL 2874711 (E.D. Mo. Oct. 31, 2005) and Order dated Nov. 2, 2005, aff'd in large part, 545 F.3d 609 (8th Cir. 2008), cert. denied, 2009 WL 2494691 (2009).

I presided over all pretrial proceedings in this 2002 criminal case, arising out of the shooting death of a bank guard during an attempted bank robbery, in which the United States was seeking the death penalty under the Federal Death Penalty Act (FDPA), 18 U.S.C. §§ 3591-98. I rejected the defendant's numerous arguments that the FDPA was unconstitutional, on its face and as applied. Following evidentiary hearings, I denied the defendant's motions to suppress, including that the lineup identifications did not violate due process. I also found that defendant's consents to search were voluntarily given, that his statements were not subject to suppression under the Fifth Amendment, and that the warrantless seizure of the firearm used in the offense did not violate the Fourth Amendment. Separately, I determined the procedures for any mental health examination of the defendant, and the timing and extent of the disclosure of expert reports regarding the defendant's mental health, for possible use at the penalty phase. The District Judge substantially affirmed and adopted all of the rulings I recommended. In a jury trial before the District Judge, the defendant was found guilty and the death sentence was imposed. The judgment and sentence were affirmed on appeal, and the Supreme Court denied certiorari.

Counsel for the United States were Assistant U.S. Attorneys Michael A. Reilly and Steven E. Holtshouser, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant were Christopher E. McGraugh, Leritz and Plunkert, P.C., 555 Washington Avenue, Suite 600, St. Louis, Missouri 63101, Tel (314) 231-9600; and Assistant Federal Public Defenders Kevin Curran and Caterina M. DiTraglia, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255.

- (9) Burlington N. & Santa Fe Ry. Co. v. Bellefontaine Quarry, 4:00CV1697 AGF (E.D. Mo.)

I presided in full with consent of the parties over this suit by a railroad company to recover damages resulting from a train derailment that occurred on tracks running adjacent to the defendant's property. A slope had failed on the defendant's property, causing earth and other debris to fall and obstruct the tracks. The defendant filed a counterclaim alleging that the plaintiff was negligent in failing to provide lateral support. There were significant discovery disputes and several Daubert motions were filed in the areas of accounting, locomotive engineering, railroad operations, and slope management. After I denied the plaintiff's motion for summary judgment on the counterclaim, the case proceeded to a jury trial in 2002. After five days of trial, the parties settled.

Counsel for the Plaintiff were Paul Littleton, Brasher Law Firm, L.C., 211 North Broadway, One Metropolitan Square, Suite 2300, St. Louis, Missouri 63102, Tel (314) 621-7700; and William A. Brasher, Boyle Brasher LC, 211 North Broadway, One Metropolitan Square, Suite 2300, St. Louis, Missouri 63102, Tel (314) 621-7700.

Counsel for the Defendants were Lawrence B. Grebel and B. Michael Easley, Brown and James, P.C., 1010 Market Street, 20th Floor, St. Louis, Missouri 63101, Tel (314) 421-3400.

(10) Sexton v. Martin, No. 4:95CV2026 AGF (E.D. Mo.)

Six police/firefighters and their wives sued the city and several public officials, alleging that the defendants illegally recorded the plaintiffs' private telephone calls, in violation of the Federal Wiretap Act and their right to privacy under the Fourth and Fourteenth Amendments. Two plaintiffs also claimed that the defendants wrongfully terminated their employment in retaliation for publicly disclosing the illegal wiretap and engaging in union activities, in violation of their First Amendment free speech rights.

In 2001, after the appellate court affirmed the denial of qualified immunity, Sexton v. Martin, 210 F.3d 905 (8th Cir. 2000), and the previous trial judge retired, the case was assigned to me and I presided over the remaining proceedings with consent of the parties. I rejected the defendants' arguments that municipalities could not be liable under the Wiretap Act and that there had been no "interception" within the meaning of the statute, and denied qualified immunity. After several plaintiffs settled, a five-day trial was held following which the jury found for the plaintiffs on their claims under the Wiretap Act and awarded punitive damages, but found for the defendants on the claim of wrongful termination. I awarded statutory damages under the Wiretap Act, and attorneys' fees. No appeal was filed.

Counsel for the Plaintiffs were Jerome J. Dobson and Gregory A. Rich, Dobson and Goldberg, 5017 Washington Place, Third Floor, St. Louis, Missouri 63108, Tel (314) 621-8363; and Michael J. Shaller, Pleban and Associates, LLC, 2010 South Big Bend, St. Louis, Missouri 63117, Tel (314) 645-6666.

Counsel for the Defendants were Lawrence B. Grebel and B. Michael Easley, Brown and James, P.C., 1010 Market Street, 20th Floor, St. Louis, Missouri 63101, Tel (314) 421-3400.

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

- (1) Wright v. City of Salisbury, No. 2:07CV0056 AGF, 2009 WL 2957918 (E.D. Mo. Sept. 10, 2009).

Counsel for the Plaintiff was Carla G. Holste, Carson and Coil, 515 East High Street, P.O. Box 28, Jefferson City, Missouri 65102, Tel (573) 636-2177.

Counsel for the Defendants was Michael G. Berry, Michael G. Berry, L.L.C., 211 Bolivar Street, Suite 100, Jefferson City, Missouri 65101, Tel (573) 638-7272.

- (2) United States v. Huggans, No. 4:07CR0541 CDP (AGF) (E.D. Mo. May 2, 2008), 2008 WL 4066398 (E.D. Mo. Aug. 27, 2008).

Counsel for the United States were Assistant U.S. Attorneys Dean R. Hoag and James C. Delworth, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant were Michael A. Gross, 34 North Brentwood Boulevard, Suite 207, St. Louis, Missouri 63105, Tel (314) 727-4910; and Nick A. Zotos, Fabbri and Zotos, 4235 Lindell Boulevard, St. Louis, Missouri 63108, Tel (314) 534-1797.

- (3) McDonald v. NextStudent, Inc., 542 F. Supp. 2d 956 (E.D. Mo. 2008).

Counsel for the Plaintiff were David T. Butsch and James J. Simeri, Butsch Simeri Fields, LLC, 231 South Bemiston, Suite 260, Clayton, Missouri 63105, Tel (314) 863-5700; and Martin M. Green, Green Jacobson, P.C., 7733 Forsyth Boulevard, Suite 700, St. Louis, Missouri 63105, Tel (314) 862-6800.

Counsel for the Defendant were John C. Grellner, Stinson and Morrison, 168 North Meramec, Suite 400, St. Louis, Missouri 63105, Tel (314) 863-0800; and John J. Witmeyer, III, Jon Ryan Grabowski and Kyle M. Medley, Ford and Marrin, LLP, Wall Street Plaza, New York, New York 10005, Tel (212) 269-4900.

- (4) United States v. Mitchell, 4:07CR0184 ERW (AGF), 2007 WL 3022210 (E.D. Mo. Oct. 12, 2007).

Counsel for the United States were Assistant U.S. Attorneys Dean R. Hoag and James C. Delworth, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant was Patrick S. Kilgore, Ferguson and Kilgore, LLC, 200 South Bemiston, Suite 310, Clayton, Missouri 63105, Tel (314) 421-6900.

- (5) United States v. Lewis, No. 4:06CR0149 ERW (AGF) (E.D. Mo. July 10, 2006), adopted, 2006 WL 2513996 (E.D. Mo. Aug. 29, 2006).

Counsel for the United States were Assistant U.S. Attorneys Frederick J. Dana and Julia M. Wright, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant was Robert T. Haar, Haar and Woods, LLP, 1010 Market Street, Suite 1620, St. Louis, Missouri 63101, Tel (314) 241-2224.

- (6) Marcrum v. Luebbbers, No. 4:02CV1167 AGF (E.D. Mo. Sept. 30, 2005), rev'd, 509 F.3d 489 (8th Cir. 2007), cert. denied, 129 S. Ct. 754 (2008).

Counsel for the Petitioner was K. Lee Marshall, Bryan Cave LLP, 211 North Broadway, Suite 3600, St. Louis, Missouri 63102, Tel (314) 259-2000.

Counsel for the Respondent were Assistant Attorney General Stephen D. Hawke, 221 West High Street, P.O. Box 899, Jefferson City, Missouri 65102, Tel (573) 751-3321; and Lisa J. Berry-Tayman, Shook Hardy, L.L.P., 2555 Grand Boulevard, Kansas City, Missouri 64108, Tel (816) 474-6550.

- (7) United States v. Sehjpai, No. 4:05CR0074 RWS (AGF) (E.D. Mo. March 30, 2005; Sept. 14, 2006).

Counsel for the United States were Assistant U.S. Attorneys Carrie Costantin and Hal Goldsmith, 111 South 10th Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant were Bret M. Rich, 225 South Meramec, Suite 532T, Clayton, Missouri 63105, Tel (314) 721-4472; and Dean Maynard Boland, 18123 Sloan Avenue, Lakewood, Ohio 44107, Tel (216) 529-9371.

- (8) Sexton v. Martin, No. 4:95CV2026 AGF (E.D. Mo. Jan. 31, 2002; June 5, 2003).

Counsel for the Plaintiffs were Jerome J. Dobson and Gregory A. Rich, Dobson and Goldberg, 5017 Washington Place, Third Floor, St. Louis, Missouri 63108, Tel (314) 621-8363; and C. John Pleban and Michael J. Shaller, Pleban and Associates, LLC, 2010 South Big Bend, St. Louis, Missouri 63117, Tel (314) 645-6666.

Counsel for the Defendants were Lawrence B. Grebel and B. Michael Easley, Brown and James, P.C., 1010 Market Street, 20th Floor, St. Louis, Missouri 63101, Tel (314) 421-3400.

- (9) United States v. Bolden, No. 4:02CR0557CEJ (AGF) (E.D. Mo. Sept. 2, 2004).

Counsel for the United States were Assistant U.S. Attorneys Michael A. Reilly and Steven E. Holtshouser, 111 South Tenth Street, 20th Floor, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for the Defendant were Christopher E. McGraugh, Leritz and Plunkert, P.C., 555 Washington Avenue, Suite 600, St. Louis, Missouri 63101, Tel (314) 231-9600; and Assistant Federal Public Defenders Kevin Curran and Caterina M. DiTraglia, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255.

- (10) Bell v. Imperial Palace Hotel/Casino, Inc., 200 F. Supp. 2d 1082 (E.D. Mo. 2001).

Counsel for the Plaintiffs was Donna M. Anderson, 7335 Compas, Grand Prairie, Texas 75054, Tel (314) 568-8181.

Counsel for the Defendant was Daniel T. Rabbitt, Rabbitt and Pitzer, 100 South Fourth Street, Suite 400, St. Louis, Missouri 63102, Tel (314) 421-5545.

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

Spencer v. Kemna, No. 4:01CV0884 AGF (E. D. Mo. 2004), appeal dismissed (application for certificate of appealability denied), No. 04-3800 (8th Cir. 2005), cert. denied, 547 U.S. 1081 (2006).

Marcum v. Luebbbers, No. 4:02CV1167 AGF (E.D. Mo. Sept. 30, 2005), rev'd, 509 F.3d 489 (8th Cir. 2007), cert. denied, 129 S. Ct. 754 (2008).

McClaskey v. La Plata R-II School Dist., 364 F. Supp. 2d 1041 (E.D. Mo. 2006), aff'd, 256 F. App'x 867 (8th Cir. 2007), cert. denied, 129 S. Ct. 80 (2008).

Knieriem v. Group Health Plan, Inc., No. 4:04CV0415 AGF (E.D. Mo. 2004), aff'd, 434 F.3d 1058 (8th Cir.), cert. denied, 548 U.S. 905 (2006).

Bahktiari v. Lutz, 2006 WL 2664383 (E.D. Mo. Sept. 15, 2006), aff'd, 507 F.3d 1132 (8th Cir. 2007), cert. denied, 128 S. Ct. 2442 (2008).

United States v. Bolden, No. 4:02CR0557 CEJ (AGF) (E.D. Mo. Sept. 2, 2004), adopted in large part, 2005 WL 2874711 (E.D. Mo. Oct. 31, 2005) and Order dated Nov. 2, 2005, aff'd in large part, 545 F.3d 609 (8th Cir. 2008), cert. denied, 2009 WL 2494691 (2009).

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- (1) Clark v. Astrue, No. 4:06CV0984 ERW/AGF (E.D. Mo. June 22, 2007). In a Report and Recommendation, I concluded that the decision of the Commissioner of Social Security to deny the plaintiff's application for disability benefits was supported by substantial evidence. The District Judge reversed and remanded the case, finding that the Commissioner erred in not specifically considering whether the combination of the plaintiff's impairments was disabling.
- (2) McAuley v. Fed. Ins. Co., No. 4:05CV1826 AGF, 2006 WL 2795376 (E.D. Mo. Sept. 27, 2006), after remand, 2009 WL 913510 (E.D. Mo. Mar. 31, 2009). On cross motions to dismiss, I denied the plaintiffs' request for benefits in this ERISA case, finding there was no accidental death under the language of the insurance policies. On appeal, a divided panel of the Court of Appeals determined the issue should have been decided on summary judgment, with reference to the administrative record. McAuley v. Fed. Ins. Co., 500 F.3d 784 (8th Cir. 2007). On remand, I concluded that the defendants were entitled to summary judgment, consistent with the legal conclusions I had reached in my prior opinion. The case settled while on appeal.
- (3) Marcum v. Luebbbers, No. 4:02CV1167 AGF (E.D. Mo. Sept. 30, 2005). I granted habeas corpus relief to an individual convicted in state court based on ineffective assistance of counsel. The Court of Appeals reversed. Marcum v. Luebbbers, 509 F.3d 489 (8th Cir. 2007), cert. denied, 128 S. Ct. 754 (2008) (finding that "while . . . the district court's analysis was thorough and thoughtful, we must ultimately conclude that [Petitioner] was not denied the right to effective assistance of counsel at trial").
- (4) PepsiCo, Inc. v. Baird, Kurtz & Dobson, L.L.P., No. 4:02MC0036 AGF (E.D. Mo. Feb. 11, 2002). My opinion decided a discovery dispute regarding whether internal audit reports were privileged. The District Judge adopted my determination on the choice of law but set aside my determination that the reports were not privileged. 206 F.R.D. 646 (E.D. Mo. 2002). On appeal, the Court of Appeals held that the audit reports were not privileged and substantially reinstated my prior order. 305 F.3d 813 (8th Cir. 2002).
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

I do not designate my decisions for publication in any reporter system. I file all of my opinions with our court's Electronic Case Filing system. Most of my substantive decisions since 2005 are also available through Westlaw and LexisNexis.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- (1) Wright v. City of Salisbury, Mo., No. 2:07CV0056 AGF, 2009 WL 2957918 (E.D. Mo. Sept. 10, 2009) (claim that speech of terminated employee was protected by First Amendment).
 - (2) United States v. Sehjpai, No. 4:05CR0074 RWS (AGF) (E.D. Mo. Sept. 14, 2006) (constitutionality of federal child pornography statute).
 - (3) Marcum v. Luebbers, No. 4:02CV1167 AGF, 2005 WL 3333266 (E.D. Mo. Dec. 7, 2005) (claim of ineffective assistance of counsel for failing to introduce evidence of psychiatric problems), rev'd, 509 F.3d 489 (8th Cir. 2007), cert. denied, 129 S. Ct. 754 (2008).
 - (4) Kramer v. City of Bridgeton, No. 4:02CV1502 AGF (E.D. Mo. Sept. 19, 2005) (claims of excessive use of force, in violation of substantive due process, and of invasion of right to privacy).
 - (5) United States v. Worley, No. 4:05CR0309 CAS (AGF) (E.D. Mo. Aug. 17, 2005) (Fourth and Fifth Amendment challenges to search warrants and statements).
 - (6) United States v. Bolden, 4:02CR0557 CEJ (AGF) (E.D. Mo. Sept. 2, 2004), (constitutionality of Federal Death Penalty Act and Fourth, Fifth, and Sixth Amendment challenges to searches, seizures, and statements), adopted in large part, 2005 WL 2874711 (E.D. Mo. Oct. 31, 2005) and Order dated Nov. 2, 2005, aff'd in large part, 545 F.3d 609 (8th Cir. 2008), cert. denied, 2009 WL 2494691 (2009).
 - (7) Rex Temple, Inc. v. City of Hazelwood, No. 4:01CV0488 AGF (E.D. Mo. May 23, 2002) (constitutionality of city zoning ordinances challenged as prior restraint of speech), vacated as moot, Order dated Aug. 6, 2002.
 - (8) Bell v. Imperial Palace Hotel/Casino, Inc., 200 F. Supp. 2d 1082 (E.D. Mo. 2001) (constitutional "minimum contacts" jurisdiction in Internet context).

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

I have not sat by designation on any court of appeals.

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

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

In compliance with the Code of Conduct for United States Judges, each of the judges in our district maintains with the Clerk's Office a standing recusal list of individuals, entities, and law firms, which is reviewed and updated on a regular basis. If a case is assigned to a judge involving a party or lawyer on the recusal list, it is automatically reassigned to another judge. In addition, the prosecutors in criminal cases are required to file a notice disclosing any entities with a financial interest in the case, such as the victims of a financial fraud, and we review the cases for potential conflicts with these entities when they are filed. As each new case is assigned to me, I also review the parties and the counsel to make sure that I do not have a conflict with them, a close relationship that might impair my ability to remain impartial, or a relationship that might give rise to an appearance of impropriety.

Special issues arise by virtue of my having served as United States Attorney for the district in which I now sit as Magistrate Judge. I received guidance from both the Administrative Office of the United States Courts and the Executive Office for United States Attorneys regarding criminal cases from which I must be recused. The Clerk of Court has implemented procedures that enable me to comply with that advice.

I recused myself in the following cases:

1. I recused myself sua sponte upon determining that I could not handle the case due to my prior position as United States Attorney in the following cases:

United States v. Park, No. 4:02CR0096 CAS.
United States v. Curtis, No. 4:02CR0117 CDP.
United States v. Schwalbert, No. 4:02CR0140 DJS.
United States v. Sampler, No. 4:02CR0212 JCH.
United States v. Johnson, 4:02CR0629 CDP.
United States v. Jacobs, No. 4:03CR0203 CAS.
United States v. Walker, No. 4:03CR0481 DJS.
United States v. Duvall, No. 4:03CR0731 CEJ.
United States v. Arthur, No. 4:07CR0240 RWS.
United States v. Coleman, No. 4:08CR0701 CAS.

2. United States v. Cunningham, No. 4:01CR0528 SNL. A criminal defendant requested my recusal in challenging a drug interdiction method for which news accounts had attributed my approval when I served as United States Attorney. To avoid the appearance of impropriety, I recused.
3. Clayborne Suttles v. Health Mark, Inc., No. 4:01CV1727 AGF. I recused myself sua sponte because my law clerk, while previously employed in private practice, had worked on litigation related to the case.
4. United States v. Brown, No. 4:03CR0171 CEJ. I recused myself sua sponte because I had prosecuted the defendant on similar charges while I was an Assistant U.S. Attorney.
5. United States v. Scott, No. 4:08CR0401 CEJ. I recused myself sua sponte because I owned publicly traded stock in an interested party.
6. United States v. Ohlsen, No. 4:09CR0114 RWS. I recused myself sua sponte because I owned publicly traded stock in an interested party.
7. United States v. Clifford, No. 4:09CR0483 CEJ. I recused myself sua sponte because I owned publicly traded stock in an interested party.

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 served as United States Attorney for the Eastern District of Missouri from January 2000 to April 2001. I initially was appointed by the United States

District Court for the Eastern District of Missouri, and was subsequently nominated by President William Jefferson Clinton and confirmed by the United States Senate. I was appointed by President Clinton on May 31, 2000.

I have not had any 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.

I have not participated in any political campaigns, been a member of any political party or election committee, or held a position therein.

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 did not serve as clerk to a judge.

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

I have not practiced alone.

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

August 2001 to present
United States District Court for the Eastern District of Missouri
111 South 10th Street
St. Louis, Missouri 63102
United States Magistrate Judge

1991 to 2001
Office of the United States Attorney for the Eastern District of Missouri
111 South 10th Street
St. Louis, Missouri 63102
Assistant United States Attorney (2001, 1991 to 2000)
United States Attorney (2000 to 2001)

1980 to 1991

Peper, Martin, Jensen, Maichel and Hetlage (now Husch Blackwell
Sanders LLP)

190 Carondelet Plaza, Suite 600 (current address)

St. Louis, Missouri 63105

Partner (1989 to 1991)

Associate (1980 to 1989)

- 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.

From 1988 to 1991, I was authorized to serve as an arbitrator with the National Association of Securities Dealers and the American Arbitration Association. I sat as one of three arbitrators on two cases, but do not remember the names of the cases or the dates.

b. Describe:

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

From 1980 to 1991, I was a civil litigation attorney, in general business litigation. From 1991 to 2001, I was a federal prosecutor, including service as United States Attorney from 2000 to 2001. Since August 2001, I have served as United States Magistrate Judge in the Eastern District of Missouri.

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

While an attorney in private practice, from 1980 to 1991, my areas of specialty included securities and commodities litigation, commercial litigation, class action litigation, and appellate practice. In the last five years of my private practice, I added concentrations in the areas of school law litigation and business bankruptcy litigation. I primarily represented business clients of all sizes, some individuals as plaintiffs and defendants in business-related matters, and school districts.

As an Assistant U.S. Attorney from 1991 to 2000, I represented the United States and specialized in financial institution fraud and bankruptcy fraud prosecutions in which the victims included banks, individuals, and the bankruptcy court. I was a member of the Financial Institution Fraud Unit,

Coordinator of Bankruptcy Fraud cases, and a member of the Department of Justice National Bankruptcy Fraud Working Group.

As United States Attorney in 2000 and 2001, I supervised approximately 100 attorneys and staff, representing the United States in all criminal prosecutions and in civil litigation in the eastern half of the state.

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

My entire practice has been in litigation as a prosecutor and civil litigator. In private practice, I appeared regularly in court. As an Assistant United States Attorney, I appeared almost daily in court. As United States Attorney, I appeared occasionally in court.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 97% |
| 2. state courts of record: | 2% |
| 3. other courts: | 1% |
| 4. administrative agencies: | |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 50% |
| 2. criminal proceedings: | 50% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried approximately 17 cases to verdict or judgment. I was sole counsel on ten; chief counsel on six; and associate counsel on one.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 35% |
| 2. non-jury: | 65% |

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

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

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

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

(1) United States v. Blumeyer, 62 F.3d 1013 (8th Cir. 1995) ("Blumeyer I"); United States v. Blumeyer, 114 F.3d 758 (8th Cir. 1997) ("Blumeyer II"). United States District Court for the Eastern District of Missouri, Hon. Jean C. Hamilton. Appeal to United States Court of Appeals for the Eighth Circuit.

As an Assistant United States Attorney, I handled the appeal of a district judge's order setting aside a jury conviction based on allegations of juror misconduct. My involvement with the case began on the appeal; it was assigned to me because the Assistants who had tried the case in a four-week jury trial had left the Office. At issue was the jury foreperson's receipt of extrinsic information during the trial. I successfully argued that it was not the type of extrinsic information that should result in setting aside the verdict, and the Court of Appeals reinstated the conviction.

At sentencing, my co-counsel and I proved losses of \$40 to \$80 million, and the defendant executive of an insurance company was sentenced to 262 months in prison. I thereafter served as lead counsel on the appeal on the merits, in which the Court of Appeals affirmed in full.

My co-counsel was Patricia A. McGarry, 1320 City Center Drive, Suite 300, Carmel, Indiana 46032, Tel (317) 358-6667.

Counsel for Defendant Blumeyer at various stages were Robert H. Wendt, 1010 Market Street, Suite 1440, St. Louis, Missouri 63101, Tel (314) 621-1775; Jane C. Hogan, 4940 Sutherland Avenue, St. Louis, Missouri 63109, (phone unlisted); M. Stephen Marshall, 2525 Hampton Avenue, St. Louis, Missouri 63139, Tel (314) 404-5931; Burton H. Shostak, Shostak & Shostak, 8015 Forsyth Boulevard, Clayton, Missouri 63105, Tel (314) 725-3200; and Anthony J. Sestric, 3967 Holly Hills Boulevard, St. Louis, Missouri 63116, Tel (314) 351-2512. Counsel for Defendant Peckham was Lee Lawless, Federal Public Defender, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255.

- (2) United States v. Lieberman, Case No. S1-4:92CR0143 JCH, Hon. Jean C. Hamilton. Companion cases: United States v. Gomez, Case No. 4:97CR0036 GFG, Hon. George F. Gunn; United States v. Gadarian, Case No. 4:97CR0043 DJS, Hon. Donald J. Stohr; United States v. Kerr, Case No. 4:93CR0160 GFG, Hon. George F. Gunn. All in the United States District Court for the Eastern District of Missouri.

Beginning in 1991, I was co-counsel in the investigation and prosecution for fraud and money laundering of the owners and key employees of the Lieberman Corporation (once one of the top fifty home builders in the nation) following its collapse. The employees entered guilty pleas and were sentenced but the Lieberman brothers, who owned the company, fled to Chile on the eve of the indictment. We attempted, unsuccessfully, to extradite for five years. One of the brothers later began to negotiate a return and plea. After we determined that he was in fact attempting to transfer and hide his assets in violation of the proposed agreement, we conducted an undercover operation that led to the prosecution and conviction of his wife, her drug supplier, and a Chilean attorney on currency violations and other charges. In 1997, that brother voluntarily returned to the United States and pled guilty. He was sentenced to 120 months in prison and the forfeiture of substantially all of his assets. The Republic of Chile thereafter denied the other brother's visa and directed him to leave the country. After Israel and Cuba refused to accept him, he committed suicide. All the funds and property located were returned as restitution.

My co-counsel was Assistant U.S. Attorney Michael W. Reap, 111 South 10th Street, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for Defendant Harold Lieberman was Robert T. Haar, Haar & Woods, 1010 Market Street, St. Louis, Missouri 63101, Tel (314) 241-2224. Counsel for Defendant Alan Lieberman at various stages were Edward L. Dowd, Jr., Dowd Bennett, LLP, 7733 Forsyth, Suite 1410, St. Louis, Missouri 63105, Tel (314) 889-7301; Burton H. Shostak, Shostak & Shostak, 8015 Forsyth Boulevard, Clayton, Missouri 63105, Tel (314) 725-3200; Federal Public Defenders Norman London and Lee Lawless, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255. Counsel for Defendant Phyllis Lieberman was Arthur S. Margulis, Margulis & Grant, 11 South Meramec, St. Louis, Missouri 63105, Tel (314) 721-6677. Counsel for other defendants were Larry Fleming, Herzog Crebs LLP, 100 North Broadway, 14th Floor, St. Louis, Missouri 63102, Tel (314) 231-6700; N. Scott Rosenblum, 120 South Central Avenue, Suite 130, St. Louis, Missouri 63105, Tel (314) 862-4332; and Ronald E. Jenkins, Jenkins & Kling, P.C., 10 South Brentwood, Suite 200, St. Louis, Missouri 63105, Tel (314) 721-2525.

- (3) United States v. Johnson, Case No. 4:98CR0126 JCH, Hon. Jean C. Hamilton. Related cases: United States v. Givens, Case No. 4:98CR0291 RWS, Hon. Rodney W. Sippel; United States v. Elam, Case No. 4:99CR0414 SNL, Hon. Stephen N. Limbaugh, Sr. All in the United States District Court for the Eastern District of Missouri.

I was sole counsel for the United States in these related cases that resulted in the successful prosecution, in 1998 and 1999, of three overlapping counterfeit check-cashing rings operating in Missouri and several other states from 1997 through 1999. The Johnson case involved 18 defendants; approximately 25 defendants were charged in total. All participants, including one defendant who had fled while awaiting sentencing on unrelated charges in another district, were located, pled guilty, and were sentenced.

Principal Defense Counsel were Eric W. Butts, 720 Olive Street, St. Louis, Missouri 63101, Tel (314) 621-1617; Hon. Mike Mullen, Circuit Judge, Circuit Court of the City of St. Louis, 10 North Tucker Boulevard, St. Louis, Missouri 63101, Tel (314) 622-4363; Bruce S. Harvey, 146 Nassau Street, NW, Atlanta, Georgia 30303, Tel (404) 659-4678; Peter Cohen, 2734 Lafayette Avenue, St. Louis, Missouri 63104, Tel (314) 772-9494; and Gregory Nat Wittner, Wittner & Poger, 7733 Forsyth, Suite 2000, St. Louis, Missouri 63105, Tel (314) 862-3535.

- (4) United States v. Freeman, No. S1-4:95CR0186 JCH. United States District Court for the Eastern District of Missouri, Hon. Jean C. Hamilton.

This prosecution shut down a \$25 million Ponzi scheme that involved the sale of "prime bank notes" by Freeman's life insurance company to more than 500 primarily elderly individuals through a nationwide network of life insurance salesmen. I was brought into the case shortly before the 1995 indictment of the eight principal participants on multiple counts of wire fraud and money-laundering. I served as co-counsel for the United States in all further proceedings. Just prior to the trial, which was estimated to take at least four weeks, all of the defendants pled guilty and agreed to forfeit the funds we had located and frozen. We thereafter convinced the German government to return \$8 million that had been transferred to one of Freeman's European co-conspirators. We had a special master appointed and were able to return more than \$15 million to the investors, with a minimum of administrative expenses.

My co-counsel was Jonathan Goldstein, McCormack Baron Salazar, 1415 Olive Street, St. Louis, Missouri 63103, Tel (314) 621-3400.

Counsel for the Defendants were Doron Weinberg, Weinberg & Wilder, 523 Octavia Street, San Francisco, California 94102, Tel (415) 431-3472; Jeffrey T. Demerath, Armstrong Teasdale, LLP, One Metropolitan Square, Suite 2600, St. Louis, Missouri 63102, Tel (314) 342-4103; N. Patrick Flanagan, Beckley, Singleton, Jemison & List, 100 W. Liberty, Suite 700, Reno, Nevada 89501, Tel (702) 323-8866; Arthur Margulis, Margulis & Grant, 11 South Meramec Avenue, Clayton, Missouri 63105, Tel (314) 721-6677; Arthur K. Wachtel, 170 Columbus Avenue #100, San Francisco, California 94133, Tel (415) 248-1000; Harold J. Rosenthal, 803 Hearst Avenue, Berkeley, California 94710, Tel (510) 981-1800; David B. B. Helfrey, Helfrey & Neiers, P.C., 120 South Central Avenue, Suite 1500, St. Louis, Missouri 63105, Tel (314) 725-9100; and Burton H. Shostak, Shostak & Shostak, 8015 Forsyth Boulevard, St. Louis, Missouri 63105, Tel (314) 725-3200.

- (5) United States v. Rimell, 21 F.3d 281 (8th Cir. 1994). United States District Court for the Eastern District of Missouri, Hon. Stephen N. Limbaugh, Sr. Appeal to United States Court of Appeals for the Eighth Circuit.

This case, filed in 1992, involved a scheme through which defendant Rimell, who was a director of one of the victim banks, and two of his employees, fraudulently obtained bank financing for apartment complexes Rimell owned and operated. After the loans defaulted and the banks filed an involuntary bankruptcy proceeding against Rimell and his wife, the Rimells committed bankruptcy fraud, including the fraudulent transfer of assets. I was brought into the case after the indictment, and served as co-counsel for the United States in connection with the trial and all subsequent proceedings. The employees pled guilty and, after a three-week jury trial, the Rimells were convicted of all counts. Their convictions were affirmed by the United States Court of Appeals for the Eighth Circuit.

Co-counsel for the United States was Assistant U.S. Attorney Rosemary C. Meyers, 111 South 10th Street, St. Louis, Missouri 63102, Tel (314) 539-2200.

Counsel for Defendant Albert Rimell at different stages were Bradford J. Kessler, 8000 Bonhomme, Suite 217, St. Louis, Missouri 63105, Tel (314) 863-6363, and Robert B. Ramsey, 104 Magnolia Drive, Suite B, Glen Carbon, Illinois 62034, Tel (618) 288-6784. Counsel for Defendant Harriet Rimell at different stages were Assistant Federal Public Defender Michael Dwyer, 1010 Market Street, Suite 200, St. Louis, Missouri 63101, Tel (314) 241-1255, and Richard J. Burke, Jr., 1010 Market Street, Suite 660, St. Louis, Missouri 63101, Tel (314) 880-7000. Counsel for the other defendants were Irl Baris, 1221 Locust, 10th Floor, St. Louis, Missouri 63103, Tel (314) 421-6644; and Barry Short, Lewis & Rice, 500 North Broadway, Suite 2000, St. Louis, Missouri 63102, Tel (314) 444-7600.

- (6) United States v. Lurie, No. 4:94CR0167 DJS. United States District Court for the Eastern District of Missouri, Hon. Donald J. Stohr. Appeal to the United States Court of Appeals for the Eighth Circuit.

This case arose out of the 1992 involuntary bankruptcy of a large and prominent business law firm in St. Louis. Defendant, who had been the firm's managing partner, fraudulently transferred his home, valued at more than \$1,000,000, in violation of the liquidating plan of reorganization. At an emergency hearing called when the sale was discovered, Lurie, representing himself and his wife, made false statements to the bankruptcy court. I was sole counsel for the United States. The defendant pled guilty to a charge of perjury, was sentenced to 18 months in prison, and agreed to surrender his law license. His sentence was enhanced based on evidence we developed showing that he continued to engage in fraudulent conduct following his plea. Defendant's post-conviction motion was denied, and the denial was affirmed on appeal. United States v. Lurie, 207 F.3d 1075 (8th Cir. 2000). The creditors were able to obtain repayment through the bankruptcy court.

Counsel for the Defendant at different stages were Donald L. Wolff, 1108 Olive Street, 5th Floor, St. Louis, Missouri 63101, Tel (314) 621-1701; and Sean D. O'Brien, 305 East 63rd Street, Kansas City, Missouri 64113, Tel (816) 363-2795.

- (7) Bd. of Educ. of St. Louis v. Mo., 758 F. Supp. 499 (E.D. Mo.), aff'd, 936 F.2d 993 (8th Cir. 1991) (subsequent history omitted). Part of the St. Louis School Desegregation Case (Liddell v. Bd. of Educ.). United States District Court for the Eastern District of Missouri, Hon. Stephen N. Limbaugh, Sr. Appeal to the United States Court of Appeals for the Eighth Circuit.

I was involved in two separate proceedings that took place during the course of the St. Louis School Desegregation Case, which involved a voluntary inter-district desegregation plan supervised by a District Judge. In the first proceeding, I was co-counsel for the Special School District, an entity which provided vocational and special education in St. Louis County. After the District Judge determined that the School Board of the City of St. Louis could not adequately provide vocational education to City students in an integrated environment, we were successful in having our client selected by the District Judge as the provider of those services. I argued the case on appeal to the United States Court of Appeals, which affirmed the District Court's Order, with some modification.

In a separate matter in the St. Louis Desegregation Case, I served as lead counsel for the Rockwood School District, one of the parties to the voluntary plan, on various voluntary plan issues. We successfully resolved the issues and negotiated a formula for funding from the State of Missouri through the end of the plan.

My co-counsel was Thomas E. Tueth, Tueth and Keeney, 34 North Meramec Avenue, Suite 600, St. Louis, Missouri 63105, Tel (314) 880-3600.

Counsel for the Board of Education of St. Louis was Kenneth C. Brostron, Lashly Baer, 714 Locust Street, St. Louis, Missouri 63101, Tel (314) 621-2939. Counsel for Plaintiff Liddell was William P. Russell, 515 Olive Street, St. Louis, Missouri 63101. Counsel for Plaintiff Caldwell/NAACP was Michael A. Middleton, Deputy Chancellor and Professor, University of Missouri School of Law, 203 Hulston Hall, Columbia, Missouri 65211, Tel (573) 882-6487. Counsel for St. Louis Teachers' Union were Louis Gilden (deceased) and Charles R. Oldham, 317 North 10th Street, St. Louis, Missouri 63101, Tel (314) 241-6608. Counsel for the United States was Marie McElderry, Department of Justice, P.O. Box 66078, Washington, D.C. 20035, Tel (202) 514-3068. Counsel for the State of Missouri was Assistant Attorney General John J. Lynch, 222 South Meramec, Suite 300, Clayton, Missouri 63105, Tel (314) 726-9999.

- (8) Merry v. Parkway Sch. Dist., No. 88-2189-C-4. The United States District Court for the Eastern District of Missouri, Hon. Jean C. Hamilton.

This case involved a class action filed in 1988 by students and parents of students with special needs residing in St. Louis County, against the Special School District (SSD), an

independent, umbrella school district formed to provide special education services for students with disabilities and special needs, and against the Parkway School District, one of the County's largest school districts, as a representative school district. The suit challenged the manner in which special services were provided, including the degree to which the individual school districts assumed responsibility for the students and the degree to which students with special needs were educated in the same classroom as other students (i.e., the degree of inclusion).

I was lead counsel for Parkway. After issues of class certification were resolved and discovery was conducted, the parties engaged in settlement discussions, during which I left my firm to become an Assistant U.S. Attorney. A settlement was reached that devised a new plan for providing services to students with special needs in the St. Louis County schools served by SSD.

My co-counsel were Richard J. Pautler, Thompson Coburn LLP, One US Bank Plaza, St. Louis, Missouri 63101, Tel (314) 552-6000; and Thomas E. Tueth, Tueth and Keeney, 34 North Meramec Avenue, Suite 600, St. Louis, Missouri 63105, Tel (314) 880-3600.

Lead counsel for the Plaintiffs was Kenneth M. Chackes, 230 South Bemiston, Suite 800, St. Louis, Missouri 63105, Tel (314) 872-8420; and counsel for the Special School District was Richard H. Ulrich, Summers Compton Wells, P.C., 8909 Ladue Road, St. Louis, Missouri 63124, Tel (314) 991-4999.

- (9) Int'l Ins. Co. v. Johns, 685 F. Supp. 1230 (S.D. Fla. 1988), aff'd, 874 F.2d 1447 (11th Cir. 1989). United States District Court for the Southern District of Florida, Hon. Stanley Marcus.

This case arose out of a shareholder derivative suit challenging \$4 million in change-of-control payments made to officers and directors in connection with the merger of two Florida banks, which suit was settled by the repayment of \$600,000 and a reduction in the term of the Chairman's consulting agreement. I served as co-counsel for the officers and directors. When the officers and directors sought reimbursement under their Director's and Officer's liability policy for the attorneys' fees they had incurred, the insurer filed suit seeking a declaration that it had no obligation under the policy, and my clients filed a counterclaim for reimbursement of the settlement payments and attorneys' fees incurred in the derivative suit. I was lead counsel at the bench trial. In a case of first impression, we obtained a verdict of \$1.7 million, and the verdict was affirmed by the United States Court of Appeals for the Eleventh Circuit.

My co-counsel was Lewis R. Mills, Jr., Thompson Coburn LLP, One US Bank Plaza, St. Louis, Missouri 63101, Tel (314) 552-6000.

Counsel for International Insurance Company was Bruce G. Hermelee, Hermelee & Geffin, LLC, Ingraham Building, Suite 1135, 25 S.E. 2nd Avenue, Miami, Florida 33131, Tel (305) 373-5444.

- (10) Amey, Inc. v. Gulf Abstract & Title, Inc., 564 F. Supp. 1121 (M.D. Fla. 1983), aff'd, 758 F.2d 1486 (11th Cir. 1985). United States District Court for the Middle District of Florida, Hon. Ben Krentzman. Appeal to the United States Court of Appeals for the Eleventh Circuit.

This case involved an antitrust action by a real estate developer against the four main banks in Southwest Florida and their attorneys, asserting that the practice of requiring borrowers to pay for title services and title opinions provided by the banks' law firms violated the antitrust laws in various respects, including illegal tying, price-fixing, and restraint of trade. I was co-counsel for the defendants, First National Bank of Ft. Myers and the law firm Alderman & Taminosian, and lead counsel on court proceedings. We were successful in obtaining summary judgment for our clients, and the order was affirmed by the United States Court of Appeals for the Eleventh Circuit.

My co-counsel was Lewis R. Mills, Jr., Thompson Coburn LLP, One US Bank Plaza, St. Louis, Missouri 63101, Tel (314) 552-6000.

Counsel for the Plaintiffs was Britt Whitaker, 11420 W. Club View Drive, Homosassa, Florida, no known phone listing.

Counsel for the other defendants were Charles W. Pittman, One Tampa City Center, Suite 2000, 201 North Franklin Street, Tampa, Florida 33602, Tel (813) 273-4200; Marilyn Holifield, Holland & Knight LLP, 701 Brickell Avenue, Suite 3000, Miami, Florida 33131, Tel (305) 374-8500; Richard E. Wolverton, 3214 9th Street North, St. Petersburg, Florida 33704, Tel (727) 823-1399; Sharyn B. Zuch, One CityPlace, Hartford, Connecticut 06103, Tel (860) 297-3700; Gregory W. Hootman, P.O. Box 1778, Sarasota, Florida 34230, Tel (941) 952-1035; and William H. Adams, III (current address unknown), McGuire, Woods, Battle & Boothe, 50 North Laura Street, Jacksonville, Florida 32202, Tel (904) 798-2609.

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.)

I have not performed any lobbying activities on behalf of any clients or organizations.

While I was in private practice, I was involved in handling several nationwide class action securities suits, and other matters that had a significant impact on the business community, including actions arising out of the merger or takeover of companies, most of which settled prior to trial. I also handled several bankruptcy matters, both large and small.

As Assistant U.S. Attorney, I was a member of the financial institution fraud unit. I also served as Coordinator of the Bankruptcy Fraud Unit, helped develop cooperative efforts with the U.S. Bankruptcy Trustee, and served as a member of the Department of Justice National Bankruptcy Fraud Working Group and its legislative committee.

As United States Attorney, in addition to being in charge of policy and administrative matters, I oversaw decision-making on the most significant cases handled by the Office. I also was involved intimately in the many community-based initiatives such as the Weed & Seed program, which worked to decrease crime in designated geographic areas and supported crime prevention programs; the Ceasefire program, directed at reducing gun violence; and the Hate Crimes Task Force. I made the prosecution of computer crimes a priority. Recognizing the degree to which computers were being used for crimes such as identity fraud, financial fraud, large-scale narcotics conspiracies, child pornography, and the luring of young children to commit sexual offenses, I formed a computer crimes task force to develop the computer expertise necessary to obtain and use computer evidence in a lawful and effective manner.

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.

I have taught intermittently as an Adjunct Faculty member at Washington University School of Law, St. Louis, Missouri, since 1981:

1981 to 1982:	Legal Writing (no syllabus retained)
1992 to 1996:	Pretrial Practice and Procedure (no syllabus retained)
1997 to 2006:	Trial Advocacy
2006 to present:	Evidence

For the past several years I have participated as a speaker at education programs for United States Magistrate Judges through the Federal Judicial Center and the Eighth Circuit Judicial Conference.

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.

None.

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.

Although I have no commitment beyond the end of the current semester in May 2010, I hope to continue to teach at Washington University School of Law, so long as I can do so consistent with my judicial obligations. I have no other plans, commitments, or agreements to pursue outside employment, with or without compensation, if I am confirmed to be a United States District Judge.

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.

Since becoming a United States Magistrate Judge in 2001, I have followed the federal recusal statutes and the Code of Judicial Conduct. Conflicts-of-interest arise due to the fact that I served as United States Attorney for the same district in which I have been nominated, as I cannot handle any case that was prosecuted or under investigation while I was United States Attorney. In addition, I own some publicly traded stocks, which give rise to a conflict should any of those entities have an interest in any cases over which I preside. If I continue to teach at Washington University School of Law, any case where the University has an interest would present a conflict. If I am confirmed, I anticipate continuing to have these conflicts and will monitor cases and recuse where appropriate.

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

As required by the Code of Judicial Conduct, I maintain a recusal list reflecting entities in which I hold a financial interest as well as individuals with a sufficiently close connection, social or business-related, that would preclude any participation in cases involving them. I further review the counsel, parties, victims, and known potential witnesses, in cases assigned to me to make sure my involvement in the case would not violate conflict-of-interest rules or raise any appearance of impropriety. The Clerk of Court has also implemented a system to identify cases that pose a conflict due to my prior service as United States Attorney. If confirmed, I will continue to follow these procedures and recuse from any such cases.

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

As a lawyer in private practice, I agreed to handle both civil and criminal appointments, as requested by the courts. I tried one criminal appointment to verdict. I also worked with Legal Advocates for Abused Women to help design a program to provide assistance to those in need of orders of protection. In addition, I have participated in several mentoring programs sponsored by the local bar associations and the law schools. To avoid possible conflicts-of-interest while serving as United States Attorney or United States Magistrate Judge, I limited my activities to teaching and to non-law related charitable endeavors. Since 2000, I have been actively involved, first as a volunteer reader, and thereafter as an organizing board member, with Ready Readers, which organized volunteers to read aloud weekly to at-risk preschool children in the St. Louis area, and provides the children with free, quality children's books.

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.

No judicial selection commission was established in Missouri. Persons interested in the appointment were directed to provide a resume to Senator Claire McCaskill's office. In February 2009, I submitted my resume to the staff member designated by Senator McCaskill. On April 21, 2009, I met with the Senator's

Regional Director in St. Louis. On August 27, 2009, I was personally interviewed by Senator McCaskill, who also interviewed numerous other candidates before recommending three names to the President. I was first contacted by the Department of Justice regarding my consideration as a candidate on September 30, 2009, and thereafter had a number of conversations with Department of Justice officials regarding the preparation of the required pre-nomination forms. On November 10, 2009, I had an interview with Department of Justice and White House personnel in Washington, D.C. My nomination was submitted to the United States Senate on January 20, 2010.

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

No.

AFFIDAVIT

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

January 18, 2010
January 18, 2010

Audrey G. Fleissig
Audrey G. Fleissig

Joseph A. Jordan
(NOTARY)

