

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Joan Marie Azrack

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

United States District Judge for the Eastern District of New York

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.

Office:           United States District Court  
                    Eastern District of New York  
                    225 Cadman Plaza East  
                    Brooklyn, New York 11201

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

1951; Neptune, New Jersey

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

1976 – 1979, New York Law School; J.D., 1979

1972 – 1974, Rutgers University, Livingston College; B.S., 1974

1971 – 1972, Monmouth College; no degree awarded

1971 – 1971, St. Peter's College; no degree awarded

1969 – 1971, Rosemont College; no degree awarded

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.

1990 – Present

United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201  
United States Magistrate Judge

1988 – 1991

Harvard Law School  
1563 Massachusetts Avenue  
Cambridge, Massachusetts 02138  
Visiting Instructor at the Winter Intercession of the National Institute of Trial Advocacy  
(unpaid)

1982 – 1990

United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
Deputy Chief, Criminal Division (1987 – 1990)  
Chief, Business and Securities Fraud Section (1987 – 1990)  
Deputy Chief, Narcotics Section (1985 – 1986)  
Assistant United States Attorney (1982 – 1990)

1979 – 1981

United States Department of Justice  
Criminal Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530  
Honors Program–Trial Attorney

September 1978 – May 1979

Donovan, Leisure, Newton & Irvine (no longer in existence)  
30 Rockefeller Plaza  
New York, New York 10112  
Student Intern

June – August 1978

United States Attorney's Office  
Southern District of New York  
1 St. Andrews Plaza  
New York, New York 10007  
Summer Intern

June – August 1977  
Office of Management and Budget  
New Executive Office Building  
725 17th Street, NW  
Washington, D.C. 20530  
Summer Intern

January – June 1977  
New York Law School  
Alumni Office  
40 Worth Street  
New York, New York 10013  
Student Clerk

September 1976 – January 1977  
Beldock, Levine & Hoffman  
99 Park Avenue, #1600  
New York, New York 10016  
Student Intern

June – August 1976  
Borough of Spring Lake  
523 Warren Avenue  
Spring Lake, New Jersey 07762  
Beach Badge Checker

January – May 1976  
New York County District Attorney's Office  
One Hogan Place  
New York, New York 10013  
Student Intern

February – June 1975  
Light & Lovely Fitness Salon (no longer in existence)  
Route 35  
Ocean, New Jersey 07712  
Fitness Instructor

June – August 1974  
The Hutch (no longer in existence)  
Third Avenue  
Spring Lake, New Jersey 07762  
Retail Clerk

Other affiliations (uncompensated):

2001 – 2007

Heights Casino

75 Montague Street

Brooklyn, New York 11201

Board Member

2006 – 2008

Spring Lake Bath & Tennis Club

1 Jersey Avenue

Spring Lake, New Jersey 07762

Board Member

2005 – 2008

Willowtown Association

26 Willow Place

Brooklyn, New York 11201

Board Member

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 was not required to register for selective service.

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

Eastern District Association Award (2006)

United States Customs Service, Certificate of Appreciation (1989)

Merrill Lynch Award for work in United States v. Jacobowitz (credit card fraud prosecution) (1988)

International Association of Credit Card Investigators Prosecutor of the Year, Second Place (1987)

United States Department of the Treasury, Bureau of Alcohol, Tobacco, and Firearms, Certificate of Appreciation (1987)

Drug Enforcement Administration, Certificate of Appreciation (1986)

Federal Bureau of Investigation Director's Commendation for Outstanding Performance in Sicilian/Indian Heroin Prosecution (1985)

Drug Enforcement Administration Commendation for Outstanding Performance in United States v. Mullin Prosecution (1983)

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.

Eastern District Committee on Civil Litigation (2004 – 2005)

United States Judicial Conference Committee on Judicial Security (2012 – Present)  
Magistrate Judge Representative

William C. Connor Intellectual Property Inn of Court (2010 – Present)  
Judicial Member

10. **Bar and Court Admission:**

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

New York State, 1980

There has been no lapse 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.

New York State courts, 1980

United States Court of Appeals for the Second Circuit, 1982

There have been no lapses in membership.

11. **Memberships:**

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

Eastern District Association (1995 – Present)

Federal Magistrate Judges Association (1993 – Present)

Heights Casino (1996 – Present)

Board Member (2001 – 2007)

Spring Lake Bath & Tennis Club (1991 – Present)

Board Member (2006 – 2008)

Willowtown Association (2005 – 2008)

Board Member (2005 – 2008)

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

To the best of my knowledge, none of the organizations listed above currently discriminates 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.

**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.

None.

- 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.

Committee on Judicial Security, *Report of the Judicial Conference* (September 2014). Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (March 2014). Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (September 2013). Copy supplied.

Committee on Judicial Security, *Report of the Judicial Conference* (March 2013). Copy supplied.

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

None.

- 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.

June 21 – July 2, 2014: Panelist, New York University School of Law's U.S.-Asia Law Institute, Beijing and Guangzhou, China. I participated in panel discussions on bail reform and presided over mock bail hearings. I have no notes, transcripts, or recordings. The U.S.-Asia Law Institute is located at New York University School of Law, 139 MacDougal Street, Room 508, New York, New York 10012.

March 2012, March 2011: Panelist, St. Joseph's High School Career Day, Brooklyn, New York. I spoke to high school students about pursuing careers in the law. I have no notes, transcripts, or recordings. St. Joseph's High School is located at 80 Willoughby Street, Brooklyn, New York 11201.

November 18, 2011; November 19, 2010; November 18, 2009; December 5, 2008: Moot Court Judge, New York Law School, New York, New York. On these four occasions, I presided over a moot court as part of a trial advocacy course taught by Adjunct Professor Alan Vinegrad at New York Law School. I have no notes, transcripts, or recordings. New York Law School is located at 185 West Broadway, New York, New York 10013.

October 18, 2007: Panelist, Panel on Civil Practice before Magistrate Judges,

Richmond County Bar Association, Staten Island, New York. I participated in discussions about civil practice before federal magistrate judges. I have no notes, transcripts, or recordings. The Richmond County Bar Association is located at 152 Stuyvesant Place, Suite 203, Staten Island, New York 10301.

January 26, 2006: Award Recipient, Eastern District Association Annual Dinner, New York, New York. Notes supplied.

February 3, 2005: Moot Court Judge, National Moot Court Competition, Association of the Bar of the City of New York, New York, New York. I presided over the final round of the competition. I have no notes, transcripts, or recordings. The Association of the Bar of the City of New York is located at 42 West 44th Street, New York, New York 10036.

June 7, 2002: Panelist, "Marching Through Cyberia: Discovery in the Electronic Age," 2002 Judicial Conference of the Second Circuit, New Paltz, New York. Transcript supplied.

1990 – Present: United States Magistrate Judge, Naturalization Ceremonies, United States District Court for the Eastern District of New York, Brooklyn, New York. I preside over naturalization ceremonies several times a year, and I give the same remarks at each ceremony. Remarks supplied.

December 1990: Speaker, United States Magistrate Judge Induction Speech, United States District Court for the Eastern District of New York, Brooklyn, New York. Notes supplied.

Unknown Date: Moot Court Judge, Brooklyn Law School, Brooklyn, New York. Prior to becoming a federal magistrate judge, I presided over one or more moot court programs at Brooklyn Law School. I do not recall the dates of these programs, and I have no notes, transcripts, or recordings. Brooklyn Law School is located at 250 Joralemon Street, Brooklyn, New York 11201.

Unknown Date: Moot Court Judge, St. John's University School of Law, Queens, New York. Prior to becoming a federal magistrate judge, I presided over one or more moot court programs at St. John's University School of Law. I do not recall the dates of these programs, and I have no notes, transcripts, or recordings. St. John's University School of Law is located at 8000 Utopia Parkway, Queens, New York 11439.

- 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.



Deborah Sontag, *Long Distance Justice in Sexual Abuse Case*, The New York Times, April 12, 1997. Copy supplied.

Deborah Sontag, *American Abroad Accused of Fraud*, The Miami Herald, September 16, 1990. Copy supplied. (quote reprinted in multiple outlets).

Pete Bowles, *Queens Exec Cops Plea in \$40M Tax Scam*, Newsday, March 17, 1990. Copy supplied.

Peter Bowles & Robert E. Kessler, *4 Arrested in 'Fatman' Probe Tax, Bank Officials Accused*, Newsday, February 4, 1988. Copy supplied.

Toni Locy, *Informant a Man of Conviction*, Philadelphia Daily News, October 31, 1986. Copy supplied.

*British Earl Indicted as Drug Ring Patron*, The Chicago Tribune, July 30, 1986. Copy supplied.

Joseph P. Fried, *2 Figures in Drug Ring Case Arrange to Enter Guilty Pleas*, The New York Times, October 9, 1983. Copy supplied.

*Domestic News*, United Press International, October 7, 1983. Copy supplied.

*U.S. Indicts 14 on Drug Charges*, The New York Times, August 20, 1983. Copy supplied.

Paul Moses, *Spelling Error Leads to Overturning of Weapons Conviction*, The Associated Press, July 1, 1983. Copy supplied. (quote reprinted in multiple outlets).

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.

In December 1990, I was appointed a United States Magistrate Judge for the Eastern District of New York. I was reappointed to a second term in 1998 and a third term in 2006. I was appointed Chief Magistrate Judge in 2000 and served in that position until 2005. I preside over all pretrial proceedings, including discovery, non-dispositive motion practice, and settlement negotiations in civil cases. I also rule on dispositive motions upon referral from the district court. Where all parties in a civil action consent to my jurisdiction, I preside over the action in full. When I am on arraignment duty, I preside over the initial phase of all criminal matters, including the initial appearance and bail hearings. I also preside over misdemeanor and petty offenses. On referral from the district court, I hear guilty pleas; handle criminal motions, such as suppression motions; and conduct jury selection in both criminal and civil cases. Since 2013, I have served as a Supervising Judge for the Eastern District's Special Options Services Program, which is

an alternative to pretrial detention for young adult offenders.

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

As a United States Magistrate Judge, I have presided over approximately 70 cases that have gone to verdict or judgment. Because I can only preside over civil matters by consent of the parties and over criminal trials involving misdemeanor and petty offenses, only a small percentage of the thousands of cases I have handled have gone to trial.

- i. Of these, approximately what percent were:

jury trials:	50%
bench trials:	50%
civil proceedings:	94%
criminal proceedings:	6%

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

See attached list of opinions.

- 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).

These cases are listed in reverse chronological order.

1. Singer v. Abbott Laboratories, No. 05-CV-3386 (ENV) (E.D.N.Y.) (lead case). There are approximately 50 related cases.

These cases involve numerous plaintiffs who suffered injuries as a result of in utero exposure to diethylstilbestrol ("DES"). DES was a drug developed in the late 1930s and was used to treat symptoms of certain cancers and menopause, and was believed to prevent miscarriages and fetal death. The drug was prescribed well into the 1970s. Women prescribed DES often gave birth to children who developed serious disorders. In approximately 2005, this landmark mass tort litigation was assigned to me. Since then, I have presided over extensive pretrial proceedings and case management conferences. I also issued reports and recommendations for numerous summary judgment motions in this litigation. Some of these decisions are publicly available at: Bezuidenhout v. Abbott Labs. & Co., 918 F. Supp. 2d 144 (2013); Mazzei v. Abbott Labs. & Co., No. 10-CV-2233, 2012 WL 1100738 (E.D.N.Y. Mar. 13, 2012); and Marks v. Abbott Labs. &

Co., No. 11–CV–4147, 2012 WL 1004892 (E.D.N.Y. Jan. 11, 2012). The district court adopted all of my recommendations on these motions. Additionally, I mediated and settled numerous cases. This litigation is currently ongoing, but is close to conclusion.

Counsel for Plaintiffs: Sybil Shainwald  
Law Office of Sybil Shainwald  
111 Broadway, 4th Floor  
New York, NY 10006  
(212) 425-5566

Michael A. London  
Douglas & London  
59 Maiden Lane, 6th Floor  
New York, NY 10038  
(212) 566-7500

Counsel for Defendants: Samuel J. Abate, Jr.  
Pepper Hamilton LLP  
620 Eighth Avenue  
New York, NY 10018  
(212) 808-2706

2. Godlewska v. HDA, Human Development Association, Inc.,  
No. 03–CV–3985 (RJD) (E.D.N.Y.)

This wage-and-hour collective action involves 200 named and opt-in plaintiffs who worked as home health care attendants for a private not-for-profit agency. The agency contracted with New York City to provide home attendant services to city residents. The plaintiffs alleged that the agency and New York City violated the Fair Labor Standards Act by failing to pay the attendants overtime and minimum wages. In addition to supervising discovery and other pretrial matters, I also issued two opinions. Early in the case, I decided the plaintiffs' motion to amend, which addressed the relation-back doctrine and contract law concerning third-party beneficiaries. Godlewska v. HDA, No. 03–CV–3985, 2006 WL 1422410 (E.D.N.Y. May 18, 2006). Recently, the parties consented to my jurisdiction to decide their competing summary judgment motions on the central issue of the litigation—namely, whether New York City's relationship with the agency rendered the city a joint employer under the FLSA. Godlewska v. HDA, 916 F. Supp. 2d 246 (E.D.N.Y. 2013). I concluded that New York City is not a joint employer and the Second Circuit Court of Appeals affirmed my decision. Godlewska v. HDA, 561 F. App'x 108 (2d Cir. 2014). The case is ongoing.

Counsel for Plaintiffs: Robert Wisniewski  
Robert Wisniewski & Associates PC  
225 Broadway

Suite 1020  
New York, NY 10007  
(212) 267-2101

Counsel for Defendants: Andrea O'Connor (for the municipal defendants)  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

Jeffrey S. Ettenger (for defendant HDA)  
(representation withdrawn)  
Kaufman Dolowick & Voluck LLP  
135 Crossway Park Drive  
Suite 201  
Woodbury, NY 11797  
(516) 681-1100

3. Klezmer v. Camp Cayuga, Inc., No. 02-CV-5184 (JMA) (E.D.N.Y.)

The plaintiff was injured in an All-Terrain Vehicle ("ATV") accident at the defendant's summer camp. The plaintiff claimed that when he attempted to brake while approaching a sharp turn, the brakes did not work properly and he was thrown from the ATV into a ditch, breaking his leg. The plaintiff's mother brought a lawsuit on his behalf alleging that the camp was negligent in maintaining the ATVs, that the campers were inadequately supervised, and that the ATV plaintiff was riding was dangerously defective. I handled all discovery, settlement discussions, and pretrial motion practice. I issued an opinion on the plaintiff's spoliation and sanctions motions, finding that an adverse inference instruction was an appropriate remedy for the defendant's negligent failure to preserve relevant ATV maintenance records. Klezmer ex rel. Desyatnik v. Buynak, 227 F.R.D. 43 (E.D.N.Y. 2005). The parties consented to my jurisdiction and I presided over a jury trial. The case settled during jury deliberations.

Counsel for Plaintiff: Daniel J. Hansen  
Law Offices of Daniel J. Hansen  
711 Third Avenue  
Suite 1505  
New York, NY 10017  
(212) 697-3701

Counsel for Defendant: William Goldman Scher  
Garbarini and Scher, PC  
432 Park Avenue South

New York, NY 10016  
(212) 689-1113

4. Amerisource Corp. v. Rx USA International, Inc., No. 02-CV-2514 (JMA)  
(E.D.N.Y.)

In this complex commercial dispute, the plaintiff, a pharmaceutical distributor, sued the defendant pharmacies for breach of contract over pricing disputes. The defendants counterclaimed for breach of contract and tortious interference, alleging that the plaintiff's sales representative had verbally promised the defendants price discounts. Four years into the litigation, the case was reassigned to me and, after the district judge denied summary judgment, the parties consented to my jurisdiction for all purposes. I presided over settlement conferences, additional discovery, and a nine-day trial, with the contract claims tried to the bench and the tort claim tried to the jury. After the jury rejected the defendants' tort claim and returned an advisory verdict on the contract claims, I issued a decision awarding the plaintiff over \$2 million in damages and attorney's fees. Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2010 WL 2160017 (E.D.N.Y. May 26, 2010). Motion practice included extensive in limine motions and the plaintiff's request for sanctions, which I granted, sanctioning the defendants and their CEO for fabricating evidence. Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2010 WL 2730748 (E.D.N.Y. July 6, 2010); Amerisource Corp. v. Rx USA Int'l, Inc., No. 02-CV-2514, 2009 WL 235648 (E.D.N.Y. Jan. 30, 2009); Amerisource Corp. v. RX USA Int'l, Inc., No. 02-CV-2514, 2008 WL 2783355 (E.D.N.Y. July 15, 2008). The Second Circuit Court of Appeals affirmed my sanctions ruling. New York Credit & Fin. Mgmt. Grp. v. Parson Ctr. Pharmacy, Inc., 432 F. App'x 25 (2d Cir. 2011).

Counsel for Plaintiff:

Craig D. Mills  
Buchanan Ingersoll & Rooney, PC  
Two Liberty Place  
50 South 16th Street  
Suite 3200  
Philadelphia, PA 19102  
(215) 665-3863

Paul G. Nofer  
Klehr Harrison Harvey Branzburg LLP  
1835 Market Street  
Suite 1400  
Philadelphia, PA 19103  
(215) 569-3287

Counsel for Defendants:

Michael L. Levine  
The Law Firm of Michael Levine  
15 Barclay Road

Scarsdale, NY 10583  
(914) 713-4543

5. Flash Electronics, Inc. v. Universal Music & Video Distribution Corp., No. 01-CV-979 (RRM) (E.D.N.Y.)

In this antitrust suit, the plaintiffs were wholesale distributors of home video and DVD products. The defendants were Universal, a movie and television show producer, and two wholesale distributors that directly competed with the plaintiffs. The plaintiffs alleged that the defendants conspired to unlawfully eliminate competition in the video rental market and increase prices. After I supervised discovery, I issued a report and recommendation denying the plaintiffs' motion for spoliation sanctions and granting the defendants' motion for partial summary judgment on the plaintiffs' Sherman Act claim. The district court adopted my recommendations. Flash Elecs., Inc. v. Universal Music & Video Distrib. Corp., No. 01-CV-979, 2009 WL 7266571 (E.D.N.Y. Oct. 19, 2009), adopted by 2010 WL 5390176 (E.D.N.Y. Dec. 22, 2010). Before filing further motions on the remaining claims, the parties settled.

Counsel for Plaintiffs: Fredric B. Goodman  
Marin Goodman, LLP  
500 Mamaroneck Avenue  
Suite 501  
Harrison, NY 10528  
(212) 661-1151

Counsel for Defendants: Lee S. Taylor  
(formerly with Munger, Tolles & Olson, LLP)  
Maurice Blackburn Lawyers  
456 Lonsdale Street, Level 10  
Melbourne, VIC 3000  
Australia  
(03) 9605-2892

Stuart N. Senator  
Munger, Tolles & Olson, LLP  
355 South Grand Avenue  
Los Angeles, CA 90071  
(213) 683-9528

6. Johnson v. West, No. 99-CV-4339 (JMA) (E.D.N.Y.); Johnson v. Nicholson, No. 05-CV-2740 (JMA) (E.D.N.Y.)

The plaintiff brought these two related employment discrimination cases against the Department of Veteran Affairs. The parties consented to my jurisdiction in both cases. During the first case, I handled all pretrial matters, including multiple

discovery and settlement conferences. I also presided over a two-week jury trial on the plaintiff's hostile work environment and retaliation claims. The jury returned a verdict in favor of the defendant. The plaintiff appealed the verdict and the Second Circuit Court of Appeals affirmed. Johnson v. Nicholson, 349 F. App'x 604 (2d Cir. 2009) (consolidated appeal).

In 2005, the plaintiff filed a second case alleging the Department of Veteran Affairs retaliated against her for her earlier federal lawsuit over which I had presided. After overseeing discovery, I granted the defendant's motion for summary judgment. Johnson v. Nicholson, No. 05-CV-2740, 2007 WL 1395546 (E.D.N.Y. May 11, 2007). The plaintiff appealed and the Second Circuit Court of Appeals affirmed. Johnson v. Nicholson, 349 F. App'x 604 (2d Cir. 2009) (consolidated appeal).

Counsel for Plaintiff: Michael Resko  
Law Offices of Michael Resko  
60 East 42nd Street, 46th Floor  
New York, NY 10165  
(212) 490-3010

Counsel for Defendants: Michael J. Goldberger  
Catherine Mary Mirabile  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

Linda Marie Marino  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Flemming Zulack Williamson Zauderer LLP  
One Liberty Plaza  
New York, NY 10006  
(212) 412-9520

7. Yanez v. City of New York, No. 94-CV-5925 (JMA) (E.D.N.Y.)

This civil rights action arose out of a collision that occurred between the plaintiff's vehicle and a police vehicle prior to the plaintiff's arrest for Driving While Intoxicated. The plaintiff brought this § 1983 action against the city and NYPD officers alleging false imprisonment, false arrest, malicious prosecution, conspiracy, negligent hiring, retention, supervision and training, and also seeking recovery under New York Insurance law for injuries sustained during the collision. The parties consented to my jurisdiction and I handled all aspects of the case, including pretrial discovery and a summary judgment motion, reported at

Yanez v. City of New York, 29 F. Supp. 2d 100 (E.D.N.Y. 1998). I presided over a one-week jury trial where the jury found for the defendants. The plaintiff did not appeal the verdict.

Counsel for Plaintiff: Thomas G. Sheehan (deceased)  
  
Amy Marion  
(formerly with Cheda & Sheehan)  
Barket, Marion, Epstein & Kearon, LLP  
666 Old Country Road, 7th Floor  
Garden City, NY 11530  
(516) 745-1500

Counsel for Defendants: Kevin J. Smith  
(formerly with the New York City Law  
Department)  
Sheppard Mullin, LLP  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 634-3052  
  
Warren Shaw  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

8. United States v. Lewis, No. 93-CR-1342 (JMA) (E.D.N.Y.)

The defendant, a postal worker, was charged, under 18 U.S.C. § 1701, with two counts of obstructing the passage of the mail after co-workers observed him opening and destroying mail. I presided over motion practice and a bench trial of these petty offenses. In a pretrial motion, the defendant argued that when the potential sentences for the two counts were aggregated, the total potential sentence exceeded six months and, thus, triggered his right to a jury trial. I denied the defendant's motion. After a bench trial, I convicted the defendant of both counts and sentenced him to three years' probation, which included mandatory substance abuse treatment. The defendant appealed my denial of a jury trial to the district court and the Second Circuit Court of Appeals. Both courts affirmed my ruling. See United States v. Lewis, 65 F.3d 252 (2d Cir. 1995). The defendant then appealed to the United States Supreme Court, which affirmed my ruling in an opinion authored by Justice O'Connor. Lewis v. United States, 518 U.S. 322 (1996).



Counsel for the Government: James Walden  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Gibson, Dunn & Crutcher LLP  
200 Park Avenue  
New York, NY 10166  
(212) 351-4000

Joel M. Cohen  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Greenburg Traurig, LLP  
885 Third Avenue, 24th Floor  
New York, NY 10022  
(212) 848-1000

Counsel for Defendant: Jan Alison Rostal  
Federal Defenders of New York, Inc.  
One Pierrepont Plaza, 16th Floor  
Brooklyn, NY 11201  
(718) 330-1200

9. Jemmott v. City University of New York, No. 92-CV-1564 (JMA) (E.D.N.Y.)

In this Title VII civil rights action, the plaintiff, a former university administrator, sued New York City Technical College and various high-level administrators for race discrimination. I handled all aspects of this case including a bench trial, for which I issued a published decision. Jemmott v. City Univ. of New York, 885 F. Supp. 393 (E.D.N.Y. 1994). I found for the defendants, but denied the defendants' request for attorney's fees. The Second Circuit Court of Appeals affirmed my decision. Jemmott v. City Univ. of New York, 57 F.3d 1063 (2d Cir. 1995).

Counsel for Plaintiff: Hon. Denny Chin  
(formerly with Vladek, Waldman, Elias &  
Engelhard, P.C.)  
United States Circuit Judge  
United States Court of Appeals, Second Circuit  
40 Foley Square  
New York, NY 10007  
(212) 857-8500

Counsel for Defendants: Lisa Rothschild Dell  
New York State Office of the Attorney General  
120 Broadway, 24th Floor  
New York, NY 10271  
(212) 416-8700

10. United States v. Velazquez, No. 92–CR–1265 (SJ) (E.D.N.Y.)

This case involved a multi-defendant narcotics distribution conspiracy. I was referred all pretrial motions, including the defendants' motions to suppress identification testimony, physical evidence, and statements; motion to sever; and request for a hearing under Franks v. Delaware, 438 U.S. 154 (1978). After a five-day hearing, I denied the defendants' motions in their entirety. I rejected the defendants' request for a Franks hearing, finding that the search warrant affidavits did not contain falsehoods or omissions. As to the motion to suppress the identification testimony, I found that although the photographs shown to the witnesses were suggestive, the identifications were still admissible because the witnesses had an independent basis in memory that was sufficient to render the identifications reliable. I denied the defendants' other motions to suppress, finding that the disputed questioning and searches were constitutionally permissible. The district court adopted my report and recommendation in full. All of the defendants entered guilty pleas prior to trial. A copy of my report and recommendation is supplied.

Counsel for the Government: Jodi Avergun

(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Cadwalader, Wickersham & Taft LLP  
700 Sixth Street, NW  
Washington, DC 20001  
(202) 862-2456

Counsel for Defendants:

Barry E. Schulman (for defendant Mr. Velazquez)  
Law Offices of Barry E. Schulman  
16 Court Street  
Suite 1800  
Brooklyn, NY 11241  
(718) 855-8855

John H. Jacobs (Deceased) (for defendant Mr. G.  
Roa)

Jerald Levine (for defendant Mr. Velasco)  
(solo practitioner)  
7319 Broadway  
Jackson Heights, NY 11372  
(718) 507-6464

Paul Warburgh (for defendant Mr. F. Roa)  
(solo practitioner)  
P.O. Box 1933

Huntington, NY 11743  
(631) 223-2370

Robert Blossner (for defendant Mr. Lara)  
(formerly a solo practitioner)  
Pawar Gilgallon & Rudy, LLC  
30 Vesey Street, 2d Floor  
New York, NY 10007  
(212) 571-0805

- 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.

These opinions are listed in reverse chronological order.

1. Godlewska v. HDA, 916 F. Supp. 2d 246 (E.D.N.Y. 2013)

Counsel for Plaintiffs: Robert Wisniewski  
Robert Wisniewski & Associates, PC  
225 Broadway  
New York, NY 10007  
(212) 267-2101

Counsel for Defendants: Andrea O'Connor (for the municipal defendants)  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

Jeffrey S. Ettenger (for defendant HDA)  
(representation withdrawn)  
Kaufman, Dolowich & Voluck, LLP  
135 Crossways Park Drive  
Suite 201  
Woodbury, NY 11797  
(516) 283-8702

2. Bland v. United States, No. 10-CV-3249 (ERK), 2012 WL 6962906  
(E.D.N.Y. Sept. 18, 2012)

Counsel for Plaintiff: Georgia J. Hinde  
Law Office of Georgia J. Hinde  
1133 Broadway  
Suite 221

New York, NY 10010  
(212) 727-2717

Counsel for Defendant: Andrew E. Goldsmith  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Kellog, Huber, Hansen, Todd, Evans & Figel  
P.L.L.C.  
Summer Square  
1615 M Street, NW  
Suite 400  
Washington, DC 20036  
(202) 326-7945

Nathan Reilly  
United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

3. Eurospark Industries, Inc. v. Underwriters at Lloyds Subscribing to Risk on Cover No. 97FA0071010A, 567 F. Supp. 2d 345 (E.D.N.Y. 2008)

Counsel for Plaintiff: Joshua L. Mallin  
Weg & Myers, PC  
Federal Plaza, 2nd Floor  
52 Duane Street  
New York, NY 10007  
(212) 227-4210

Counsel for Defendants: Daniel Joel Friedman (deceased)

Daniel C. Marotta  
Gabor & Marotta, LLC  
1878 Victory Boulevard  
Staten Island, NY 10314  
(718) 390-0555

4. In re United States for Orders (1) Authorizing Use of Pen Registers and Trap and Trace Devices, 515 F. Supp. 2d 325 (E.D.N.Y. 2007)

Counsel for the Government: Jed Davis  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
The Law Office of Jonathan E. Davis LLC

612 10th Street, #2  
Brooklyn, NY 11215  
(718) 344-2655

Scott Klugman  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
Levine Lee, LLP  
666 Fifth Avenue  
New York, NY 10103  
(212) 257-4030

5. Jacobs v. New York Foundling Hospital, 483 F. Supp. 2d 251 (E.D.N.Y. 2007)

Counsel for Plaintiffs: Jonathan A. Bernstein  
Levy, Davis & Maher, LLP  
39 Broadway  
Suite 1620  
New York, NY 10006  
(212) 371-0033

Counsel for Defendant: Joseph B. Cartafalsa  
Putney, Twombly, Hall & Hirson, LLP  
521 Fifth Avenue  
New York, NY 10175  
(212) 682-0020

6. Yanez v. City of New York, 29 F. Supp. 2d 100 (E.D.N.Y. 1998)

Counsel for Plaintiff: Thomas G. Sheehan (deceased)  
  
Amy Marion  
(formerly with Cheda & Sheehan)  
Barket, Marion, Epstein & Kearon, LLP  
666 Old Country Road, 7th Floor  
Garden City, NY 11530  
(516) 745-1500

Counsel for Defendants: Kevin J. Smith  
(formerly with the New York City Law  
Department)  
Sheppard Mullin, LLP  
30 Rockefeller Plaza  
New York, NY 10112  
(212) 634-3052

Warren Shaw  
New York City Law Department  
100 Church Street  
New York, NY 10007  
(212) 356-1000

7. DeVito v. United States, No. 95–CV–2349 (JS), 1997 WL 1038120 (E.D.N.Y. Sept. 5, 1997)

Counsel for Plaintiffs: John J. O’Connell  
(formerly with Solomon, Zauderer, Ellenhorn,  
Frischer & Sharp)  
Dai & Associates, PC  
1500 Broadway  
New York, NY 10036  
(212) 730-8850

Counsel for Defendant: Charles P. Kelly  
United States Attorney’s Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

8. United States. v. Zahrey, 963 F. Supp. 1273 (E.D.N.Y. 1997)

Counsel for Plaintiff: Martin E. Coffey  
United States Attorney’s Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201  
(718) 254-7000

Counsel for Defendants: Joel B. Rudin (for defendant Mr. Zahrey)  
Law Offices of Joel B. Rudin  
200 West 57th Street  
Suite 900  
New York, NY 10019  
(212) 752-7600

Frank T. Geoly (for defendant Mr. Ingram)  
(solo practitioner)  
8118 13th Avenue, No. 1  
Brooklyn, NY 11228  
(718) 833-8365

Alan M. Nelson (for defendant Mr. Sandoval)  
(formerly with Garber, Klein & Nelson)  
Solomon Richman, PC  
3000 Marcus Avenue  
Suite 1E5  
Lake Success, NY 11042  
(516) 437-6443

Donald Duboulay (for defendant Mr. Mercado)  
Law Offices of Donald Duboulay  
305 Broadway, Suite 602  
New York, NY 10007  
(212) 966-3970

9. Hornell Brewing Co. v. Brady, 819 F. Supp. 1227 (E.D.N.Y. 1993)

Counsel for Plaintiffs: Lawrence I. Fox (retired)

Counsel for Defendants: Peter S. Modlin  
(formerly with the United States Department of  
Justice)  
Gibson Dunn  
555 Mission Street  
Suite 3000  
San Francisco, CA 94105  
(415) 393-8392

Stuart M. Gerson  
(formerly with the United States Department of  
Justice)  
Epstein, Becker & Green  
250 Park Avenue  
New York, NY 10177  
(212) 351-4808

10. P. & B. Marina, Ltd. v. Logrande, 136 F.R.D. 50 (E.D.N.Y. 1991)

Counsel for Plaintiffs: Richard S. Mills  
(formerly with Lambert & Weiss)  
McElroy, Deutsch, Mulvaney & Carpenter, LLP  
88 Pine Street, 24th Floor  
New York, NY 10005  
(212) 483-9490

Counsel for Defendants: Paul R. Levenson (deceased)

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

Bland v. United States, No. 13–CR–0746, 2014 WL 1673738 (2d Cir. Apr. 29, 2014) (cert. pending)

Carthen v. United States, 133 S. Ct. 837, 184 L. Ed. 2d 664 (2013)

McDonald v. Hammons, 523 U.S. 1073 (1998)

Lewis v. United States, 518 U.S. 322 (1996)

- 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.

During my 23-year tenure as a magistrate judge, I have issued approximately 1,500 reports and recommendations, opinions, and substantive orders. I searched all of my decisions on LexisNexis and Westlaw and my internal files to compile a list of any decisions that were reversed, rejected, or modified by a reviewing court. To the best of my knowledge, only 26 of these decisions were rejected or modified by a district judge or by the Second Circuit Court of Appeals, which represents a reversal or modification rate of only 1.7%.

In Cadle Co. v. Livingston, I recommended that the district court grant the plaintiff's motion for default judgment and award damages. The district court modified my calculation of prejudgment interest, but adopted my other recommendations. My report and recommendation is available at Cadle Co. v. Livingston, No. 13–CV–3799, 2014 WL 1874857 (E.D.N.Y. Jan. 15, 2014). The district court's decision is available at Cadle Co. v. Livingston, No. 13–CV–3799, 2014 WL 1874872 (E.D.N.Y. May 9, 2014).

In Broca v. Giron, I recommended that the district court grant a petition under the Hague Convention on the Civil Aspects of International Child Abduction and order repatriation of the petitioner's two children to Mexico. The district court did not adopt my recommendation and denied the petition. My report and recommendation is available at Broca v. Giron, No. 11–CV–5818, 2012 WL 7660123 (E.D.N.Y. Sept. 25, 2012). The district court's decision is available at Broca v. Giron, No. 11–CV–5818, 2013 WL 867276 (E.D.N.Y. Mar. 7, 2013).

In Osram Sylvania Inc. v. Unalite Electric & Lighting LLC, I recommended that the district court grant the plaintiff's motion for default and award the plaintiff damages. The district court modified the end date of the prejudgment interest calculation, but adopted my other recommendations. My report and



recommendation is available at Osram Sylvania Inc. v. Unalite Elec. & Lighting LLC, No. 11-CV-3596, 2012 WL 3877798 (E.D.N.Y. Aug. 7, 2012). The district court's decision is available at Osram Sylvania Inc. v. Unalite Elec. & Lighting LLC, No. 11-CV-3596, 2012 WL 3877796 (E.D.N.Y. Sept. 6, 2012).

In Spells v. Lee, a pro se prisoner moved to amend his habeas petition to include ineffective assistance of trial and appellate counsel claims and to stay his petition until he was able to exhaust his state law remedies on these additional claims. I recommended that the district court deny the petitioner's motions to amend and to stay the proceedings. The district court allowed the petitioner to amend his complaint to add an ineffective assistance of appellate counsel claim, but adopted my other recommendations. My report and recommendation is available at Spells v. Lee, No. 11-CV-1680, 2012 WL 3027540 (E.D.N.Y. May 23, 2012). The district court's decision is available at Spells v. Lee, No. 11-CV-1680, 2012 WL 3027865 (E.D.N.Y. July 23, 2012).

In United States v. Dupree, the defendant challenged the government's showing of probable cause that seized bank accounts were, in fact, forfeitable, and, thus, could not be used by the defendant to pay his defense counsel. I recommended that the district court deny the defendant's request to release all of the funds in the subject accounts. The district court adopted my recommendation in part, and permitted the government to retain 20% of the funds in the accounts. My report and recommendation is available at United States v. Dupree, No. 10-CR-627, 2011 WL 3235624 (E.D.N.Y. June 2, 2011). The district court's decision is available at United States v. Dupree, No. 10-CR-627, 2011 WL 3235637 (E.D.N.Y. July 27, 2011).

In Greystone Bank v. Tavarez, I recommended that the district court deny the defendants' motion to dismiss for lack of subject matter jurisdiction. The district court adopted my recommendation to deny the motion, but granted the defendants leave to renew their motion upon completion of jurisdictional discovery. My report and recommendation is available at Greystone Bank v. Tavarez, No. 09-CV-5192, 2010 WL 3311835 (E.D.N.Y. June 10, 2010). The district court's decision is available at Greystone Bank v. Tavarez, No., No. 09-CV-5192, 2010 WL 3325203 (E.D.N.Y. Aug. 19, 2010).

In Gesualdi v. Hardin Contracting, Inc., I recommended that the district court grant the plaintiffs' motion for default judgment and award damages. The district court adopted my recommendation, but reduced the total damages award. My report and recommendation is available at Gesualdi v. Hardin Contracting, Inc., No. 09-CV-2660, 2010 WL 1048821 (E.D.N.Y. Feb. 16, 2010). The district court's decision is available at Gesualdi v. Hardin Contracting, Inc., No. 09-CV-2660, 2010 WL 1048818 (E.D.N.Y. Mar. 19, 2010).

In Graham v. City of New York, I recommended that the district court grant the defendants' motion for summary judgment as to the plaintiff's retaliation, national origin and state law claims, and deny the motion as to the plaintiff's disparate

treatment and municipal liability claims. The district court granted summary judgment as to the plaintiff's municipal liability claim, but adopted my other recommendations. My report and recommendation is available at Graham v. City of New York, No. 05-CV-5428, 2009 WL 909622 (E.D.N.Y. Mar. 10, 2009). The district court's decision is available at Graham v. City of New York, No. 05-CV-5428, 2009 WL 909620 (E.D.N.Y. Mar. 31, 2009).

In Cullen v. City of New York, the defendants moved to dismiss the plaintiff's First Amendment retaliation and related state law claims. I recommended that the district court grant the defendants' motion. The district court rejected my recommendation, finding that questions remained as to whether the plaintiff's speech was constitutionally protected. My report and recommendation is available at Cullen v. City of New York, No. 07-CV-3644, 2008 WL 5159814 (E.D.N.Y. July 8, 2008). The district court's decision is available at Cullen v. City of New York, No. 07-CV-3644, 2008 WL 5159815 (E.D.N.Y. Dec. 9, 2008).

In Liberty Mutual Insurance Co. v. Priceless Transportation, Inc., I recommended that the district court grant the plaintiff's motion for default judgment and award damages against all three defendants. The district court adopted my recommendations as to two of the defendants, but dismissed the case against the third defendant. A copy of my report and recommendation is supplied. The district court's decision is available at Liberty Mut. Ins. Co. v. Priceless Transp., Inc., No. 07-CV-881, 2008 WL 4186230 (E.D.N.Y. Sept. 9, 2008).

In Perez v. Siragusa, I recommended that the district court dismiss this civil rights action with prejudice and award attorney's fees to the defendants. The district court reduced the total attorneys' fees award from \$8,140 to \$6,287, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at Perez v. Siragusa, No. 05-CV-4873, 2008 WL 2704402 (E.D.N.Y. July 3, 2008).

In LaBarbera v. D. & R. Materials, Inc., the defendant employer failed to make required contributions to employee benefit plans. I issued a report and recommendation on the issue of damages for the plaintiffs' motion for default judgment. The district court disagreed with my interpretation of the parties' Trust Agreement, which affected the damages award for two of the months at issue. The district court adopted my other damages recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at LaBarbera v. D. & R. Materials, Inc., 588 F. Supp. 2d 342 (E.D.N.Y. 2008).

In LaBarbera v. Torretta Trucking, Inc., I recommended that the district court award damages and attorney's fees against the defaulting defendant. The district court increased the attorney's fees award by \$932, but adopted my other recommendations. My report and recommendation is available at LaBarbera v. Torretta Trucking, Inc., No. 06-CV-6642, 2007 U.S. Dist. LEXIS 101389 (E.D.N.Y. Oct. 11, 2007). The district court's decision is available at LaBarbera

v. Torretta Trucking, Inc., No. 06–CV–6642, 2007 U.S. Dist. LEXIS 101392 (E.D.N.Y. Nov. 30, 2007).

In Baruch v. Healthcare Receivable Management, Inc., I recommended that the district court award damages against the defaulting defendant and deny the plaintiff's request for attorney's fees and costs. The district court awarded attorney's fees and costs, but adopted my other recommendations. My report and recommendation is available at Baruch v. Healthcare Receivable Mgmt., Inc., No. 05–CV–5392, 2007 WL 3232091 (E.D.N.Y. Sept. 11, 2007). The district court's decision is available at Baruch v. Healthcare Receivable Mgmt., Inc., No. 05–CV–5392, 2007 WL 3232090 (E.D.N.Y. Oct. 30, 2007).

In T.Z. v. City of New York, the district court reversed my discovery ruling that denied the plaintiff's request to photograph the classroom where the incident at issue occurred. The district court's decision is reported at T.Z. v. City of New York, No. 05–CV–5111, 2007 WL 2077730 (E.D.N.Y. July 18, 2007).

In Everson v. New York City Transit Authority, an employment discrimination case, I recommended that the district court grant the defendants' motion for summary judgment as to all claims except for the plaintiff's retaliation claim. The district court denied the defendants' motion for summary judgment as to one of the plaintiff's failure to promote claims, but adopted my other recommendations. My report and recommendation and the district court's decision are available at Everson v. New York City Transit Auth., No. 02–CV–1121, 2007 WL 539159 (E.D.N.Y. Feb. 16, 2007).

In Scott v. John Doe Corp., I was referred a default judgment for a damages inquest. I initially recommended a damages award of \$10,154 against the defaulting defendants, and the district court referred the matter back to me to hear testimony from the plaintiff's physician. After holding a hearing, I recommended the same damages award, which included \$7,000 for pain and suffering. The district court adopted my recommendation in part, concluding that the plaintiff was entitled to \$10,000 for pain and suffering. Copies of my reports and recommendations are supplied. The district court's decision is available at Scott v. John Doe Corp., No. 01–CV–5910, 2006 WL 2335542 (E.D.N.Y. Aug. 10, 2006).

In Kingvision Pay-Per-View, Ltd. v. Penaloza, I recommended that the district court grant the plaintiff's motion for default judgment and award damages, attorney's fees, and costs. The district court reduced the award of costs by \$450, but adopted my other recommendations. My report and recommendation is available at Kingvision Pay-Per-View, Ltd. v. Penaloza, No. 05–CV–1928, 2006 U.S. Dist. LEXIS 16921 (E.D.N.Y. Mar. 6, 2006). The district court's decision is available at Kingvision Pay-Per-View, Ltd. v. Penaloza, No. 05–CV–1928, 2006 U.S. Dist. LEXIS 18350 (E.D.N.Y. Apr. 11, 2006).

In Kingvision Pay-Per-View Ltd. v. Lalaleo, I recommended that the district court grant the plaintiff's motion for default judgment and award the plaintiff \$13,575 in damages, attorney's fees, and costs. The district court reduced the award of costs by \$100, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at Kingvision Pay-Per-View Ltd. v. Lalaleo, 429 F. Supp. 2d 506 (E.D.N.Y. 2006).

In Sutton v. New York City Transit Authority, I decided a charging lien dispute after the plaintiff's counsel withdrew from representation of the plaintiff. I denied the plaintiff's request for return of her retainer payments and awarded counsel expenses and a lien. The district court affirmed my decision. The Second Circuit Court of Appeals affirmed my decision regarding the retainer payments and expenses, but vacated my award of a charging lien. Copies of my decision and the district court's decision are supplied. The Second Circuit Court of Appeals' decision is available at Sutton v. New York City Transit Auth., 462 F.3d 157 (2d Cir. 2006).

In Rodriguez-Freytas v. New York City Transit Authority, I recommended that the district court grant the plaintiff attorney's fees after the plaintiff settled her claims. The district court adopted my report and recommendation. The Second Circuit Court of Appeals vacated the fees judgment and remanded the action for further proceedings. A copy of my report and recommendation is supplied. The Second Circuit Court of Appeals' decision is available at Rodriguez-Freytas v. New York City Transit Auth., 95 F. App'x 392 (2d Cir. 2004).

In Prince v. Dicker, I recommended that the district court dismiss the pro se plaintiff's complaint and require him to seek the court's permission before filing any additional lawsuits concerning the subject matter of the litigation. The district court adopted my report and recommendation and imposed the recommended filing injunction. The Second Circuit Court of Appeals affirmed dismissal of the plaintiff's claim, but reversed the imposition of the filing injunction. A copy of my report and recommendation is supplied. The Second Circuit Court of Appeals' decision is available at Prince v. Dicker, 29 F. App'x 52 (2d Cir. 2002).

In Parker v. Time Warner Entertainment Co., I recommended that the district court grant the defendants' motion to deny the plaintiffs' class certification. The district court adopted my report and recommendation. On appeal, the Second Circuit Court of Appeals vacated the denial of class certification and remanded for further proceedings. My report and recommendation is available at Parker v. Time Warner Entm't Co., No. 98-CV-04265, 2000 WL 34430454 (E.D.N.Y. Oct. 5, 2000). The district court's decision is available at Parker v. Time Warner Entm't Co., 198 F.R.D. 374 (E.D.N.Y. 2001). The Second Circuit Court of Appeals' decision is available at Parker v. Time Warner Entm't Co., 331 F.3d 13 (2d Cir. 2003).

In McNulty v. Prudential-Bache Securities, I recommended that the district court grant summary judgment on all of the plaintiff's claims, except the plaintiff's Jurors' Act claim. The district court granted summary judgment on the Jurors' Act claim, but adopted my other recommendations. A copy of my report and recommendation is supplied. The district court's decision is available at McNulty v. Prudential-Bache Secs., 871 F. Supp. 567 (E.D.N.Y. 1994).

In LeGrand v. New York City Transit Authority, I recommended that the district court grant class certification and consolidation. The district court denied the motion for class certification, but adopted my other recommendation. A copy of my report and recommendation is supplied. The district court's decision is available at LeGrand v. New York City Transit Auth., No. 95-CV-333, 1999 U.S. Dist. LEXIS 8020 (E.D.N.Y. May 26, 1999).

In McDonald v. Hammons, I found that in considering the defendants' motion to disqualify the plaintiffs' counsel, a potential conflict may exist between the McDonald parents' interest in maintaining their innocence of abuse charges and the children's interest in reporting any abuse that may have occurred. I denied the defendants' disqualification motion and ordered that a guardian ad litem be appointed to represent the children. The plaintiffs appealed my decision to the district court and the district court adopted my order, but limited the appointment of the guardian only for purposes of determining whether a conflict did, in fact, exist. A copy of my report and recommendation is supplied. The district court's decision is available at McDonald v. Hammons, 936 F. Supp. 86 (E.D.N.Y. 1996). The Second Circuit Court of Appeals dismissed the plaintiffs' appeal. McDonald v. Hammons, 129 F.3d 114 (2d Cir. 1997). The Supreme Court denied certiorari. McDonald v. Hammons, 523 U.S. 1073 (1998).

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

As a magistrate judge, I issue orders on non-dispositive matters or orders on dispositive matters when the parties consent to my jurisdiction or the district judge refers a matter to me for a report and recommendation. Most of my non-dispositive orders address discovery disputes, adjusting discovery schedules, and other miscellaneous civil motions. I generally issue hundreds of these orders each year. Of the approximately 1,500 substantive decisions I have issued, including reports and recommendations, opinions, and orders, approximately 20% of these decisions are available on electronic databases such as Westlaw and Lexis. Many of these decisions that are not found on Westlaw and Lexis are available, along with other orders that I have issued, through the Eastern District of New York's Electronic Case Filing ("ECF") system. In addition, case files are also available through the Eastern District Clerk's Office or the National Archives Records Administration.

- 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.

In re U.S. for Orders (1) Authorizing Use of Pen Registers and Trap and Trace Devices, 515 F. Supp. 2d 325 (E.D.N.Y. 2007)

United States v. Cohen, 372 F. Supp. 2d 340 (E.D.N.Y. 2005)

Sparman v. Edwards, 26 F. Supp. 2d 450 (E.D.N.Y. 1997)

Hornell Brewing Co. v. Brady, 819 F. Supp. 1227 (E.D.N.Y. 1993)

United States v. Velazquez, No. 92-CR-1265 (SJ) (E.D.N.Y.). A copy of my report and recommendation was previously supplied in response to Question 13c.

P. & B. Marina, Ltd. v. Logrande, 136 F.R.D. 50 (E.D.N.Y. 1991)

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

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

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

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

In keeping with the Code of Conduct for United States Judges and 28 U.S.C. § 455, I review every new file assigned to me to ensure that no conflict of interest exists. I maintain a standing recusal list with the Clerk's Office. Currently on my recusal list are my husband, William G. Ballaine, and the other lawyers in his firm, Landman,

Corsi, Ballaine & Ford, P.C., and any case in which either my husband or I have a financial interest. I also recuse myself in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). In the event of uncertainty, I err on the side of disqualification. I have not maintained a list of cases in which I have recused myself *sua sponte*.

I have undertaken a search of all my decisions on LexisNexis and Westlaw and my internal files to locate any motions for recusal and decisions related thereto. To the best of my knowledge, only two attorneys have filed such an application. The following are the only two recusal motions or applications:

In Holcombe v. U.S. Airways, Nos. 03-CV-4785 (SLT), 08-CV-1593 (SLT) (E.D.N.Y.), the plaintiff's counsel filed a request for my recusal, claiming I pre-decided his request for a charging and retaining lien after his client terminated his representation. I determined that counsel's arguments for recusal did not warrant my removal from these cases. However, I recused myself *sua sponte* on a different ground, concluding that recusal was appropriate because I would have been required to act as the fact-finder concerning the charging lien after holding numerous settlement conferences with the parties on that issue.

In United Newport Associations v. J.D. Greene Machine Co., No. 98-CV-6810 (JMA) (E.D.N.Y.), the defense counsel filed a request for my recusal claiming that comments I made during the course of the proceeding demonstrated bias against his client. I denied the motion finding that among other things, none of my actions demonstrated a deep-seated favoritism of the plaintiffs or antagonism toward the defendant.

**15. Public Office, Political Activities and Affiliations:**

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

I have not held any public office other than my current judicial office.

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

I have not held any offices in or rendered service to any political party or election committee. I have not held a position or played a role in any political campaigns.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a law clerk to a judge.

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

I have never practiced law 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.

1979 – 1981

U.S. Department of Justice  
Criminal Division  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530  
Honors Program–Trial Attorney

1982 – 1990

United States Attorney's Office  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
Deputy Chief, Criminal Division (1987 – 1990)  
Chief, Business and Securities Fraud Section (1987 – 1990)  
Deputy Chief, Narcotics Section (1985 – 1986)  
Assistant United States Attorney (1982 – 1990)

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

I have never served as a mediator or arbitrator in private practice.

- b. Describe:

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



From 1979 to 1981, I was an attorney in the Honors Program in the Criminal Division of the United States Department of Justice. At the time, the Honors Program entailed rotating through various sections of the Criminal Division to afford the broadest experience. During those two years, I spent several months writing criminal appellate briefs and arguing the appeals in various Federal Courts of Appeals. I also spent four months in the United States Attorney's Office for the District of Columbia, where I tried ten misdemeanor cases. Thereafter, in April and May of 1981, I was detailed to the United States Attorney's Office for the Southern District of Florida, where I tried four felony narcotics cases. Upon return to the Department of Justice, I was assigned to the Fraud Section, where I investigated and prosecuted a major fraud case in the Eastern District of Pennsylvania.

In 1982, I became an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Eastern District of New York. I spent the first two years in General Crimes, where I prosecuted a variety of federal crimes, including narcotics cases, firearms cases, counterfeit currency, and postal thefts. In 1984, I joined the Narcotics Section, where I investigated and prosecuted major narcotics cases. In 1985, I was promoted to Deputy Chief of the Narcotics Section. In 1987, I was elevated to Deputy Chief of the Criminal Division where I supervised the Business and Securities Fraud Section and participated in general supervision of the Criminal Division. During that time, I continued to handle my own cases, many of which involved financial crimes and white collar fraud.

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

As a federal prosecutor, I always represented the interests of the United States. My practice was devoted exclusively to criminal law.

- 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.

100% of my practice was in litigation. Throughout my tenure at the Department of Justice and the United States Attorney's Office, I frequently appeared in court.

- i. Indicate the percentage of your practice in:

1. federal courts:	100%
2. state courts of record:	0%
3. other courts:	0%
4. administrative agencies:	0%

ii. Indicate the percentage of your practice in:

- |                          |      |
|--------------------------|------|
| 1. civil proceedings:    | 0%   |
| 2. criminal proceedings: | 100% |

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

I have tried 41 cases to verdict, judgment, or final decision. I was the sole counsel on 35 trials and co-counsel on six trials. I have argued 13 cases in Courts of Appeals.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 99% |
| 2. non-jury: | 1%  |

- 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.

These cases are listed in reverse chronological order.

1. United States v. Jacobowitz, No. 88-CR-298 (ERK) (E.D.N.Y.)

This was a credit card fraud conspiracy prosecution. The defendant was indicted on five counts of credit card fraud. As lead prosecutor, I supervised the

investigation, conducted the grand jury presentation, and handled the suppression hearing and trial. The suppression hearing involved a lengthy hearing pursuant to U.S. v. Wade, 388 U.S. 218 (1967), regarding an identification issue as well as the use of a handwriting expert. The defendant was convicted after trial, and the Second Circuit Court of Appeals affirmed the conviction. See United States v. Jacobowitz, 877 F.2d 162 (2d Cir. 1989). I was sole counsel during the trial, and I wrote and argued the appeal. The case was litigated before the Honorable Edward R. Korman.

Dates of Representation: 1987 – 1989 (approximately)

Counsel for Defendant: Andrew Citron (trial counsel)  
(formerly a solo practitioner)  
Revaz & Chachanashvili Law Group, PLLC  
108–17 2nd Avenue  
Suite 2E  
Forest Hills, NY 11375  
(718) 997-8255

Adina Schwartz (appellate counsel)  
(formerly with Legal Aid, Federal Defenders  
Services Unit)  
John Jay College of Criminal Justice  
899 10th Avenue  
New York, NY 10019  
(212) 237-8402

2. United States v. Rabuffo, 88–CR–178 (TCP) (E.D.N.Y.) and related cases

This was a multi-defendant, multi-agency prosecution of a large-scale financial fraud that occurred from 1985 to 1987. The defendants, many of whom were executives of financial institutions, participated in a \$30 million fraud in which they obtained equipment loans based on false collateral. The investigation ultimately resulted in indictments of ten defendants on charges of mail, wire, tax, and bank fraud. Among the defendants were a bank president, several senior bank officials, three chief executive officers, and two public officials. All entered guilty pleas before trial except for one who pled guilty mid-trial. I was the co-lead prosecutor on this case and the related cases. I was involved in all phases of the case from the investigation through the sentencing proceedings for most of the defendants. The case was litigated before the Honorable Thomas C. Platt.

Dates of Representation: 1987 – 1990 (approximately)

Co-counsel: Charles W. Gerber  
(formerly with the United States Attorney's Office,  
Eastern District of New York)

CIBC World Markets Corporation  
425 Lexington Avenue, 3rd Floor  
New York, NY 10017  
(212) 667-8300

Counsel for Defendants: Gavin W. Scotti (for defendant Mr. Rabuffo)  
(formerly with Segal & Hundley)  
(solo practitioner)  
260 Madison Avenue  
New York, NY 10016  
(212) 490-1840

Paul B. Bergman (for defendant Mr. Rosally)  
Law Office of Paul B. Bergman, PC  
950 Third Avenue  
New York, NY 10022  
(212) 355-7711

Thomas Fitzpatrick (for defendant Mr. Siegel)  
500 Fifth Avenue, 33rd Floor  
New York, NY 10110  
(212) 930-1290

Jonathan L. Rosner (deceased) (for defendant Mr.  
Horowitz)

3. United States v. Arango-Correa, No. 86-CR-374 (DLD) (E.D.N.Y.)

This was a narcotics prosecution in which the defendants were charged with importation of over 500 pounds of cocaine. The cocaine was professionally hidden in large commercial paper shipments imported from Colombia. I was the sole prosecutor on the case, which involved extensive Title III electronic surveillance of the defendants' warehouse in Queens, New York. My responsibilities included drafting the Title III applications and search warrants, as well as handling the grand jury proceedings and trial. There was a lengthy pretrial audibility hearing regarding the electronic surveillance. The defendants were convicted at trial before the Honorable Dominick L. DiCarlo, Jr., and the Second Circuit Court of Appeals affirmed the convictions. See United States v. Arango-Correa, 851 F.2d 54 (2d Cir. 1988). I did not handle the appeal.

Dates of Representation: 1986 – 1987 (approximately)

Counsel for Defendants: Thomas Concannon (deceased) (trial counsel for  
defendant Mr. Arango-Correa)

Hon. Abraham Clott (appellate counsel for  
defendant Mr. Arango-Correa)  
(formerly with Legal Aid, Federal Defenders  
Services Unit)  
New York City Criminal Court, New York County  
100 Centre Street  
New York, NY 10013  
(646) 386-4500

Lawrence V. Carra (for defendant Mr. Pulido)  
Law Office of Lawrence V. Carra  
114 Old Country Road  
Suite 212  
Mineola, NY 11501  
(516) 742-1135

4. United States v. Idris, No. 85-CR-557 (EHN) (E.D.N.Y.)

This case involved an international narcotics importation ring charged with smuggling heroin from Pakistan's Northwest Province through New York City to Detroit, Michigan. The investigation entailed multiple wiretaps in New York and Detroit. Four defendants were indicted and two, Mr. Idris and Mr. Shilson, were jointly tried before the Honorable Eugene H. Nickerson. The lead defendant, Mr. Idris, pled guilty mid-trial and the remaining defendant, Mr. Shilson, was convicted after trial. I handled this case on behalf of the government from beginning to end. I directed the investigation, drafted the charging instrument, litigated the motions, and tried the case. I also handled Mr. Shilson's appeal. His conviction was affirmed by the Second Circuit Court of Appeals. See United States v. Shilson, 831 F.2d 284 (2d Cir. 1987).

Dates of Representation: 1985 – 1987 (approximately)

Counsel for Defendants: Peter H. Moray (for defendant Mr. Idris)  
(solo practitioner)  
(current business contact information unavailable)

Wallace Glendening (for defendant Mr. Shilson)  
(formerly with Jaffe, Snider, Raitt, Garratt &  
Heurer)  
Walton & Donnelly, P.C.  
535 Griswold Street  
Suite 1550  
Detroit, MI 48226  
(313) 963-8989

5. United States v. Guidice, No. 85–CR–28 (CPS) (E.D.N.Y.)

This was a narcotics prosecution involving the Guidice family, who were members of the Gambino organized crime family. The Guidice family ran a heroin and cocaine distribution operation out of their home in Ridgewood, Queens. The investigation entailed Title III electronic surveillance and an undercover operation. The defendants entered guilty pleas before the Honorable Charles P. Sifton. That investigation then led to a spinoff undercover operation, which ultimately resulted in the indictment of 15 additional defendants, including a Belgian diplomat who smuggled ten kilograms of heroin into the United States. My representation included directing the investigation, drafting the charging instruments, as well as handling all motion practice and the trial. In July 1985, I received a commendation from the Director of the Federal Bureau of Investigation in recognition of my investigation and prosecution of the case.

Dates of Representation: 1984 – 1985 (approximately)

Counsel for Defendants: Gerard M. Marrone (for defendant Mr. Guidice)  
Law Office of Gerard M. Marrone, PC  
131 Mineola Boulevard  
Suite 200  
Mineola, NY 11501  
(516) 739-1777

Thomas H. Nooter (for defendant Mrs. Guidice)  
Freeman, Nooter & Ginsberg  
75 Maiden Lane  
Suite 503  
New York, NY 10038  
(212) 608-0808

6. United States v. Fama, No. 84–CR–298 (CPS) (E.D.N.Y.)

This case involved a family charged with a narcotics distribution conspiracy. A husband and wife, along with their four adult children, were charged with violations of federal narcotics laws. The prosecution resulted from an undercover operation that led to the execution of a search warrant at the family's residence in Borough Park, Brooklyn. The search warrant revealed a stash of eight pounds of cocaine, 10 pounds of heroin, 100 pounds of marijuana, 28 guns, and \$3.3 million in cash. The husband pled guilty to conducting a continuing criminal enterprise. His wife and the four children went to trial before the Honorable Charles P. Sifton. All but the youngest child were found guilty. The Second Circuit Court of Appeals affirmed the convictions. See United States v. Fama, 788 F.2d 2 (2d Cir. 1985). I handled this case on behalf of the government from beginning to end. I directed the investigation, drafted the search warrants and charging instruments, litigated the motions, and tried the case. During the action, the

government successfully appealed Judge Sifton's grant of a suppression motion, and the case became Circuit precedent for the proposition that the fact that an innocent explanation may be consistent with the facts as alleged does not negate probable cause. See United States v. Fama, 758 F.2d 834 (2d Cir. 1985). I did not handle the appeals.

Dates of Representation: 1984 – 1985 (approximately)

Counsel for Defendants: Barry I. Slotnick (for defendant Mr. Joseph Fama)  
(formerly with Barry Slotnick PC)  
Buchanan, Ingersoll & Rooney, PC  
1290 Avenue of the Americas, 30th Floor  
New York, NY 10104  
(212) 440-4444

Bruce Cutler (for defendant Ms. Toni Ann Fama)  
(formerly with the Law Offices of Gerald L.  
Shargel)  
Cutler & Parlatore, PLLC  
260 Madison Avenue  
New York, NY 10016  
(212) 679-6669

Lawrence Hochheiser (for defendant Mr. Joseph  
Fama, Jr.)  
(formerly with Hochheiser & Aronson)  
Hochheiser & Hochheiser, LLP  
15 Maiden Lane  
Suite 1500  
New York, NY 10038  
(212) 689-4343

Frank Lopez (deceased) (for defendant Ms. Barbara  
Fama)

Mark A. Landsman (deceased) (for defendant Mr.  
Gary Fama)

David A. DePetrìs (deceased) (for defendant Mr.  
Daniel Fama)

7. United States v. Mullin, No. 83–CR–239 (HB) (E.D.N.Y.)

This prosecution involved a ring of largely British expatriates engaged in the importation and distribution of kilogram quantities of heroin and cocaine. The defendants included a famous author, a British Earl, and a rock musician, among

others. The investigation began with the arrest of two couriers smuggling cocaine and heroin through John F. Kennedy International Airport. Through the use of cooperating witnesses, the case grew into a large Title III investigation that ultimately led to the arrests of 15 defendants. The lead defendant, Ms. Mullin, pled guilty to conducting a continuing criminal enterprise. The remaining defendants eventually entered guilty pleas as well. I was the co-lead prosecutor on the case. My responsibilities included preparing numerous electronic surveillance applications and drafting multiple search warrants, charging instruments, and legal submissions to the court. I also conducted the plea and sentencing proceedings before the Honorable Henry Bramwell. In October 1983, I received a commendation from the Special Agent in Charge of the Drug Enforcement Administration in recognition of my investigation and prosecution of the case.

Dates of Representation: 1983 – 1986 (approximately)

Co-Counsel: Michael H. Gold  
(formerly with the United States Attorney's Office,  
Eastern District of New York)  
(solo practitioner)  
350 Fifth Avenue  
No. 4400  
New York, NY 10118  
(212) 838-0699

Counsel for Defendants: Ira London (for defendant Ms. Mullin)  
(formerly with London & Lopez)  
London & Robin  
99 Park Avenue  
Suite 1600  
New York, NY 10016  
(212) 683-8000

Andrew J. Maloney (for defendant Mr. Cohn)  
(formerly with Maloney, Viviani & Higgins)  
De Feis, O'Connell & Rose, PC  
500 Fifth Avenue, 26th Floor  
New York, NY 10110  
(212) 768-1000

Kenneth J. Kaplan (for defendant Mr. Cohn)  
Kaplan & Katzberg  
767 Third Avenue, 26th Floor  
New York, NY 10017  
(212) 750-3100



Gary Naftalis (for defendant Ms. Anday)  
Kramer, Levin & Frankel, LLP  
1177 Avenue of the Americas  
New York, NY 10036  
(212) 715-9238

Dominic Amorosa (for defendant Mr. Albano)  
(solo practitioner)  
95 Worth Street  
Suite 10J  
New York, NY 10013  
(212) 406-7000

Edward M. Shaw (for defendant Mr. Gershuny)  
(formerly with Stillman, Friedman, and Shaw PC)  
Edward M. Shaw Law Office  
420 Fifth Avenue  
No. 25  
New York, NY 10018  
(212) 703-5430

Kenneth E. Ramseur (for defendant Mr. Gelb)  
Kenneth E. Ramseur Law Offices  
299 Broadway  
New York, NY 10007  
(212) 964-1070

Thomas Puccio (deceased) (for defendant Mr.  
Jermyn)

8. United States v. Sanchez-Persia, No. 82-CR-305 (CPS) (E.D.N.Y.)

This case involved a narcotics smuggling operation conducted by diplomats from the Dominican Republic. One defendant, Mr. Sanchez-Persia, was a Dominican Vice Consul, and another defendant, Mr. Soriano, was the First Secretary to the Dominican Mission to the United Nations. The remaining defendant, Mr. Pena, is a fugitive. The defendants were charged with using diplomatic security channels to bypass airport security and smuggle drugs into the United States. Both Mr. Sanchez-Persia and Mr. Soriano were found guilty at trial before the Honorable Charles P. Sifton. I represented the government throughout this matter. My representation included directing the investigation, drafting the charging instruments, as well as handling all motion practice and the trial.

Dates of Representation: 1982 (approximately)

Counsel for Defendants: Mark S. Arisohn (for defendant Mr. Sanchez-Persia)  
(formerly with Arkin & Arisohn PC)  
Labaton Sucharow, LLP  
140 Broadway  
New York, NY 10005  
(212) 907-0840

Jeffrey Simms (for defendant Mr. Soriano)  
Jeffrey Simms & Associates  
293 Passaic Street  
Passaic, NJ 07055  
(973) 471-5240

9. United States v. Crabtree, 692 F.2d 750 (3d Cir. 1982)

This was a case I handled in 1981 while I was in the Fraud Section at the Department of Justice. It involved a large-scale consumer fraud in which hundreds of victims were induced to purchase vending machines and accompanying prime locations with the false promise of enormous profits. The defendants, officers of the corporation, found their victims through a cold-calling telephone campaign. The defendants were charged with mail and wire fraud. Several of the defendants entered guilty pleas before trial. The main defendant, Mr. Crabtree, went to trial and was convicted before the Honorable James T. Giles, United States District Judge for the Eastern District of Pennsylvania. The conviction was affirmed by the Third Circuit Court of Appeals. I co-prosecuted this case and related cases. I directed the investigation and handled all phases of the prosecution, including motion practice, trial, and sentencing, but I did not handle the appeal.

Dates of Representation: 1981 (approximately)

Co-Counsel: Sherri L. Berthrong  
United States Attorney's Office  
District of Columbia  
555 Fourth Street, NW  
Washington, D.C. 20001  
(202) 252-7566

Counsel for Defendants: John Rogers Carroll  
Carroll & Carroll  
601 Walnut Street  
No. 1150  
Philadelphia, PA 19106  
(215) 925-1596

10. United States v. Tamargo, 637 F.2d 346 (5th Cir. 1981).

This was an appeal from a conviction in a corruption case from the Southern District of Florida. The appeal involved five issues: the constitutionality of 18 U.S.C. § 665 as applied to funds provided under the Comprehensive Employment and Training Act of 1973, Pub. L. No. 93-203, 76 Stat. 23 (now the Job Training Partnership Act of 1982, 29 U.S.C. § 1501, et seq.); the sufficiency of the evidence; prosecutorial misconduct; whether a hearsay ruling was appropriate; and whether a charge given to the jury was appropriate. The conviction was affirmed by the Fifth Circuit Court of Appeals (now the Eleventh Circuit Court of Appeals). I served as appellate counsel in this case during my assignment in the Criminal Appellate Section of the Department of Justice. I wrote the brief and argued the appeal in the Fifth Circuit Court of Appeals.

Dates of Representation: 1980 – 1981 (approximately)

Counsel for Defendants: Walter M. Lopez (for defendant Mr. Tamargo)  
Lopez Mediation  
200 North Pierce Street  
Suite 3  
Tampa, FL 33602  
(813) 229-1213

Rhea F. Law (for defendant Ms. Bowling Scott)  
Buchanan, Ingersoll & Rooney, PC  
501 East Kennedy Boulevard  
Suite 1700  
Tampa, FL 33602  
(813) 222-1179

Paul B. Johnson (deceased) (for defendant Mr. Angelo Cannata)

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.)

In March 2013, I became a Supervising Judge for the Special Options Services (“SOS”) Program of our Court’s Pretrial Services Office. The SOS program, originally founded in 2000, is an alternative to pretrial detention and is designed primarily for non-violent young adult defendants. Founded on the premise that many young offenders may go on to lead law-abiding lives, the SOS Program provides the Court with the discretion to offer

the program instead of pretrial detention. Participants receive intensive supervision from me, Magistrate Judge Cheryl Pollak, and Pretrial Services Officers. The supervision includes: attending monthly meetings where we receive a written report from pretrial services about the participant's progress, providing encouragement to participants regarding their life goals, and providing accountability where participants fail to meet their monthly goals or fail to abide by the Program's stringent requirements. In addition, participants are given access to education, job training, and counseling. By providing young defendants with structure and supervision, the SOS Program aims to reduce recidivism rates, increase engagement in productive behaviors, and encourage better life choices. Those participants who successfully complete the SOS Program may receive a significant reduction in their custodial sentence or the imposition of a non-custodial sentence.

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.

From 1988 to 1991, I was a visiting instructor at the Winter Intercession of the National Institute of Trial Advocacy at Harvard Law School. During this three week course, I taught the basics of trial advocacy to second and third year law students. I do not have syllabi for these classes.

Sometime during the 1990s, I was a visiting instructor for two annual sessions of the Cardozo Law School Trial Advocacy Program. I do not have syllabi for these sessions.

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.

I do not have 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.

My husband is a partner at the law firm of Landman, Corsi, Ballaine & Ford, P.C., in New York, New York. As a magistrate judge, I presently recuse myself in any case in which my husband or any attorneys at his firm are counsel; in any case in which my husband or I have a financial interest; and in any case where I have a significantly close relationship with counsel, parties, or witnesses (family, business, or social). I would continue to recuse myself from such cases were I confirmed as a district court judge.

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

If confirmed as a district court judge, I would continue to resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, 28 U.S.C. § 455, and all applicable policies and procedures of the United States Courts. I would recuse myself in any matter in which my spouse or lawyers at his firm are counsel; where myself or my husband hold a financial interest; or where I have a sufficiently close connection with counsel or the parties (family, business, or social). In the event of uncertainty, I would err on the side of disqualification.

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 magistrate judge, I am not permitted to represent clients, pro bono or otherwise. Similarly, as an attorney for the federal government, my pro bono activities also were restricted. However, I do participate in educational seminars sponsored by local law schools. This includes presiding over mock trials and moot court competitions.

**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.

In January 2014, I submitted my resume to Senator Gillibrand's office for consideration for the district court. On April 3, 2014, I interviewed with Senator Gillibrand and a member of her staff in Washington, D.C. Thereafter, Senator Gillibrand advised me that she would be sending my name to the White House for consideration. Since August 1, 2014, I have been in contact with attorneys from the Office of Legal Policy at the Department of Justice. On September 12, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On September 18, 2014, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

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

9/23/14

(DATE)

Joan Marie Azrack

(NAME)

Michele Gapinski

(NOTARY)

MICHELE GAPINSKI  
Notary Public, State of New York  
No. 02GA4984235  
Qualified in Suffolk County  
Commission Expires July 15, 2015