

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Mary Barzee Flores; Mary Barzee; Mary Riley Barzee
2. **Position:** State the position for which you have been nominated.

United States District Judge for the Southern District of Florida
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.

Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130

Residence: Coral Gables, Florida
4. **Birthplace:** State year and place of birth.

1962; Miami, Florida
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.

1985 – 1988, University of Miami School of Law; Juris Doctor (*cum laude*), 1988
1980 – 1985, University of Miami School of Music; Bachelor of Music, 1985
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.

2015 – Present

American Arbitration Association
13727 Noel Road, Suite 700
Dallas, Texas 75240
Arbitrator

2011 – Present

Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
Shareholder

2003 – 2011

Eleventh Judicial Circuit, State of Florida
175 Northwest First Avenue
Miami, Florida 33128
Circuit Court Judge

1990 – 2003

Office of the Federal Public Defender
Southern District of Florida
150 West Flagler Street, Suite 1500
Miami, Florida 33130
Supervisory Federal Public Defender (1999 – 2003)
Assistant Federal Public Defender (1990 – 1999)

1988 – 1990

Sonnett, Sale and Kuehne, P.A.
Two South Biscayne Boulevard, Suite 2600
Miami, Florida 33131
Associate

1987 – 1988

United States Department of Justice
Organized Crime Strike Force, Southern District of Florida
444 Brickell Avenue
Miami, Florida 33131
Law Clerk
(Part-time during law school)

1987 – 1988

Joseph Fleming, P.A.
333 Avenue of the Americas, Suite 44
Miami, Florida 33131
Law Clerk
(Part-time during law school)

1985 – 1986
Ellen Leesfield, P.A.
201 Alhambra Circle
Coral Gables, Florida 33134
Law Clerk
(Part-time during law school)

Other Affiliations (uncompensated):

2014 – Present
Florida Supreme Court Historical Society
500 South Duval Street
Tallahassee, Florida 32301
Trustee

2012 – Present
Miami Light Project
404 Northwest 26th Street
Miami, Florida 33127
Board Member

2002
Florida Association for Women Lawyers, Miami Chapter
No physical address
Miami, Florida
Board Member

1995 – 2002
Florida Association of Criminal Defense Lawyers, Miami Chapter
No physical address
Miami, Florida
Board Member

1998, 1999 – 2000
National Association of Federal Defenders
No physical address
Nashville, Tennessee
Treasurer (1998)
Board Member (1999 – 2000)

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 never 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.

Martindale-Hubbell AV attorney rating (1999 – Present)
Miami-Dade Justice Association Judge Steven Levine Award (2008)
Book Award, Federal Jurisdiction (University of Miami School of Law, Professor Steven Winter 1987)
Scholarship, Florida Association for Women Lawyers, Miami Chapter (1986)

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

American Bar Association
American College of Business Court Judges
Cuban American Bar Association
Dade County Bar Association
Federal Bar Association
Florida Association of Criminal Defense Lawyers, Miami Chapter
Board Member (1995 – 2002)
Florida Association for Women Lawyers, Miami Chapter
Board Member (2002)
Fundraising Committee Member (1993 – 1994)
Florida Conference of Circuit Judges
Education Committee Member (2005 – 2011)
Florida Innocence Commission
False Confessions Workgroup (2010 – 2012)
Florida Supreme Court Criminal Court Steering Committee Member (2004 – 2011)
Florida Supreme Court Historical Society
Trustee (2014 – Present)
George Mason Law School Judicial Education Advisory Board (2010 – 2011)
Hispanic National Bar Association
Northwestern Law School Judicial Education Program Advisory Board (2009)
National Association of Criminal Defense Lawyers
National Association of Federal Defenders
Steering Committee Member (1997)
Treasurer (1998)
Board Member (1999 – 2000)
Spellman-Hoeveler American Inn of Court

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.

Florida, 1989

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.

United States Court of Appeals for the Second Circuit, 2013

United States Court of Appeals for the Fourth Circuit, 1990

United States Court of Appeals for the Eleventh Circuit, 2013

Southern District of Florida, 2011

There have been no lapses in membership.

In addition, by virtue of my employment as an assistant federal public defender and pursuant to the Special Rules Governing the Admissions of Attorneys, I was permitted to practice in the United States District Court for the Southern District of Florida, the United States Court of Appeals for the Eleventh Circuit and the United States Supreme Court from 1990 to 2003.

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.

Big Brothers Big Sisters (2000 – 2003)

Lawyers Credit Union

Chair of the Credit Committee (2001 – 2002)

Miami Light Project

Board Member (2012 – Present)

University of Miami School of Law Class of 1988 Homecoming Committee (2013)

- 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.

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.

In Memoriam: Alan C. Swan, 64 U. Miami L. Rev. 1 (October 2009). Copy supplied.

Remembrance for the Late Judge Henry Leyte-Vidal, Justice Building Blog, March 27, 2006. Copy supplied.

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

I served as a member of Florida's Innocence Commission from 2010 to 2012. During that time, the commission issued two reports, an interim report and a final report. Although I did not personally prepare these reports, I did vote on their submission or publication in my capacity as a member of the commission.

Florida Innocence Commission, Final Report to the Supreme Court of Florida, June 25, 2012. Copy supplied.

Florida Innocence Commission, Interim Report, June 6, 2011. Copy supplied.

I served as a member of the Florida Supreme Court Criminal Court Steering Committee from 2004 to 2011. During my tenure, the committee periodically submitted letters, memoranda and reports to the Florida Supreme Court in response to the court's direction. Although I did not personally prepare these letters, memoranda and reports, I did vote on their submission in my capacity as a member of the committee.

Florida Supreme Court Criminal Court Steering Committee Reports (2004 – 2011). I requested copies of the end-of-term reports for this committee from the Office of the State Courts Administrator, but they could not be located.

- 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.

I served as a member of Florida's Innocence Commission from 2010 to 2012. The commission met every two to three months and the meetings were open to the public. Copies of the meeting minutes are contained within the commission's reports previously supplied in response to 12(b).

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

I have never given anything in the nature of a political speech before a public forum or any speech that was, to my knowledge, reported in the press. I have been extensively involved in teaching judicial and legal education courses. I have not kept a listing of such occasions. I have done my best to identify all items called for in the question, and a search of my records and memory has yielded the events set forth below, although there may be some that I have not been able to identify or locate. I have not made it a practice to keep copies of the remarks made or the notes I used on such occasions, but where I have retained such copies, I have supplied them.

February 20, 2015: Panel Moderator, "Keys to Perfecting the Winning Argument," Dade County Bench and Bar Conference, Miami, Florida. Notes supplied.

December 22, 2014: Guest Speaker, Minority Networking Reception, Bilzin Sumberg Baena Price & Axelrod LLP, Miami, Florida. Notes supplied.

July 18, 2014: Participant, "Super Stars vs. Rising Stars" Civil Mock Trial, CLE Program, Daily Business Review and the Dade County Bar Association, Miami, Florida. Notes supplied.

May 1, 2014: Mock Trial Participant, 24th Annual Labor and Employment Law Seminar, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., Miami, Florida. Video supplied.

November 7, 2013: Panel Speaker, "Social Media and the Courtroom Lunchtime CLE Seminar," Federal Bar Association, South Florida Chapter, Miami, Florida. Notes supplied.

October 4, 2013: Panel Moderator, Jury Selection in a Diverse Population, "Women in the Courtroom – Trial Skills for Women Lawyers," Florida Association for Women Lawyers, Miami-Dade Chapter, Miami, Florida. The panel discussed best practices for voir dire. I have no notes, transcript or recording. The Florida Association for Women Lawyers, Miami-Dade Chapter does not have a mailing address.

August 5, 2013: Co-Instructor, "Closing Arguments in Civil Cases," Florida Conference of Circuit Judges, Daytona Beach, Florida. PowerPoint supplied.

April 5, 2013: Mock Trial Participant, "Best of the Bar" Criminal Mock Trial, CLE Program, Florida Association of Criminal Defense Lawyers, Miami Chapter, Miami, Florida. Notes supplied.

October 18, 2012: Panel Speaker, Jury Selection in a Diverse Population, "Women in the Courtroom – Trial Skills for Women Lawyers," Florida Association for Women Lawyers, Miami-Dade Chapter, Miami, Florida. Video is available at <https://vimeo.com/56674806>.

October 12, 2012: Retired Judge's Interview, Miami Dade County Courts, Miami, Florida. Notes supplied.

April 14, 2011: Panel Speaker, "Things Civil Lawyers Should Know About Criminal Law," American Bar Association Section of Litigation & Criminal Justice Section, Miami Beach, Florida. The panel generally discussed criminal law issues that might arise in the course of the representation of a client in a civil matter. I have no notes, transcript or recording. The address for the American Bar Association is 1050 Connecticut Avenue Northwest, Suite 400, Washington, DC 20036.

February 4, 2011: Panel Speaker, "International Aspects to Receivership Litigation," Florida Bar International Law Section, Miami, Florida. Notes supplied.

October 27 – 31, 2009: Panel Speaker, "Should We Stay Or Should We Go," ABA International Law Section Meeting, Miami, Florida. Notes supplied.

September 11 – 13, 2009: Speaker, “Enforcement of Foreign Judgments in United States Courts,” Sixth Regional Law Fair, Organization of Eastern Caribbean States, Commonwealth of Dominica. I spoke about the recognition and enforcement of foreign judgments in United States (especially Florida) courts. I have no notes, transcript or recording. The Organization of Eastern Caribbean States does not have a mailing address.

May 22, 2009: Guest Speaker, “Gaining Credibility With The Court,” Litigation Associates Luncheon, Greenberg Traurig, LLP, Miami, Florida. Notes supplied.

Spring 2009: Guest Faculty Speaker, Criminal Law Seminar, University of Miami Law School, Coral Gables, Florida. The class I was invited to speak to was discussing the federal district court’s discretion to reject a plea agreement. I have no notes, transcript or recording. The address for the University of Miami Law School is 1320 South Dixie Highway, Coral Gables, Florida 33124.

December 8 – 10, 2008: Co-Instructor, Handling Capital Cases (annual refresher course), Florida Conference of Circuit Judges, Jacksonville, Florida. I co-taught the section on pretrial and trial issues. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

May 9, 2008: Speaker, Judge Steven Levine Award reception, Miami Dade Justice Association, Miami, Florida. Notes supplied.

March 29, 2008: Mock Hearing Participant, American Bar Association Sixth Annual International Litigation and Arbitration Conference, Coral Gables, Florida. During the day long presentation of a mock lawsuit’s progression through the state and federal court systems, I presided over the hearing on a motion to compel arbitration. I have no notes, transcript or recording. The address of the American Bar Association is 1050 Connecticut Avenue Northwest, Suite 400, Washington, DC 20036.

December 10 – 12, 2007: Co-Instructor, Handling Capital Cases (annual refresher course), Florida Conference of Circuit Judges, Ponte Vedra Beach, Florida. I co-taught the section on pretrial and trial issues. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

May 2006: Administration of Oath of Office, Florida Association of Criminal Defense Lawyers, Miami Chapter, Miami, Florida. I administered the oath of office to officers and directors. I have no notes, transcript or recording. The Florida Association of Criminal Defense Lawyers, Miami Chapter does not have a mailing address.

January 2006 – 2011: Co-Instructor, Mock Trial, Florida New Judges College,

Tallahassee, Florida. I participated annually until I left the bench in 2011, along with a group of other Florida judges, in training new judges on trial skills and temperament through extemporaneous role-playing. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

May 2005 – 2011: Co-Instructor, Handling Capital Cases Course, College of Advanced Judicial Studies, Sanibel, Florida. I co-taught this course annually until I left the bench in 2011. Each year, the presentation slides and written course materials were edited and updated. The 2011 written materials and PowerPoints are supplied. A portion (all I could locate) of the 2009 written materials are supplied. I do not have the versions of these materials for the remaining years.

March 2005 – March 2011: Speaker, Career Day Program, Coral Gables Elementary School, Coral Gables, Florida. During the Career Day Program I would speak annually to students about the court system. I have no notes, transcript or recording. The address for Coral Gables Elementary School is 105 Minorca Avenue, Coral Gables, Florida 33134.

December 10 – 12, 2004: Instructor, Enhanced Sentencing in Criminal Cases, Florida College of Advanced Judicial Studies, Amelia Island, Florida. I have no notes, transcript or recording. The address of the Florida State Courts Administrator is 500 South Duval Street, Tallahassee, Florida 32399.

September 2004: Guest Speaker, Ethel F. Beckford / Richmond Elementary School, Miami, Florida. I spoke to a first grade class regarding the job of a judge. I have no notes, transcript or recording. The address for Ethel F. Beckford / Richmond Elementary School is 16929 Southwest 104th Avenue, Miami, Florida 33157.

March 21, 2003: Speaker, Investiture Remarks, Miami Dade Courts, Miami, Florida. Video and notes supplied.

2001 – 2002: I participated as a speaker in a number of candidate forums with other judicial candidates. Community or homeowners associations generally sponsored these forums. I do not recall the specific dates or locations of these events. I have no notes, transcripts or recordings of these events and I was not able to locate press coverage for any of them.

August 1997: Guest faculty member, Trial Advocacy Program, University of Miami Law School, Coral Gables, Florida. I vaguely recall that I spoke on the topic of cross-examination. I have no notes, transcript or recording. The address of the University of Miami Law School is 1320 South Dixie Highway, Coral Gables, Florida 33124.

- 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.

David Ovalle, *Florida Defense Attorneys Fear Backlash in Self Defense Cases*, Miami Herald, Apr. 4, 2012. Copy supplied.

Jose Pagliery, *Judges to Leave Bench in Favor of Private Practice*, Daily Business Review, May 11, 2011. Copy supplied.

Press Release, *Circuit Court Judge to Join Stearns Weaver Miller*, Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., May 2011. Copy supplied (reprinted in multiple outlets).

Mark A. Sylvester, *Judicial Profile*, Dade County Bar Association's The Bulletin, Dec. 2008. Copy supplied.

Andrew Moss, *Justice Profile*, Miami Dade Justice Association Newsletter, 2008. Copy supplied.

Evan S. Benn, *University of Miami: Chief Justice Roberts Inspires UM Students*, Miami Herald, Nov. 14, 2006. Copy supplied.

La Verne M. Kelly, *Judicial Profile*, Dade County Bar Association's The Bulletin, Apr. 2003. Copy supplied.

Andrea Elliott and Larry Lebowitz, *Haitians a Threat, INS Says; Agency Wants Bond Denied for More Than 200 Immigrants*, Washington Post, Nov. 7, 2002. Copy supplied.

Jay Weaver, *Defender Becomes Dade Judge*, Miami Herald, Jul. 27, 2002. Copy supplied.

Randolph Pendleton, *Filing Flurries*, Daily Business Review, May 21, 2002. Copy supplied.

David Kidwell, *Convicted Pimp of Teens Faces 20 Years*, Miami Herald, Feb. 2, 2000. Copy supplied.

David Kidwell, *Willing Hookers or Girl Slaves?*, Miami Herald, Jan. 21, 2000. Copy supplied (reprinted in multiple outlets).

Associated Press, *Former Hungarian Freedom Fighter Pleads Guilty to Hijacking Plane*, Associated Press Worldstream, Apr. 19, 1994. Copy supplied.

Ivy Edwards, *From Miami to City of Angels, UM Grad Plays Dual Role in Touring Broadway Hit*, Miami Herald, Mar. 19, 1992. Copy supplied.

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

In 2002, I was elected without opposition to Florida's Eleventh Judicial Circuit. I was re-elected to the court in 2008 and served until June 2011.

Florida's circuit courts are the state's highest trial courts and are courts of general jurisdiction. The circuit courts also hear appeals from the county courts and from various administrative bodies.

From 2003 to 2006 and 2009 to 2011, I was assigned to the criminal division, where I presided over a wide variety of felony cases, ranging from possession of cocaine to first-degree murder, including death penalty cases. From 2006 to 2009, I was assigned to the civil division, where I handled a wide range of civil cases including foreclosure, personal injury, medical malpractice and commercial disputes. As part of my duties as a circuit court judge, I also served as an appellate judge for county court and administrative law cases.

In 2008, I sat by designation on Florida's Fourth District Court of Appeal, which reviews decisions of the 15th, 17th and 19th Florida Judicial Circuits.

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

I presided over thousands of cases through resolution by verdict, judgment or plea. Of these, I presided over approximately 100 trials.

- i. Of these, approximately what percent were:

| | |
|-----------------------|-----|
| jury trials: | 88% |
| bench trials: | 12% |
| civil proceedings: | 25% |
| criminal proceedings: | 75% |

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

In 2008, I was invited to sit by designation for one week as an associate judge for the Florida Fourth District Court of Appeal. During my assignment there, I wrote the following opinions:

State v. Hayes, 997 So. 2d 446 (Fla. Dist. Ct. App. 2008).

Craissati v. Craissati, 997 So. 2d 458 (Fla. Dist. Ct. App. 2008).

Lift v. Lift, 1 So. 3d 259 (Fla. Dist. Ct. App. 2009).

State v. Schlach, 1 So. 3d 901 (Fla. Dist. Ct. App. 2009), *rev'd*, 37 So. 3d 230 (Fla. 2010).

As a member of a circuit court appellate panel handling appeals from county court cases and administrative hearings, I authored the following published opinions:

Haile v. Delgado, 15 Fla. L. Weekly Supp. 700a (Fla. Cir. Ct. 2008).

Progressive Express Ins. Co. v. Drexel Chiro & Rehab Inc., 10 Fla. L. Weekly Supp. 391a (Fla. Cir. Ct. 2003).

J & M Shopping Ctr. Inc. v. Doga's Hospitality Staff Serv. Corp., 14 Fla. L. Weekly Supp. 154a (Fla. Cir. Ct. 2006).

In addition to the published appellate opinions and orders selected for inclusion in the Florida Law Weekly Supplement set forth above, I issued numerous unpublished opinions and orders in the Circuit Court of the Eleventh Judicial Circuit of Florida. Those trial orders are on file with the clerk of courts for Miami-Dade County, Florida. The clerk maintains all trial court orders and circuit court appellate opinions on its computer mainframe. However, a searching party must know the case number or style of the case to locate such a file. A search cannot be done based solely on a judge's name.

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

1. *BDP v. Castillo, et al.*, No. 06-2544, *aff'd*, 972 So. 2d 188 (Fla. Dist. Ct. App. 2007) (table); *aff'd sub nom.*, *6-F Corp. v. BDP Int'l Fin. Corp.*, 29 So. 3d 352 (Fla. Dist. Ct. App. 2010). Miami-Dade Circuit Court, Civil Division

In this case, a group of Dominican financial institutions claimed to have been swindled out of tens of millions of dollars by a trusted bank executive. Generally, the plaintiffs sued under theories of fraud, theft, conversion and breach of fiduciary duty.

The defendant moved to dismiss the case on grounds of *forum non conveniens*. After a lengthy evidentiary hearing on the motion, during which I heard from experts on Dominican law, I denied the motion. The Florida Third District Court of Appeal affirmed.

At trial, I found for the plaintiffs and awarded over \$75 million in a final judgment in which I made findings that Castillo converted bank funds, breached his fiduciary duty to the bank, defrauded the bank and committed civil theft through a sophisticated scheme involving cooked books, over-valued commercial paper, false financial statements, and deceived Dominican bank regulators and auditors. A copy of the final judgment is supplied. The judgment was affirmed on February 17, 2010.

Attorneys with a significant role:

Read McCaffrey, Esq.
Retired (formerly Squire Patton Boggs)
Washington, DC 20037
Attorney for plaintiff BDP International Finance Corp.

Carolyn L. McIntosh, Esq.
Squire Patton Boggs
1801 California Street, Suite 4900
Denver, Colorado 80202
(303) 830-1776
Attorney for plaintiff BDP International Finance Corp.

Peter Homer, Esq.
Homer Bonner Jacobs
1441 Brickell Avenue, Suite 1200
Miami, Florida 33131
(305) 350-5100
Attorney for defendant Castillo

Arturo Alvarez, Esq.
Arturo Alvarez Trial Lawyer
600 Brickell Avenue, Suite 1750
Miami, Florida 33131
(305) 377-0909
Attorney for defendant Castillo

Christopher W. Hellmich, Esq.
Current business contact information unavailable (formerly Patton Boggs)
Washington, DC 20037
Attorney for plaintiff BDP International Finance Corp.

Rodolfo Sorondo, Jr., Esq.
Alex M. Gonzalez, Esq.
Holland and Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131
(305) 374-8500
Attorneys for plaintiff BDP International Finance Corp.

Roberto Martinez, Esq.
Curt Miner, Esq.
Colson Hicks Eidson
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
(305) 476-7400
Attorneys for defendant Castillo

2. *Master Tech Satellite, Inc. v. Mastec North America, Inc.*, No. 2005-10346-CA-01, *aff'd*, 49 So. 3d 789 (Fla. Dist. Ct. App. 2010). Miami-Dade Circuit Court, Civil Division

Mastec North America, Inc. ("Mastec") contracted to have Master Tech Satellite, Inc. ("Satellite") install residential digital satellite systems. Satellite sued Mastec for payment for work done installing the equipment. In the course of discovery, Mastec learned that Satellite was not actually licensed or certified to install

satellite equipment and moved for summary judgment under a Florida statute declaring the contracts of an unlicensed contractor unenforceable.

I granted judgment in favor of Mastec. A copy of the order granting summary judgment is supplied. The Third District affirmed.

Attorneys with a significant role:

Richard Lara, Esq.
Mase Lara
2601 South Bayshore Drive
Suite 800
Miami, Florida 33133
(305) 377-3770
Attorneys for defendant Mastec North America, Inc.

Joseph S. Shook, Esq.
Joseph S. Shook Law Offices
75 Valencia Avenue, Fourth Floor
Coral Gables, Florida 33134
(305) 446-4177
Attorney for plaintiff Master Tech Satellite, Inc.

3. *Waller v. Kalbac*, No. 2004-1524-CA-01, *aff'd*, 980 So. 2d 593 (Fla. Dist. Ct. App. 2008). Miami-Dade Circuit Court, Civil Division

Plaintiffs, Mr. Waller and his wife Mrs. Causaras-Waller, sued Dr. Kalbac and his medical center after Dr. Kalbac failed to prevent or diagnose a staph infection in Mr. Waller's leg that ultimately required total hip replacement surgery.

I presided over the trial, and the jury returned a verdict in favor of the plaintiffs. I issued an amended final judgment, accounting for stipulations to defendants' motion for setoff, and awarding \$709,301 in damages to Mr. Waller and \$140,000 to Mrs. Causaras-Waller. A copy of the amended final judgment is supplied. The Third District affirmed.

Attorneys with a significant role:

Lauri Waldman Ross, Esq.
Ross & Girten
Two Datan Center, Suite 1612
9130 South Dadeland Boulevard
Miami, Florida 33156
(305) 670-8010
Attorney for plaintiffs Waller and Causaras-Waller

Virginia Forbes, Esq.
Virginia S. Forbes, P.A.
12325 Southwest 64th Avenue
Miami, Florida 33156
(305) 668-4200
Attorney for plaintiffs Waller and Causaras-Waller

Rolando A. Diaz
Diaz Law Group
1430 South Dixie Highway, Suite 313
Coral Gables, Florida 33146
(305) 777-3500

Attorney for defendants Kalbac and
Orthopedic & Sports Medicine Center
of Miami

4. *State v. Wolland*, No. F-02-14283, *rev'd*, 902 So. 2d 278 (Fla. Dist. Ct. App. 2005), *abrogated by State v. Rubio*, 967 So. 2d 768 (Fla. 2007). Miami-Dade Circuit Court, Criminal Division

Defendant, Dr. Wolland, was charged with 115 counts of Medicaid fraud and one count of grand theft. The Medicaid counts alleged that defendant “knowingly and unlawfully” made false statements of material fact in connection with filed Medicaid claims.

Defendant filed a motion to dismiss the information, claiming that Florida’s Medicaid fraud statute was unconstitutional as preempted by federal law. Specifically, she argued that, while the federal Medicaid fraud statute required that the act be done “knowingly and willfully,” the Florida Statute required only that the act be done “knowingly.” I agreed and dismissed the fraud counts in a written opinion. A copy of my opinion is supplied. The State appealed and the Third District Court of Appeal reversed, finding no federal preemption. On remand, the charges were reinstated. The Third District’s opinion was later disapproved of by the Florida Supreme Court, *State v. Rubio*, 967 So. 2d 768 (Fla. 2007).

Attorneys with a significant role:

Joseph S. Paglino, Esq.
1270 Northeast 162nd Street
North Miami Beach, Florida 33162
(305) 758-8017
(Solo Practitioner)
Attorney for defendant Wolland

Luis Martinez, Esq.
Florida Attorney General’s Office
444 Brickell Avenue, Suite 650
Miami, Florida 33131
(305) 377-5441
Attorney for the State

5. *Jessla Constr. Corp. v. Miami-Dade Cnty. Sch. Bd.*, No. 01-28264-CA-01, *aff’d*, 23 So. 3d 1247 (Fla. Dist. Ct. App. 2009). Miami-Dade Circuit Court, Civil Division

The Jessla Construction Corporation (“Jessla”) contracted with the Miami-Dade County School Board (“School Board”) to renovate an elementary school. After the project fell significantly behind schedule, the School Board terminated Jessla. Jessla filed suit, claiming wrongful termination and asserting that delays in the project were the fault of the School Board.

I presided over the bench trial and found in favor of the School Board in a twenty-page written opinion. A copy of my opinion is supplied. The Third District affirmed.

Attorneys with a significant role:

Joseph DeMaria, Esq.
Fox Rothschild, LLP
200 South Biscayne Boulevard
Suite 3590
Miami, Florida 33131
(305) 442-6547
Attorney for defendant Miami-
Dade County School Board

Charles C. Papy, III, Esq.
Lida Rodriguez-Taseff, Esq.
Duane Morris LLP
200 South Biscayne Boulevard
Suite 3400
Miami, Florida 33131
(305) 960-2200
Attorneys for plaintiff Jessla
Construction Corporation

6. *Arkbet Constr. v. 200 Ocean Drive*, No. 00-26466, *aff'd sub nom.*, *Am. Alliance Ins. Co. v. 200 Ocean Drive, Ltd.*, 72 So. 3d 757 (Fla. Dist. Ct. App. 2009) (table). Miami-Dade Circuit Court, Civil Division

I inherited this nearly eight-year-old lawsuit when I came into the civil division. The case was an incredibly complex one regarding a development/construction project and involving multiple parties with numerous claims and cross-claims. Despite its age, most legal issues had yet to be resolved. I entered various orders granting summary judgment, thereby narrowing the issues to be tried and then presided over the bench trial in 2007. I entered judgment in favor of 200 Ocean Drive. Copies of the order on various motions for summary judgment and the final judgment are supplied.

The judgment was affirmed per curiam on March 11, 2009.

Attorneys with a significant role:

Steve Siegfried, Esq.
Siegfried, Rivera, Hyman,
Lerner, De La Torre, Mars &
Sobel, P.A.
201 Alhambra Circle, 11th Floor
Coral Gables, Florida 33134
(305) 442-3334
Attorney for plaintiff 200 Ocean
Drive, Ltd.

Bruce Charles King, Esq.
Carlton Fields Jorden Burt
100 Southeast Second Street
Suite 4200
Miami, Florida 33131
(305) 530-0050
Attorney for defendant American
Alliance

Jeffrey S. Bass, Esq.
Shubin & Bass, P.A.
46 Southwest First Street
Suite 300
Miami, Florida 33130
(305) 381-6060

George Truitt, Esq.
Cole, Scott & Kissane, P.A.
9150 South Dadeland Boulevard
Suite 1400
Miami, Florida 33156
(305) 350-5331
Attorney for defendant Destiny

Attorney for plaintiff Arkbet
Construction

Wallace C. Magathan, Esq.
Law Offices of Wallace C. Magathan,
P.A.
5201 Blue Lagoon Drive
Suite 800
Miami, Florida 33126
(305) 670-2201
(Solo Practitioner)
Attorney for defendant DeSimone
Consulting Engineers

Eric Zivitz, Esq.
Butler Pappas Weihmuller Katz
Craig, LLP
80 Southwest Eighth Street
Suite 3300
Miami, Florida 33130
(305) 416-9998
Attorney for defendant Master
Construction Corp.

Erectors

Joseph W. Lawrence, Esq.
Vezina, Lawrence & Piscitelli, P.A.
The Museum Building, Suite 150
300 Southwest First Avenue
Fort Lauderdale, Florida 33301
(954) 728-1270
Attorney for defendant Fortun

Sofiye Chambers, Esq.
Current business contact information
unavailable (formerly Butler Pappas
Weihmuller Katz Craig, LLP)
Miami, Florida 33130
Attorney for defendant Master
Construction Corp.

7. *Lisa, S.A. v. Gutierrez*, Nos. 99-03519-CA-21, 98-27320-CA-01, *aff'd*, 992 So.
2d 413 (Fla. Dist. Ct. App. 2008). Miami-Dade Circuit Court, Civil Division

Lisa, S.A., a Panamanian corporation, brought suit in Miami-Dade County against
Mr. Gutierrez and other shareholders of Avicola, a Guatemalan corporation
engaged in poultry production for the fast-food chain Pollo Campero. Lisa
claimed that the defendants stole Lisa's share of corporate assets and profits and
used that money to purchase 94 assets that were based or registered in Florida.

I dismissed the case on *forum non conveniens* grounds. A copy of my order is
supplied. The Third District affirmed.

Attorneys with a significant role:

Edward Mullins, Esq.
Astigarraga Davis
1001 Brickell Bay Drive
Ninth Floor
Miami, Florida 33131
(305) 372-8282
Attorney for defendants

Hilda Piloto, Esq.
Arnstein & Lehr LLP
Southeast Financial Center
200 South Biscayne Boulevard
Suite 3600
Miami, Florida 33131
(305) 428-4500
Attorney for plaintiff Lisa, S.A.

Juan Rodriguez, Esq.
Carey Rodriguez O'Keefe
Milian Gonya LLP
1395 Brickell Avenue
Suite 700
Miami, Florida 33131
(305) 372-7474
Attorneys for plaintiff Lisa, S.A.

8. *Gates v. Morrison*, No. 97-17552 (2008). Miami-Dade Circuit Court, Civil Division.

In early 1995, the plaintiff's 15-year-old daughter was severely and permanently brain-damaged. The plaintiff hired a lawyer and sued the doctor, alleging medical malpractice. In 2000, the case was unsuccessfully mediated.

Unsatisfied with her lawyer whom she suspected of serious incompetence and ethical violations, the plaintiff fired her lawyer. On September 19, 2000, the plaintiff hired new counsel who promptly and successfully settled the case. A protracted fee dispute followed.

In 2008, I presided over a bench trial of this fee dispute. The parties presented their cases over the course of a week and ultimately reached a settlement during a recess. I did not issue any written opinions.

Attorneys with a significant role:

Scott P. Schlesinger, Esq.
Sheldon J. Schlesinger, P.A.
1212 Southeast Third Avenue
Fort Lauderdale, Florida 33316
(954) 467-8800
Pro Se

Loreen I. Kreizinger, Esq.
Loreen I. Kreizinger, P.M.
110 Southeast Sixth Street
20th Floor
Fort Lauderdale, Florida 33301
(954) 766-8875
(Solo Practitioner)
Pro Se

W. Samuel Holland, Esq.
W. Samuel Holland, P.A.
12700 Biscayne Boulevard
Suite 402
Miami, Florida 33181
(305) 893-9606
(Solo Practitioner)
Counsel for attorney Kreizinger

9. *Junger v. Am. Home Assurance Co.*, No. 1996-23418-CA-01, *aff'd*, 982 So. 2d 90 (Fla. Dist. Ct. App. 2008). Miami-Dade Circuit Court, Civil Division

Captain Junger was a pilot for Eastern Airlines. During the Vietnam War, Eastern Airlines agreed to provide incentives to its pilots to conduct flights to Vietnam for the United States government. The agreement provided pilots with death and disability coverage while conducting these flights. Captain Junger participated in this program and during its pendency in 1968, he was diagnosed with coronary artery disease, filed a disability claim, and received disability benefits. After Captain Junger passed away in 1991, his wife submitted a claim for death benefits, which was denied by American Home Assurance.

I conducted a bench trial and concluded that Mrs. Junger was entitled to the benefits. She was awarded \$125,000 in death benefits and \$177,888 in pre-judgment interest. A copy of the final judgment is supplied. The Third District affirmed.

Attorneys with a significant role:

Guy M. Junger, Esq.
3807 Durango Street
Coral Gables, Florida 33134
(786) 953-9923
(Solo Practitioner)
Attorney for plaintiff Junger

John H. Schulte, Esq.
4000 Ponce de Leon Boulevard
Suite 470
Coral Gables, Florida 33146
(305) 777-0217
(Solo Practitioner)
Attorney for plaintiff Junger

Howard A. Stone, Esq.
Rosemary B. Wilder, Esq.
Marlow Adler Abrams
Newman & Lewis
4000 Ponce de Leon Boulevard
Suite 570
Coral Gables, Florida 33146
(305) 446-0500
Attorneys for defendant American
Home Assurance Co.

10. *William Leonard Assocs. v. Muss, et al.*, No. 94-16438, *aff'd*, 994 So. 2d 1120 (Fla. Dist. Ct. App. 2007) (table). Miami-Dade Circuit Court, Civil Division

In his 1994 lawsuit, the plaintiff claimed that he was due a commission on the \$94 million sale of the Seacoast Towers development (which was the largest sale of commercial property in Miami-Dade County history at that time). Generally, he claimed breach of contract, unjust enrichment and a conspiracy to deprive him of his brokerage commission. The plaintiff corporation had been dissolved and its principal had since deceased, yet the litigation dragged on.

I granted summary judgment in favor of two of the defendants, which removed them from the case. A copy of the order granting final summary judgment is

supplied. When those rulings were affirmed by the Third District, and with the numerous motions in limine heard that dramatically reduced the quantum of relevant evidence admissible at trial, the parties were finally in the position to negotiate an amicable settlement of this 11-year-old case.

Attorneys with a significant role:

Richard A. Friend, Esq.
10715 Southwest 138th Street
Miami, Florida 33176
(305) 206-1234
(Solo Practitioner)
Attorney for plaintiff William
Leonard Associates, Inc.

Evan Langbein, Esq.
Langbein & Langbein, P.A.
8181 Northwest 154th Street
Suite 105
Miami Lakes, Florida 33016
(305) 556-3663
Attorney for plaintiff William
Leonard Associates, Inc.

Leonard A. Sands, Esq.
Sands & Moskowitz P.A.
2333 Brickell Avenue
Suite A-1
Miami, Florida 33129
(305) 285-1500
Attorney for plaintiff William
Leonard Associates, Inc.

Alvin D. Lodish, Esq.
Duane Morris LLP
200 S Biscayne Boulevard
Suite 3400
Miami, Florida 33131
(305) 960-2200
Attorney for defendant Muss

Alan Kluger, Esq.
Todd A. Levine, Esq.
Kluger, Kaplan, Silverman,
Katzen & Levine P.L.
201 South Biscayne Boulevard
27th Floor
Miami, Florida 33131
(305) 379-9000
Attorneys for defendant Katz

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

1. *State v. Hayes*, 997 So. 2d 446 (Fla. Dist. Ct. App. 2008).

Attorneys with a significant role:

Jason M. Wandner
Jason M. Wandner, P.A.
7601 East Treasure Drive

August A. Bonavita
Palm Beach County Courthouse
205 North Dixie Highway

Suite 8
Miami Beach, Florida 33141
(305) 868-1655
Attorney for defendant Hayes

Room 4.2606
West Palm Beach, Florida
(561) 355-7882
Attorney for the State

2. *BDP v. Castillo, et al.*, No. 06-2544, *aff'd*, 972 So. 2d 188 (Fla. Dist. Ct. App. 2007) (table); *aff'd sub nom., 6-F Corp. v. BDP Int'l Fin. Corp.*, 29 So. 3d 352 (Fla. Dist. Ct. App. 2010). Decision previously supplied in response to Question 13c.

Attorneys with a significant role:

Read McCaffrey, Esq.
Retired (formerly Squire Patton
Boggs)
Washington, DC 20037
Attorney for plaintiff BDP
International Finance Corp.

Carolyn L. McIntosh, Esq.
Squire Patton Boggs
1801 California Street, Suite 4900
Denver, Colorado 80202
(303) 830-1776
Attorney for plaintiff BDP
International Finance Corp.

Peter Homer, Esq.
Homer Bonner Jacobs
1441 Brickell Avenue, Suite 1200
Miami, Florida 33131
(305) 350-5100
Attorney for defendant Castillo

Arturo Alvarez, Esq.
Arturo Alvarez Trial Lawyer
600 Brickell Avenue, Suite 1750
Miami, Florida 33131
(305) 377-0909
Attorney for defendant Castillo

Christopher W. Hellmich, Esq.
Current business contact information
unavailable (formerly
Patton Boggs)
Washington, DC 20037
Attorney for plaintiff BDP
International Finance Corp.

Rodolfo Sorondo, Jr., Esq.
Alex M. Gonzalez, Esq.
Holland and Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida 33131
(305) 374-8500
Attorneys for plaintiff BDP
International Finance Corp.

Roberto Martinez, Esq.
Curt Miner, Esq.
Colson Hicks Eidson
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
(305) 476-7400
Attorneys for defendant Castillo

3. *State v. Wolland*, No. F-02-14283, *rev'd*, 902 So. 2d 278 (Fla. Dist. Ct. App. 2005), *abrogated by State v. Rubio*, 967 So. 2d 768 (Fla. 2007). Decision previously supplied in response to Question 13c.

Attorneys with a significant role:

Joseph S. Paglino, Esq.

Luis Martinez, Esq.

1270 Northeast 162nd Street
North Miami Beach, Florida 33162
(305) 758-8017
(Solo Practitioner)
Attorney for defendant Wolland

Florida Attorney General's Office
444 Brickell Avenue, Suite 650
Miami, Florida 33131
(305) 377-5441
Attorney for the State

4. *State v. Jacques*, No. F-02-32375 (2003). Decision supplied.

Attorneys with a significant role:

Arnel Ortega
A V O Law Group (formerly at
Office of the State Attorney)
169 East Flagler Street
Suite 1125
Miami, Florida 33131
(786) 517-5297
Attorney for the State

Alan Soven
Alan R. Soven PA
1571 Northwest 13th Court
Miami, Florida 33125
(305) 326-0330
Attorney for defendant Jacques

5. *Jessla Constr. Corp. v. Miami-Dade Cnty. Sch. Bd.*, No. 01-28264-CA-01, *aff'd*, 23 So. 3d 1247 (Fla. Dist. Ct. App. 2009). Decision previously supplied in response to Question 13c.

Attorneys with a significant role:

Joseph DeMaria, Esq.
Fox Rothschild, LLP
200 South Biscayne Boulevard
Suite 3590
Miami, Florida 33131
(305) 442-6547
Attorney for defendant Miami-Dade
County School Board

Charles C. Papy, III, Esq.
Lida Rodriguez-Taseff, Esq.
Duane Morris LLP
200 South Biscayne Boulevard
Suite 3400
Miami, Florida 33131
(305) 960-2200
Attorneys for plaintiff Jessla
Construction Corporation

6. *Arkbet Constr. v. 200 Ocean Drive*, No. 00-26466, *aff'd sub nom.*, *Am. Alliance Ins. Co. v. 200 Ocean Drive, Ltd.*, 72 So. 3d 757 (Fla. Dist. Ct. App. 2009) (table). Decisions previously supplied in response to Question 13c.

Attorneys with a significant role:

Steve Siegfried, Esq.
Siegfried, Rivera, Hyman,
Lerner, De La Torre, Mars &
Sobel, P.A.
201 Alhambra Circle, 11th Floor

Bruce Charles King, Esq.
Carlton Fields Jorden Burt
100 Southeast Second Street
Suite 4200
Miami, Florida 33131

Coral Gables, Florida 33134
(305) 442-3334
Attorney for plaintiff 200 Ocean
Drive, Ltd.

Jeffrey S. Bass, Esq.
Shubin & Bass, P.A.
46 Southwest First Street
Suite 300
Miami, Florida 33130
(305) 381-6060
Attorney for plaintiff Arkbet
Construction

Wallace C. Magathan, Esq.
Law Office of Wallace C. Magathan,
P.A.
5201 Blue Lagoon Drive
Suite 800
Miami, Florida 33126
(305) 670-2201
(Solo Practitioner)
Attorney for defendant DeSimone
Consulting Engineers

Eric Zivitz, Esq.
Butler Pappas Weihmuller Katz
Craig, LLP
80 Southwest Eighth Street
Suite 3300
Miami, Florida 33130
(305) 416-9998
Attorney for defendant Master
Construction Corp.

(305) 530-0050
Attorney for defendant American
Alliance

George Truitt, Esq.
Cole, Scott & Kissane, P.A.
9150 South Dadeland Boulevard
Suite 1400
Miami, Florida 33156
(305) 350-5331
Attorney for defendant Destiny
Erectors

Joseph W. Lawrence, Esq.
Vezina, Lawrence & Piscitelli, P.A.
The Museum Building, Suite 150
300 Southwest First Avenue
Fort Lauderdale, Florida 33301
(954) 728-1270
Attorney for defendant Fortun

Sofiye Chambers, Esq.
Current business contact information
unavailable (formerly Butler Pappas
Weihmuller Katz Craig, LLP)
Miami, Florida 33130
Attorney for defendant Master
Construction Corp.

7. *State v. Carvajal*, No. F-00-33177. Decision supplied.

Attorneys with a significant role:

Marshall Dore Louis
Sinclair Louis & Zavertnik, P.A.
(formerly at Office of the State
Attorney)
40 Northwest Third Street
Suite 200
Miami, Florida 33128

Marcia Giordano Hansen
Hansen Law Firm
2525 Ponce de Leon Boulevard
Suite 300
Coral Gables, Florida 33134
(786) 441-5196
Attorney for defendant Carvajal

(305) 374-0544
Attorney for the State

8. *Lisa, S.A. v. Gutierrez*, Nos. 99-03519-CA-21, 98-27320-CA-01, *aff'd*, 992 So. 2d 413 (Fla. Dist. Ct. App. 2008). Decision previously supplied in response to Question 13c.

Attorneys with a significant role:

Edward Mullins, Esq.
Astigarraga Davis
1001 Brickell Bay Drive
Ninth Floor
Miami, Florida 33131
(305) 372-8282
Attorney for defendants

Hilda Piloto, Esq.
Arnstein & Lehr LLP
Southeast Financial Center
200 South Biscayne Boulevard
Suite 3600
Miami, Florida 33131
(305) 428-4500
Attorney for plaintiff Lisa, S.A.

Juan Rodriguez, Esq.
Carey Rodriguez O'Keefe
Milian Gonya LLP
1395 Brickell Avenue
Suite 700
Miami, Florida 33131
(305) 372-7474
Attorneys for plaintiff Lisa, S.A.

9. *Young Oil Co., Inc. v. Veco Invs., LLC*, Nos. 04-05324 & 05-19470 CA 21. Decision supplied.

Attorneys with a significant role:

Richard Morgan, Esq.
Buchanan Ingersoll & Rooney PC
100 Southeast Second Street,
Floor 34
Miami, Florida 33131
(305) 347-4080
Attorney for defendant Veco Investments, LLC

Richard C. Smith, Esq.
8785 Southwest 61st Avenue
South Miami, Florida 33143
(917) 657-1217
(Solo Practitioner)
Attorney for plaintiff Young Oil Company, Inc.

10. *Progressive Express Ins. Co. v. Sterling Imaging, Inc.*, 10 Fla. L. Weekly Supp. 391A (Fla. Cir. Ct. Apr. 29, 2003). Decision supplied.

Attorneys with a significant role:

Douglas H. Stein, Esq.

Irwin Gilbert

Seipp Flick & Hosley LLP
Two Alhambra Plaza, Suite 800
Miami, Florida 33134
(305) 995-5600
Attorney for Progressive Express
Insurance Co.

Harris & Gilbert LLP
11000 Prosperity Farms Road
Suite 205
Palm Beach Gardens, Florida 33410
(561) 622-1252
Attorney for Sterling Imaging, Inc.
and Drexel Chiro & Rehab Inc.

Harley N. Kane
The Greenspan Law Firm
4800 North Federal Highway
Suite 101E
Boca Raton, Florida 33431
(561) 391-0303
Attorney for Sterling Imaging, Inc.
and Drexel Chiro & Rehab Inc.

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

I am not aware of any cases in which certiorari was requested or granted.

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

Not all of my decisions that were reversed were reduced to writing. I have supplied copies of any unreported written decisions which could be located in the clerk of court's files.

Decision reversed while sitting on District Court of Appeals:

State v. Schlabach, 1 So. 3d 1091 (Fla. Dist. Ct. App. 2009), *rev'd*, 37 So. 3d 230 (Fla. 2010). While sitting on the Fourth District Court of Appeal, I authored an opinion (in which Judges Farmer and Klein concurred) quashing a circuit court order granting a motion to reduce or modify Mr. Schlabach's sentence. Because the circuit court did not schedule a hearing or take action on the motion within 60 days, we concluded that the trial court lacked jurisdiction and quashed its order. The Florida Supreme Court granted review based on a certified conflict between the district courts of appeal on this issue. The court concluded that the trial court does not lose jurisdiction so long as the defendant's motion was filed within the 60-day period and the trial court's decision was made within a reasonable time, and so quashed the opinion of the Fourth District Court of Appeal.

Decisions reversed while sitting as circuit court judge in trial or appellate capacities:

State v. Atkins, No. F-02-8037, *rev'd*, 878 So. 2d 460 (Fla. Dist. Ct. App. 2004). Mr. Atkins was convicted of burglary and petit theft. I denied his motion for a mistrial. The appellate court determined that the prosecutor's statements in closing argument impermissibly shifted the burden of proof to the defendant and reversed for a new trial.

State v. Holmes, No. F-97-26076-A, *rev'd in part*, 870 So. 2d 919 (Fla. 3d Dist. Ct. App. 2004) (per curiam). I denied Mr. Holmes's motion for a new trial. The appellate court affirmed the denial on one count, but reversed as to the remaining counts and remanded to permit summary denial of the claims with attachment of the relevant record portion or an evidentiary hearing. Decision supplied.

State v. Quintana, No. F-02-3767, *rev'd*, 917 So. 2d 991 (Fla. Dist. Ct. App. 2005) (per curiam). Mr. Quintana pleaded guilty to possession of a firearm by a violent career criminal, procuring another to commit prostitution, and fleeing a law enforcement officer. He moved to vacate his plea based on erroneous advice regarding the minimum mandatory sentence. Because Mr. Quintana refused to cooperate with the State and had been arrested for another crime between his sentencing and his request to vacate the plea, I denied the motion. On appeal, the State conceded that the plea was involuntary; the appellate court agreed and remanded to permit Mr. Quintana to withdraw his guilty plea.

State v. Christie, No. F-03-28765, *rev'd*, 939 So. 2d 1078 (Fla. Dist. Ct. App. 2005). Ms. Christie was charged with child neglect with no bodily harm. I granted her motion to dismiss because Ms. Christie, a teacher, was not within the definition of "caregiver" under the child neglect statute. The appellate court concluded that teachers were within the statutory definition and remanded for reinstatement of the charge. Decision supplied.

State v. Adams, No. F-01-12764, *rev'd in part*, 909 So. 2d 963 (Fla. Dist. Ct. App. 2005). I denied Mr. Adams's request for sentencing correction. On appeal, he argued that his sentence for robbery as a violent career criminal on the same count as a prison release re-offender violated double jeopardy. Because the complete sentencing transcript was not included in the appellate record, the court remanded for clarification of the sentence. The appellate court rejected Mr. Adams's arguments that notice was defective and that the imposition of alternative sentencing orders was vindictive. Decision supplied.

State v. Wolland, No. F-02-14283, *rev'd*, 902 So. 2d 278 (Fla. Dist. Ct. App. 2005), *abrogated by State v. Rubio*, 967 So. 2d 768 (Fla. 2007). Defendant was charged with first degree grand theft and Medicaid fraud/filing false claims. I dismissed the Medicaid charges on the basis of federal preemption. The appellate court concluded that the statute was not preempted, and reversed to reinstate the charges. This decision was later disapproved of by the Florida Supreme Court.

State v. Rubio, 967 So. 2d 768 (Fla. 2007). Decision previously supplied in response to Question 13c.

State v. McKinney, No. F-01-27358, *rev'd*, 891 So. 2d 1164 (Fla. Dist. Ct. App. 2005). I denied Mr. McKinney's motion for credit for jail time served. The appellate court reversed, concluding that Mr. McKinney was entitled to credit. Decision supplied.

Booth v. Carnival Corp., No. 05-13562-CA, *rev'd*, 946 So. 2d 1112 (Fla. Dist. Ct. App. 2006). While a guest and passenger on a Carnival Corporation boat, Mr. Booth died during a scuba diving excursion in the U.S. Virgin Islands. Mr. Booth's personal representative brought suit in Miami-Dade County and Carnival moved to dismiss the suit based on a contractual forum selection clause. I denied the motion. On appeal, the court concluded that Carnival's participation in discovery in the state-court suit did not waive the forum selection clause and that its enforcement was not unreasonable. Decision supplied.

State v. Pal, No. F-02-22920-B, No. 3D06-1038, *rev'd*, 2006 WL 1751814 (Fla. Dist. Ct. App. June 28, 2006) (per curiam). Pursuant to Florida Rule of Criminal Procedure 3.800(a), I summarily denied Mr. Pal's request for sentencing correction or modification. Pursuant to Florida Rule of Appellate Procedure 9.141(b)(2)(A), the appellate court reversed because the post-conviction record did not conclusively show that Mr. Pal was entitled to no relief. Decision supplied.

Auerbach v. City of Miami, No. 04-587 AP, *rev'd in part*, 929 So. 2d 693 (Fla. Dist. Ct. App. 2006). Along with Judges Sigler and Emas in our appellate capacity on the circuit court, we affirmed the trial court's grant of a major use special permit and zoning variance to the City of Miami. The appellate court affirmed as to the major use special permit, but reversed as to the variance, holding that the City did not show a sufficient legal hardship. Decision supplied.

State v. Whitby, No. F-04-8919, *rev'd*, 933 So. 2d 557 (Fla. Dist. Ct. App. 2006). During voir dire, I permitted the State to use a peremptory strike on a juror without requiring a race-neutral reason and I denied the defendant's challenge for cause of a juror employed by the Drug Enforcement Agency on the basis that the juror would be biased in favor of law enforcement. The appellate court agreed that I properly denied the challenge for cause. The appellate court reversed because there was no further inquiry into the reason for the peremptory strike, but noted the confusion amongst trial courts as to the procedure when there is no evidence that a challenge is actually racially motivated.

Truman Capital Mortgage v. Williams, No. 06-21203-CA, *rev'd*, 962 So. 2d 977 (Fla. Dist. Ct. App. 2007). After a foreclosure proceeding, the entity to which the former homeowner, Ms. Williams, assigned any interest in surplus funds remaining after the sale sought an order directing the disbursement of the funds.

Ms. Williams filed a claim asserting that she did not owe money and had not assigned her right. I ordered issuance of the surplus funds to Ms. Williams. The appellate court reversed to allow for an evidentiary hearing. Decision supplied.

State v. Calderon, No. F-00-7826, *rev'd*, 951 So. 2d 1031 (Fla. Dist. Ct. App. 2007). At trial, Mr. Calderon was acquitted on the charge of first-degree murder but was convicted of conspiracy to commit first-degree murder. I dismissed the conspiracy count because the prosecution was barred by the statute of limitations. The appellate court concluded that a three-year extension on the statute of limitations for individuals absent from the state applied retroactively and remanded to determine whether Mr. Calderon was absent from the state during the relevant time period. On remand, I determined that the extension to the statute of limitations did apply and reinstated the conviction. That decision was affirmed. *Calderon v. State*, 52 So. 3d 813 (Fla. 3d DCA 2011). Decision supplied.

Meruelo v. Haven Center, Inc., No. 05-23381-CA, *rev'd*, 995 So. 2d 1166 (Fla. Dist. Ct. App. 2008). In the course of a contract dispute regarding the sale of land, Mr. Meruelo posted a *lis pendens* surety bond. After a hearing, I granted Mr. Meruelo's motion to discharge the bond. The appellate court determined that it was premature to release the bond and quashed the order discharging the *lis pendens* bond. Decision supplied.

Trintec Constr., Inc. v. Countryside Vill. Condo. Assoc., Inc., No. 06-24673-CA, *rev'd*, 992 So. 2d 277 (Fla. Dist. Ct. App. 2008). I dismissed without prejudice Trintec Construction's action against a condominium association to foreclose a mechanics lien because the individual condominium unit owners were indispensable parties that needed to be joined in the action. The appellate court concluded that Trintec could proceed without joining the individual owners, although they could intervene in the lawsuit, and quashed the order discharging the lien. Decision supplied.

Fortune Dev. Sales Corp., LLC v. Wavestone Props., No. 04-3593-CA, *rev'd in part*, 978 So. 2d 830 (Fla. Dist. Ct. App. 2008). After a hearing in proceedings supplementary in aid of execution, I entered an injunction freezing assets and permitting a judgment to operate as a lien against the property of the judgment debtor's subsidiary. The appellate court concluded that the subsidiary entity was not sufficiently on notice, and so reversed the temporary injunction and judgment lien against the property. Decision supplied.

Southern Grp. Indemnity, Inc. v. Humanitary Health Care, Inc., No. 03-22202-SP-05, *rev'd*, 975 So. 2d 1247 (Fla. Dist. Ct. App. 2008). Along with Judges Cohen and Jimenez in our appellate capacity on the circuit court, we affirmed the trial court's grant of partial judgment to Humanitary Health Care, an assignee of Ms. Lopez's personal injury protection benefits, based on Southern Group Indemnity's refusal to provide a payout log in presuit. 13 Fla. L. Weekly Supp.

1156a (Fla. Cir. Ct. Aug. 25, 2006) (per curiam). The Third District Court of Appeal quashed that opinion, concluding that the statute does not require pre-suit disclosure of the payout log, and denied rehearing en banc. One judge dissented from the denial of rehearing en banc, writing that our approach better served judicial economy.

Pedro Gallinar & Assoc., P.A. v. MacKendree & Co., P.A., No. 06-8301-CA, *rev'd*, 979 So. 2d 973 (Fla. Dist. Ct. App. 2008). Mr. MacKendree sold his accounting practice to Mr. Gallinar. Mr. Gallinar and his company sued Mr. MacKendree and his former company for various breach of contract claims, and the MacKendree defendants counterclaimed for unpaid fees and payments. I denied defendants' motion for summary judgment and granted plaintiffs' motions for partial summary judgment and for dismissal of the remaining claims. The appellate court reversed to the extent that Mr. MacKendree was held individually liable and concluded that factual disputes precluded summary judgment on the breach of contract claim. Because summary judgment was reversed, the counterclaims and plaintiffs' claims were reinstated as live controversies. Decisions supplied.

Angelfish Swim Sch., Inc. v. Hood, No. 03-13413-CA, *rev'd*, 1 So. 3d 355 (Fla. Dist. Ct. App. 2009). A group of corporations filed a class action against the Secretary of State alleging that late annual report and reinstatement fees violated the Excessive Punishments provision of the Florida Constitution. I granted class certification. The appellate court agreed that the class plaintiffs satisfied three of the requirements for class certification (numerosity, commonality, and typicality), but concluded that there was insufficient evidence that the class met the fourth requirement (adequacy of class representative). The appellate court reversed and remanded with permission to amend. Decision supplied.

Sosa v. Safeway Premium Fin. Co., No. 03-28811-CA, *rev'd*, 15 So. 3d 8 (Fla. Dist. Ct. App. 2009). I granted class certification. The Third District Court of Appeal reversed, concluding that the class representative failed to allege that the defendant company "knowingly" billed or received improper finance charges, as required to state a cause of action and that the commonality and predominance requirements were not satisfied. The Florida Supreme Court reversed this decision, holding that the "knowingly" requirement was a question for the jury and that the requirements for class certification were satisfied. *Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91 (Fla. 2011). Decision supplied.

Haven Center, Inc. v. Meruelo, No. 05-23381-CA, *rev'd in part*, 22 So. 3d 849 (Fla. Dist. Ct. App. 2009). I entered summary judgment resolving counterclaims against Mr. Meruelo. The appellate court reversed the opinion only in so far as it stated that Haven Center "take nothing on its counterclaims and go hence without day" because Mr. Meruelo's claims for declaratory judgment and specific performance were still pending.

State v. Jimenez, No. F-96-27477, *rev'd*, 45 So. 3d 935 (Fla. Dist. Ct. App. 2010). Mr. Jimenez was sentenced to 30 years in prison with a 25-year mandatory minimum sentence for trafficking in illegal drugs. He challenged his sentence through a post-conviction motion under Florida Rule of Criminal Procedure 3.800(a), which I denied. Acknowledging that such a motion is typically not a proper vehicle for resentencing, the appellate court concluded that the peculiarities in timing and the fact that Mr. Jimenez was sentenced under guidelines that were later invalidated entitled him to resentencing. The case was remanded for resentencing. Decision supplied.

United Auto Ins. Co. v. Ocean Health, Inc., No. 07-10480-CC-25, *rev'd*, 45 So. 3d 972 (Fla. Dist. Ct. App. 2010). In an insurance dispute involving personal injury protection benefits, the appellate court reversed a decision issued by Judges Sanchez-Llorens, Glick, and me in our appellate capacity on the circuit court, quashing the order and remanding on the basis of a recent en banc opinion of the Third District Court of Appeal.

State v. Magnum, No. F-06-13466, *rev'd*, 40 So. 3d 876 (Fla. Dist. Ct. App. 2010) (per curiam). Pursuant to Florida Rule of Criminal Procedure 3.800(a), I summarily denied Mr. Magnum's request for sentencing correction or modification. The appellate court reversed pursuant to Florida Rule of Appellate Procedure 9.141(b)(2)(A) because the post-conviction record did not conclusively show that Mr. Magnum was entitled to no relief. Decision supplied.

State v. Bain, No. F-07-34506, *rev'd*, 34 So. 3d 115 (Fla. Dist. Ct. App. 2010) (per curiam). Pursuant to Florida Rule of Criminal Procedure 3.800(a), I summarily denied Mr. Bain's request for sentencing correction or modification. The appellate court reversed pursuant to Florida Rule of Appellate Procedure 9.141(b)(2)(A) because the post-conviction record did not conclusively show that Mr. Bain was entitled to no relief. Decision supplied.

Palmer Trinity Private Sch. Inc. v. Vill. of Palmetto Bay, No. 08-28977-CA, *rev'd*, 31 So. 3d 260 (Fla. Dist. Ct. App. 2010). Along with Judges Hogan, Scola and Ward in our appellate capacity on the circuit court, we denied Palmer Trinity Private School's petition for certiorari review from the Village's denial of its rezoning application. The Third District Court of Appeal quashed that decision, concluding that the Village's refusal to permit rezoning was in error.

McCollum v. Liebherr-America, Inc., No. 05-25529-CA, *rev'd*, 43 So. 3d 65 (Fla. Dist. Ct. App. 2010). Ms. McCollum was run over by the wheel of a large crane, causing her death. I entered judgment on the jury verdict finding equipment seller and servicer Liebherr-America, Inc. partially liable. The appellate court reversed, holding that the company was not negligent in failing to repair a possible defect in the horn or warning device and any such defect was not a legal cause of the accident and that the company had no duty to warn of dangers after the machine left the company's control. Decisions supplied.

Menendez v. State Farm Mut. Auto. Ins. Co., No. 07-9448-CA, *rev'd*, 70 So. 3d 566 (Fla. 2011). In a declaratory relief action brought by automobile passengers against an insurance company, I granted summary judgment to the passengers based on the unenforceability of an ambiguous household exclusion in the policy. I was affirmed by the Third District Court of Appeal, which agreed that the provision was ambiguous and that an ambiguous provision must be construed in favor of the insured. *State Farm Mut. Auto. Ins. Co. v. Menendez*, 24 So. 3d 809 (Fla. 3d DCA 2010). The Florida Supreme Court reversed, concluding that the provision unambiguously excluded claims by household members. Decision supplied.

State v. Ginsberg, No. F-10-12369, *rev'd*, 60 So. 3d 475 (Fla. Dist. Ct. App. 2011). Mr. Ginsberg was charged with DUI causing serious bodily injury, felony DUI (third or subsequent conviction), battery on a law enforcement officer, and resisting an officer with violence. After Mr. Ginsberg violated the terms of pretrial release, I denied his request for house arrest and bond. On appeal, the State conceded that it had not precisely followed the procedure for requesting pretrial detention. The appellate court granted Mr. Ginsberg's petition for habeas corpus and remanded to permit the State to properly request pretrial detention.

State v. Valdes, No. F-03-30427, *rev'd*, 93 So. 3d 1163 (Fla. Dist. Ct. App. 2012). Mr. Valdes was convicted of burglary, grand theft, and dealing in stolen property. I vacated the judgment and sentence as to grand theft and then adjudicated the defendant guilty of grand theft and resentenced him to a suspended sentence on the grand theft charge. The appellate court concluded that the convictions for grand theft and dealing in stolen property violated double jeopardy and reversed the grand theft conviction. Decision supplied.

State v. Rodriguez, No. F-09-2589, *rev'd*, 88 So. 3d 405 (Fla. Dist. Ct. App. 2012). I overruled Mr. Rodriguez's objections to the prosecutor's questioning of a police officer and to a statement made in closing argument. The appellate court concluded that these statements were improper bolstering, and reversed.

State v. Matarranz, No. F-03-840, *rev'd*, 133 So. 3d 473 (Fla. 2013). Mr. Matarranz was convicted of first-degree murder and burglary. During voir dire, I denied a defense challenge for cause against a juror who had been the victim of a burglary as a child because the juror testified that she could be fair and that her own experience would not impact her deliberations. I was affirmed by the Third District Court of Appeal. *Matarranz v. State*, 99 So. 3d 534 (Fla. 3d DCA 2011). That decision was reversed by the Florida Supreme Court, with one judge dissenting.

- 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 state trial court judge, 99% of the decisions I issued resulted in an unpublished opinion. These opinions were filed in the court file, which is maintained by the clerk of courts.

- 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.

State v. Hayes, 997 So. 2d 446 (Fla. Dist. Ct. App. 2008), *review denied*, *Hayes v. State*, 15 So. 3d 580 (Fla. 2009) (table).

State v. Wolland, F-02-14283, Order granting defendant's motion to dismiss Medicaid fraud counts and denying motion to dismiss grand theft count, *rev'd*, 902 So. 2d 278 (Fla. 3d DCA 2005), *abrogated by State v. Rubio*, 967 So. 2d 768 (Fla. 2007).

- 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.

Our jurisdiction does not have an automatic recusal system. Florida Rule of Judicial Administration 2.330 provides that the motion to recuse must be filed within a reasonable time, not to exceed ten days after the discovery of the facts that would require disqualification. The motion must be served upon the judge, and the judge must rule

within 30 days of service. If the judge does not rule within 30 days, the motion is automatically granted. A judge against whom an initial motion to disqualify is filed may not dispute the allegations in a motion to recuse, but must accept the allegations in a motion to recuse as true and then determine whether those facts, if true, would warrant recusal. If a judge has been previously disqualified, a successor judge may rule on the truth of the facts alleged in support of the motion.

I have been able to locate the following cases in which motions to recuse or disqualify me were filed:

Seitz v. Barielle, No. 99-19746: In response to my denying his motion to continue trial, *pro se* plaintiff (who had previously filed a number of motions to recuse prior judges assigned to the case) filed a motion to recuse, alleging that I had in effect sexually assaulted him in college. Earlier in the litigation, he had also alleged that the insurance company's doctor (who was responsible for conducting an independent medical examination of the plaintiff) sexually assaulting him during an examination. The doctor recommended a psychiatric evaluation. I denied the motion to recuse. In addition to the falsity of the allegation, the motion was untimely.

BDP v. Castillo, No. 06-2544: The defendant filed a motion claiming that he had seen me talking to a lawyer and had presumed we were talking about the case. I denied the motion as insufficient.

I can only recall two occasions where I *sua sponte* recused myself from a case. The first occurred shortly after I was elected to the bench and an attorney appeared in my courtroom to represent a defendant in a criminal case. Because the attorney was my former boss, mentor and one of my judicial campaign chairs, I *sua sponte* recused myself. I do not recall the name of the defendant and have no notes regarding the matter. The other time was when I was first assigned to the civil division and a case was called up before me in which I realized I possessed extra-judicial factual information. That case was *Louise J. Allen v. Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.*, No. 06-20153 CA (25).

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 offices other than a 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 never held membership or office in any political party or election committee. I ran for judicial office in 2002 and 2008 and was actively involved in my own campaign to the extent permitted by the judicial canons.

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 clerk to a judge.

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

I have never been a solo practitioner.

- 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.

1988 – 1990

Sonnett, Sale and Kuehne, P.A.

Two South Biscayne Boulevard, Suite 2600

Miami, Florida 33131

Associate

1990 – 2003

Office of the Federal Public Defender

Southern District of Florida

150 West Flagler Street, Suite 1500

Miami, Florida 33130

Assistant Federal Public Defender (1990 – 1999)

Supervisory Federal Public Defender (1999 – 2003)

2003 – 2011

Eleventh Judicial Circuit, State of Florida

175 Northwest First Avenue

Miami, Florida 33128

Circuit Court Judge

2011 – Present

Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.

150 West Flagler Street, Suite 2200
Miami, Florida 33130
Shareholder

2015 – Present
American Arbitration Association
13727 Noel Road, Suite 700
Dallas, Texas 75240
Arbitrator

- 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.

In 2011, I mediated a dispute between two international freight forwarding companies each of which alleged the other was breaching their agreement, stealing their clients and engaging in other misconduct. The mediation resulted in an impasse.

In 2012, I mediated a dispute between a franchisor and a franchisee arising out of the alleged breaching of the Federal Trade Commission's franchise rules in connection with the franchisor's representations of the franchise business's financial performance prior to the franchisee's acquiring of the business. The matter was settled at mediation.

In 2012, I mediated a dispute over a failed joint venture and a number of alleged outstanding loans. The joint venture members had known and done business together for over 35 years but when the family of one of the gentlemen claimed he was being taken advantage of, the family went to court and succeeded in having his assets placed in an irrevocable trust and his daughter named as trustee. The matter was settled at mediation.

Between 2012 and 2013, I served as a neutral arbitrator (as part of a three arbitrator panel) in a multi-million dollar dispute between a developer, a maintenance association and a condo association arising out of a large Miami Beach development project. The dispute arose out of alleged breaches of a settlement agreement that had been entered into by the parties to resolve contentious litigation. Upon the completion of the proceedings (which included a site visit to the subject development), I authored a 24-page arbitral award which was joined by my co-arbitrators.

In 2013, I mediated a civil personal injury matter between homeowners and the man charged criminally with breaking into the home in the middle of the night and frightening the homeowners. The homeowners alleged severe emotional distress while the man claimed he had drunkenly mistaken the home for his own. The mediation resulted in an impasse.

b. Describe:

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

Prior to taking the bench in 2003, my practice consisted of 14 years of federal trial and appellate practice, first with the former law firm of Sonnett, Sale and Kuehne, P.A., then with the Federal Public Defender's Office. I tried cases throughout the Southern District of Florida (Miami, Fort Lauderdale, West Palm Beach and Fort Pierce), argued cases before the Eleventh Circuit Court of Appeals in Miami and Atlanta and filed petitions for certiorari before the United States Supreme Court. While in private practice, I also argued a case before the Fourth Circuit Court of Appeals in Virginia.

Between 2003 and 2011, I served as a circuit court judge on the Eleventh Judicial Circuit, State of Florida, where I presided in both the criminal and civil divisions.

Since returning to the practice of law upon retiring from the bench in 2011, my practice has generally consisted of representing individuals and corporations in complex commercial and employment litigation, serving as an arbitrator, mediator and umpire, representing individuals before the federal grand jury, defending various Miami Beach businesses in code enforcement proceedings and serving as a mock judge in preparing lawyers for appellate oral arguments.

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

As an assistant federal public defender, my practice was comprised of federal criminal jury trials, pleas and sentencings in the federal district court and appeals before the Eleventh Circuit Court of Appeals. The cases I tried to jury verdict included drug importations, conspiracies, firearms offenses, carjacking, arson, rape, immigration offenses, interstate prostitution and complex white collar cases of tax evasion, embezzlement and Medicare fraud.

I represented people from all over the world, from every socioeconomic level, from the homeless to once successful business owners. My clients often spoke a language other than English, requiring me to communicate and develop strong attorney-client relationships through the assistance of interpreters.

I briefed and argued appeals before the Eleventh Circuit Court of Appeals and authored petitions for certiorari to the United States Supreme Court.

Now as a civil litigator, my clients are typically individuals, corporate entities or banks embroiled in business disputes. In employment matters, my clients are typically employers who have been sued by former employees claiming retaliation, discrimination or wrongful termination. In my federal grand jury practice, I represent individuals who have been subpoenaed to testify before the grand jury.

- 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.

Over 90% of my practice as an attorney has involved litigation. As a civil litigator (since 2011) I appear in court less frequently than I did as an assistant federal public defender (between 1990 and 2003).

- i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 70% |
| 2. | state courts of record: | 30% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | | |
|----|-----------------------|-----|
| 1. | civil proceedings: | 30% |
| 2. | criminal proceedings: | 70% |

- 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 approximately 40 federal jury trials to verdict, usually as sole or lead counsel.

- 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.

As an assistant federal public defender, I filed petitions for certiorari before the United States Supreme Court. I do not recall the names of the clients on whose behalf I filed them, I do not have copies of the petitions and I do not recall the government being required to file a response to any of them. I have not otherwise

appeared before the United States Supreme Court.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:
- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.
1. *Caruso v. Knight*, 124 So. 3d 962 (Fla. Dist. Ct. App. 2013) (Honorable Robert M. Gross, Honorable Dorian K. Damoorgian, and Honorable Martha C. Warner), *rev'g*, No. 10-045720 14 (Fla. Cir. Ct.) (Honorable Carlos Rodriguez)

Three managers at a Publix grocery store sued two former bakery employees for, amongst other claims, conspiring to have the managers terminated. Publix was not a defendant in the suit but retained my firm, Stearns Weaver, to represent both the managers' and Publix's interests.

The managers moved to disqualify the firm because it had access to Publix's personnel files and to one of the former employees' employment discrimination complaints filed against Publix with the Florida Commission on Human Rights. The trial court granted the motion for disqualification. I represented the managers in a petition for certiorari to the Fourth District Court of Appeal to quash that order. Without argument, the appellate court granted the petition and quashed the order, thereby permitting the managers to be represented by their counsel of choice.

I argued the motion opposing disqualification in the trial court and collaborated with co-counsel to write the appellate briefs. The date of my representation was 2013.

Co-counsel and principal counsel:

Tobi B. Lebowitz
1400 Corporate Center Way
Wellington, Florida 33414
(561) 791-5341
(formerly Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.; now Solo
Practitioner)
Co-Counsel for defendants Caruso, Bernat,

Kenneth J. Kavanaugh
P.O. Box 960625
Miami, Florida 33296
(954) 612-1863
(Solo Practitioner)
Attorney for plaintiffs Knight and Jones

and Del Re

Robert T. Kofman
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for defendants Caruso, Bernat,
and Del Re

2. *Stettin, as RRA Trustee v. Gibraltar Private Bank & Trust Co.*, 10-03767-RBR (S.D. Fla. Bankr.) (Honorable Raymond B. Ray); *Razorback Funding, LLC, et al. v. Rothstein, et al.*, No. 09-062943 (07) (Fla. Cir. Ct.) (Honorable Jeffrey E. Streitfeld); *Adams v. Scott W. Rothstein, et al.*, No. 11-61688-COHN/SNOW (S.D. Fla.) (Honorable James I. Cohn); *Adams, et al. v. Rothstein, et al.*, Florida No. 12-14959 CACE (07) (Fla. Cir. Ct.) (Honorable Jeffrey E. Streitfeld); *Estate of Edward J. Morse, et al. v. Rothstein, et al.*, No. 10-24110 CACE (07) (Fla. Cir. Ct.) (Honorable Jeffrey E. Streitfeld)

Shortly after it was revealed that local lawyer Mr. Rothstein ran a billion dollar Ponzi scheme through his law firm, Rothstein Rosenfeldt Adler, P.A. ("RRA"), a group of victim investors commenced an involuntary Chapter 11 bankruptcy case against the RRA law firm. Retired circuit court judge Herbert Stettin was appointed as trustee, and, for the benefit of RRA's creditors, brought a number of adversary actions, including actions against Gibraltar Private Bank & Trust and a number of its directors and officers, generally alleging avoidance and preferential transfer claims, aiding and abetting fraud, breach of fiduciary duty, negligence and conversion arising from Gibraltar's maintenance of bank accounts for RRA and Rothstein.

In addition to the RRA adversary action, various investor groups filed civil actions against the bank and its officers in the state and federal courts and still other investor groups threatened to file separate adversary actions in bankruptcy court. The total damages sought by the numerous plaintiffs greatly exceeded the bank's ability to pay. Although the bank had layered policies of insurance that it believed covered the claims made, some of the carriers (those purporting to insure the directors and officers) denied coverage. Further complicating the situation, Gibraltar is a federally regulated depository operating under the supervision of the Office of the Comptroller of the Currency ("OCC") and was, in fact, operating under an OCC cease and desist order (resulting in a significantly heightened level of regulatory oversight). Finally, any settlement with the Bankruptcy Trustee would be subject to approval by the bankruptcy court (Honorable Raymond B. Ray), and any settlement with any party would be subject to approval by the OCC.

Shortly after I joined Stearns Weaver, the firm was retained to substitute in as counsel for the bank and its officers in all of the matters. My partners, Eugene Stearns, Andrew

Stearns and I took the lead in the representation. The case settled in August of 2012. The dates of my representation were 2011 to 2012.

Co-counsel and principal counsel:

Bankruptcy Adversary:

Eugene E. Stearns, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for Gibraltar Private Bank &
Trust

Andrew E. Stearns, Esq.
Current business contact information
unavailable (formerly
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.)
Miami, Florida 33130
Co-Counsel for Gibraltar Private Bank &
Trust

John H. Genovese, Esq.
Genovese Joblove & Battista, P.A.
100 Southeast Second Street, 44th Floor
Miami, Florida 33131
(305) 349-2300
Attorney for Stettin

Jason S. Mazer, Esq.
Ver Ploeg & Lumpkin, P.A.
100 Southeast Second Street, 30th Floor
Miami, Florida 33131
(305) 577-3996
Attorney for Herbert Stettin

Russell M. Blain, Esq.
Stichter Riedel Blain & Prosser, P.A.
110 East Madison Street, Suite 200
Tampa, Florida 33602
(813) 229-0144
Attorney for Banyon Trustee

James D. Silver, Esq.
Conrad & Scherer, LLP
633 South Federal Highway
Eighth Floor
Fort Lauderdale, Florida 33301
(954) 462-5500
Attorney for Razorback Funding, LLC,
et al.

Razorback:

Eugene E. Stearns, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for Gibraltar Private Bank &
Trust

Andrew E. Stearns, Esq.
Current business contact information
unavailable (formerly
Stearns Weaver Miller Weissler

Mark Alexander Goldstein, Esq.
141 Northeast Third Avenue, Suite 804
Miami, Florida 33132
(305) 390-2341
(Solo Practitioner)
Attorney for defendant Stay

Harley S. Tropin, Esq.
Kozyak Tropin & Throckmorton, P.A.
2525 Ponce de Leon Boulevard
Ninth Floor
Coral Gables, Florida 33134
(305) 372-1800

Alhadeff & Sitterson, P.A.)
Miami, Florida 33130
Co-Counsel for Gibraltar Private Bank &
Trust

William R. Scherer, Esq.
Conrad & Scherer, LLP
633 South Federal Highway, Eighth Floor
Fort Lauderdale, Florida 33301
(954) 462-5500
Attorney for the plaintiffs Razorback
Funding, LLC, et al.

Marc S. Nurik, Esq.
Law Offices of Marc S. Nurik
One East Broward Boulevard, Suite 700
Fort Lauderdale, Florida 33301
(954) 745-5849
Attorney for defendant Rothstein

Susan E. Trench, Esq.
Arnstein & Lehr LLP
200 South Biscayne Boulevard
Suite 3600
Miami, Florida 33131
(305) 428-4500
Attorney for Platinum Partners Value
Arbitrage Fund, LLP and Centurion
Structured Growth, LLC

Jane Moscovitz, Esq.
Moscovitz & Moscovitz
1111 Brickell Avenue, Suite 2050
Miami, Florida 33131
(305) 379-8300
Attorney for Berenfeld Spritzer
Shechter Sheer, LLP, Berkowitz
and Leitstein

W. Tucker Craig, Esq.
Billing, Cochran, Lyles,
Mauro & Ramsey, P.A.
515 East Las Olas Boulevard, Sixth Floor
Fort Lauderdale, Florida 33301
(954) 764-7150
Attorney for defendant Caretsky

Attorney for the plaintiffs Razorback
Funding, LLC, et al.

Glenn E. Goldstein, Esq.
Greenberg Traurig
401 East Las Olas Boulevard, Suite 2000
Fort Lauderdale, Florida 33301
(954) 765-0500
Attorney for TD Bank, N.A.

William L. Richey, Esq.
William L. Richey, P.A.
1111 Brickell Avenue, Suite 2200
Miami, Florida 33131
(305) 372-8808
Attorney for plaintiff Levin

Lawrence A. Gordich, Esq.
Segall Gordich P.A.
801 Brickell Avenue, Suite 900
Miami, Florida 33131
(305) 755-4930
Attorney for plaintiff Sochet

Curtis B. Miner, Esq.
Colson Hicks Eidson
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
(305) 476-7400
Attorney for Banyon Income Fund,
L.P.; Banyon USVI, LLC; and Banyon
1030-32, LLC

Samuel J. Rabin, Jr., Esq.
800 Brickell Avenue, Suite 1400
Miami, Florida 33131
(305) 358-1064
(Solo Practitioner)
Attorney for defendant Preve

Pamela I. Perry, Esq.
Dresnick, Rodriguez & Perry, P.A.
201 Alhambra Circle, Suite 601
Coral Gables, Florida 33134
(305) 670-9800
Attorney for defendant Weintraub

Robert C. Josefsberg, Esq.
Podhurst Orseck, P.A.
25 West Flagler Street, Suite 800
Miami, Florida 33130
(305) 358-2800
Attorney for defendant Preve

Michael J. Schlesinger, Esq.
Schlesinger & Associates, P.A.
800 Brickell Avenue, Suite 1400
Miami, Florida 33131
(305) 373-8993
Attorney for defendant Spinosa

Michael L. Cotzen, Esq.
Cotzen Law, P.A.
20700 West Dixie Highway
Aventura, Florida 33180
(305) 682-1600
Attorney for defendant Spinosa

Adams (State and Federal):

Eugene E. Stearns, Esq.
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for Gibraltar Private Bank
& Trust

Andrew E. Stearns, Esq.
Current business contact information
unavailable (formerly
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.)
Miami, Florida 33130
Co-Counsel for Gibraltar Private Bank
& Trust

Martin B. Goldberg, Esq.
Lash & Goldberg LLP
100 Southeast Second Street
Suite 1200
Miami, Florida 33131

David L. Ferguson, Esq.
Kopelowitz Ostrow, et al.
200 Southwest First Avenue, Suite 1200
Fort Lauderdale, Florida 33301
(954) 525-4100
Attorney for R.L. Pearson &
Associates and defendant Pearson

Stuart N. Ratzan, Esq.
Ratzan Law Group, P.A.
1450 Brickell Avenue, Suite 2600
Miami, Florida 33131
(305) 374-6366
Attorney for defendant Szafranski

Jeffrey Allan Hirsch, Esq.
Greenberg Traurig, P.A.
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301
(954) 765-0500
Attorney for TD Bank, NA

Michael G. Paris, Esq.
Nystrom Beckman & Paris LLP
One Marina Park Drive, 15th Floor
Boston, Massachusetts 02210
(617) 778-9100
Attorney for the plaintiffs Adams, et al.

(305) 347-4040

Attorney for plaintiffs Adams, et al.

Morse:

Eugene E. Stearns
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for Gibraltar Private Bank
& Trust

Andrew E. Stearns, Esq.
Current business contact information
unavailable (formerly
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.)
Miami, Florida 33130
Co-Counsel for Gibraltar Private Bank
& Trust

John M. Mullin, Esq.
Tripp Scott, P.A.
110 Southeast Sixth Street, 15th Floor
Fort Lauderdale, Florida 33301
(954) 525-7500
Attorney for the plaintiffs

Michael J. Schlesinger, Esq.
Schlesinger & Associates, P.A.
800 Brickell Avenue, Suite 1400
Miami, Florida 33131
(305) 373-8993
Attorney for defendant Spinosa

Marc S. Nurik, Esq.
Law Offices of Marc S. Nurik
1 East Broward Boulevard, Suite 700
Fort Lauderdale, Florida 33301
(954) 745-5849
Attorney for defendant Rothstein

Alan C. Kauffman, Esq.
Alan C. Kauffman & Associates, P.A.
4400 North Federal Highway
Suite 122
Boca Raton, Florida 33431
(561) 361-7500
Attorney for plaintiff Morse

Michael L. Cotzen, Esq.
Cotzen Law, P.A.
20700 West Dixie Highway
Aventura, Florida 33180
(305) 682-1600
Attorney for defendant Spinosa

Glenn E. Goldstein, Esq.
Greenberg Traurig
401 East Las Olas Boulevard
Suite 2000
Fort Lauderdale, Florida 33301
(954) 765-0500
Attorney for TD Bank, N.A.

3. *McClement v. Jupiter Island Holdings, Inc. and Annibali*, No. 2008-CA-2741
(Fla. Cir. Ct.) (Honorable James W. McCann):

In this case, the plaintiff, Ms. McClement, was employed by Jupiter Island Holdings, Inc. (Jupiter Island Club), a private community in Jupiter, Florida. Ms. McClement alleged that during the course of her employment, an elderly customer, Mr. Annibali, sexually harassed her. On one occasion, Mr. Annibali lunged at plaintiff, causing her to lose her balance and injure her shoulder. When Ms. McClement was not re-hired after taking medical leave for her alleged injuries, she sued the Jupiter Island Club and Mr. Annibali for sexual harassment, retaliation, negligence and assault and battery.

I was co-counsel on the case which was ultimately settled June 11, 2013. The dates of my representation were 2012 to 2013.

Co-counsel and principal counsel:

Ingrid H. Ponce
Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
150 West Flagler Street, Suite 2200
Miami, Florida 33130
(305) 789-3200
Co-Counsel for defendant Jupiter
Island Holdings, Inc.

Roderick V. Hannah
Roderick V. Hannah, Esq., P.A.
1250 South Pine Island Road, Suite 375
Plantation, Florida 33324
(954) 362-3800
(Solo Practitioner)
Counsel for plaintiff McClement

Garrison M. Dundas
Hayskar, Walker, Schwerer,
Dundas & McCain, P.A.
130 South Indian River Drive
Suite 304
Fort Pierce, Florida 34950
Counsel for defendant Annibali

4. *United States v. Harris*, No. 99-557-Cr-Ungaro (S.D. Fla. 1999) (Honorable Ursula Ungaro):

My client Mr. Harris was charged with being a felon in possession of a firearm, possession with intent to distribute cocaine and carrying a firearm in connection with a drug trafficking offense. He was also charged with similar offenses in Florida state court.

Mr. Harris was found guilty on the felon in possession of a firearm count. The jury hung on the other two counts, and a mistrial was declared as to them. He later pled guilty to those charges as well as to the pending state court charges. I was lead counsel at trial. The case was tried November 18 to November 22, 1999. The dates of my representation were 1999 to 2000.

Co-counsel and principal counsel:

David O. Markus
Markus Moss, PLLC (formerly at
Federal Public Defender's office)
40 Northwest Third Street
Penthouse One
Miami, Florida 33128
(305) 379-6667
Co-Counsel for defendant Harris

Curt Miner
Colson Hicks Eidson (formerly at U.S.
Attorney's Office)
255 Alhambra Circle, Penthouse
Coral Gables, Florida 33134
(305) 476-7400
Attorney for the Government

5. *United States v. N. Fuentes Bros. Corp.*, No. 1:99-Cr-00249-FAM-1 (S.D. Fla. 2000) (Honorable Federico A. Moreno):

The N. Fuentes Brothers Corporation was charged in federal court with two counts of violating inspection requirements for agricultural products and two counts of possession of adulterated or misbranded eggs. I was appointed to represent the corporation at trial. After a two-day jury trial, my client was found guilty of one count of possession of adulterated or misbranded eggs and was acquitted of violating the inspection requirements for agricultural products. The other two counts were dismissed. My client received a sentence of probation for a term of one day. I was lead counsel at trial. The case was tried March 13 and 14, 2000. The dates of my representation were 1999 to 2000.

Co-counsel and principal counsel:

Michael Caruso
Federal Public Defender's Office
150 West Flagler Street, Suite 1500
Miami, Florida 33130
(305) 530-7000
Co-Counsel for defendant N. Fuentes
Bros. Corp.

Lauren Elizabeth Jorgensen
U.S. Attorney's Office
500 South Australian Avenue
Suite 400
West Palm Beach, Florida 33401
(561) 820-8711
Attorney for the Government

6. *United States v. Abner*, No. 1:97-Cr-00750-WPD-2 (S.D. Fla. 1998) (Honorable William P. Dimitrouleas):

The Abner brothers were charged with conspiracy with intent to distribute cocaine, conspiracy with intent to import cocaine, possession with intent to distribute cocaine, and importation of cocaine. I represented N. Abner, a Haitian Creole speaker, at trial where he was acquitted on all counts. The case was tried September 9 and 10, 1998. The dates of my representation were 1997 to 1998.

As lead counsel, I handled most pre-trial and trial matters, including a motion to suppress physical evidence and a motion to suppress an identification.

Co-counsel and principal counsel:

Steven Hunter Kassner (since deceased)
Counsel for co-defendant J. Abner

Paul Calli
Carlton Fields Jorden Burt, P.A.
(formerly at Federal Public Defender's
Office)
100 Southeast Second Street
Suite 4200

Scott Ray
U.S. Attorney's Office
12 Old Stage Court
North Bethesda, Maryland 20852
(305) 431-5179
Attorney for the Government

Miami, Florida 33131
(305) 530-0050
Co-Counsel for defendant N. Abner

7. *United States v. Virtucio*, No. 97-510-Cr-Moore (S.D. Fla. 1998) (Honorable K. Michael Moore):

My client was Mr. Virtucio, a Philippine deck hand employed on a cruise ship that docked at the Port of Miami. He spoke no English, only Tagalog, and he was charged with rape.

I wrote and litigated the more significant pretrial motions, including a motion to dismiss the indictment. At trial, I cross-examined the government's two main witnesses, the alleged victim and the ship doctor who examined her after the incident. I also argued the summation. Mr. Virtucio was acquitted. The case was tried May 11 to May 14, 1998. The dates of my representation were 1997 to 1998.

Co-counsel and principal counsel:

Fletcher Peacock
Federal Public Defender's Office
109 North Second Street
Fort Pierce, Florida 34950
(772) 489-2123
Co-Counsel for defendant Virtucio

Ron DeWaard
U.S. Attorney's Office
Bridgewater Place, P.O. Box 352
Grand Rapids, Michigan 49501
(616) 336-6480
Attorney for the Government

Frank Tamen
U.S. Attorney's Office
99 Northeast Fourth Street
Sixth Floor
Miami, Florida 33132
(305) 961-9022
Attorney for the Government

8. *United States v. Lazo-Ortiz*, No. 96-383-Cr-Lenard (S.D. Fla. 1996) (Honorable Joan A. Lenard), *aff'd*, 136 F.3d 1282 (11th Cir. 1998):

My client Mr. Lazo-Ortiz was charged with the federal crime of re-entering the United States after having been deported.

Although he pled guilty in June 1996, there remained an important sentencing issue to litigate: the question of whether a significant sentencing enhancement applied in his case.

Prior to sentencing, I filed papers urging the court not to apply the aggravated felony enhancement to Mr. Lazo-Ortiz' case and, when that was unsuccessful, appealed the issue to the United States Court of Appeals for the Eleventh Circuit. The Eleventh

Circuit granted oral argument on this issue of first impression in the circuit. The Eleventh Circuit affirmed Judge Lenard's decision: *United States v. Lazo-Ortiz*, 136 F.3d 1282 (11th Cir. 1998). The dates of my representation were 1996 to 1998.

Principal counsel:

Yvonne Rodriguez-Schack
U.S. Attorney's Office
99 Northeast Fourth Street
Miami, Florida 33132
(305) 961-9014
Attorney for the Government

9. *United States v. Mendez*, No. 95-6076-Cr-Zloch (S.D. Fla. 1996) (Honorable William L. Zloch):

My client Dr. Mendez, a doctor trained in the Dominican Republic and working in a Miami medical clinic, was charged in a multi-defendant multi-count Medicare fraud case. The government alleged that the clinic fraudulently billed Medicare for approximately \$10 million worth of services it never provided, and that Dr. Mendez and the other unlicensed doctors were fraudulently holding themselves out as licensed doctors in the clinic.

As lead counsel at trial, I established that Dr. Mendez never committed any act that constituted the unlawful practice of medicine and that her conduct at the clinic constituted the lawful practice of nursing under state law. She was acquitted. The case was tried June 11 to July 11, 1996. The dates of my representation were 1995 to 1996.

Co-counsel and principal counsel:

Michael S. Pasano
Carlton Fields Jorden Burt, P.A.
100 Southeast Second Street
Suite 4200
Miami, Florida 33131
(305) 530-0050
Counsel for co-defendant Castillo

Steven E. Kreisberg (since deceased)
Counsel for co-defendant Castillo

Curt D. Obront
Curt Obrant, P.A.
200 South Biscayne Boulevard
Suite 2940
Miami, Florida 33131

Juan C. Elso
Current employer information
unavailable (formerly Solo Practitioner)
Miami, Florida 33132
Counsel for co-defendant Alcantara

Alvin E. Entin
Entin & Della Fera, P.A.
110 Southeast Sixth Street, Suite 1970
Fort Lauderdale, Florida 33301
(954) 761-7201
Counsel for co-defendant Garcia

Jeffrey E. Feiler
7685 Southwest 104th Street, Suite 200
Miami, Florida 33156

(305) 373-1040
Counsel for co-defendant Pinto

Gary R. Fine
633 Southeast Third Avenue, Suite 4R
Fort Lauderdale, Florida 33301
(954) 467-5440
(Solo Practitioner)
Counsel for co-defendant Gonzalez

(305) 670-7700
(Solo Practitioner)
Counsel for co-defendant Cabrera

Jeff Sloman
The Sloman Law Firm (formerly at
U.S. Attorney's Office)
One Southeast Third Avenue
Suite 1820
Miami, Florida 33131
(305) 371-9686
Attorney for the Government

10. *United States v. Hoffman*, No. 94-6067-Cr-Gonzalez (S.D. Fla. 1995) (Honorable Jose A. Gonzalez, Jr.):

Mr. Hoffman was charged with tax evasion for failing to declare as income millions of dollars he had allegedly embezzled from a title company.

As lead counsel in the case, I defended not only Mr. Hoffman's failure to file a tax return (he had not filed any return that year), but also the underlying embezzlement allegations (if he did not embezzle the money, he did not have to declare it). Hoffman was acquitted of tax evasion and convicted of misdemeanor failure to file a tax return. The case was tried September 27 to October 3, 1995. The dates of my representation were 1994 to 1996.

Co-counsel and principal counsel:

T. Omar Malone
The Malone Law Firm
701 Brickell Avenue, Suite 1550
Miami, Florida 33131
(305) 728-5134
Co-Counsel for defendant Hoffman

Jeffrey Levenson
Broward Circuit Court (formerly at
U.S. Attorney's Office)
201 Southeast Sixth Street, Room 6850
Fort Lauderdale, Florida 33301
(954) 831-7817
Attorney for the Government

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 July 2010, I was appointed by Florida Supreme Court (then Chief) Justice Charles Canady to Florida's Innocence Commission, as one of only two circuit court judges on

the 24-member committee of judges, lawmakers, lawyers, law professors and chief law enforcement officers. During the commission's two-year term, we studied the principal causes of wrongful convictions and recommended solutions to eliminate or significantly reduce them.

Between 2004 and 2011, I served on the Florida Supreme Court's Criminal Court Steering Committee.

Between 2004 and 2011, I served as an instructor teaching Florida judges at the Florida College of Advanced Judicial Studies, the Florida Judicial Conference and at the Florida College of Judicial Studies. Most years, I both co-taught "Handling Capital Cases" (a four-day course mandated by the Florida Supreme Court for all judges before they may preside over a death penalty case) and coached new judges on trial technique and temperament through the use of mock trial exercises at the Judicial College.

I have not performed lobbying activities on behalf of any client or organization.

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.

Other than the Handling Capital Cases course I co-taught between 2005 and 2011 (and which is referenced in response to question 12(d)), I have taught no courses.

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.

No.

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, Hector Flores, and my brother, William Barzee, are law partners who practice primarily in the Southern District of Florida. Should either of them have a matter before me I would *sua sponte* recuse myself from the case.

My firm has pending cases in the Southern District of Florida. Should one of the cases pending in the court while I am employed by the firm be re-assigned to me as a judge, I would *sua sponte* recuse myself from the case.

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

I will follow all applicable provisions of the Code of Conduct for United States Judges and case law, and if I have any conflict of interest, or there exists an appearance of a conflict of interest, I will recuse myself from the case.

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.

During my years of service as an assistant federal public defender, my full-time work was in service of the economically disadvantaged. During my years on the bench, I was prohibited by the Florida Canons of Judicial Conduct from handling cases on behalf of clients, including the disadvantaged. Since 2000, I have mentored and financially assisted a young Dominican-American woman from a disadvantaged background. Since retiring from the bench, I have worked with local judges and other members of the bar regarding the need for a new courthouse for the civil circuit and county courts, I have joined a local not-for-profit arts organization (Miami Light Project) as a member of its voluntary board, I have successfully sought election to serve as a trustee of the Florida Supreme Court Historical Society and I have represented a juvenile crime victim in the juvenile court system. I also serve as a mentor to two disadvantaged teenage brothers and

am assisting one of them with applying to college.

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.

The Florida Federal Judicial Nominating Commission was formed by Senators Bill Nelson and Marco Rubio, who selected its members. I submitted an application to this Commission on July 29, 2014, and I was interviewed by the Commission on September 4, 2014. On October 1, 2014, I interviewed with Senator Nelson in Miami, Florida, and on October 16, 2014, I interviewed with Senator Rubio in Miami, Florida.

Since December 10, 2014, I have been in contact with pre-nomination officials from the Department of Justice. On January 27, 2015, I met with representatives from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 27, 2015, 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.